Reprinted
March 5, 1999

HOUSE BILL No. 1899

DIGEST OF HB 1899 (Updated March 4, 1999 4:54 pm - DI 97)

Citations Affected: IC 5-16; IC 6-3; IC 6-5.5; IC 22-3; IC 22-4; IC 27-1; IC 27-14; noncode.

Synopsis: Various tax and labor matters. Requires the committee that determines the common construction wage to determine a classification and skill level of labor to be employed on the project. Requires the committee to make wage determinations based on information presented at a public meeting. Redefines common construction wage. Provides that the common construction wage law does not apply to a new construction project that costs less than $150,000 or a maintenance, remodel, or repair project that costs less than $100,000. Treats resident financial institutions the same as nonresident financial institutions for purposes of the financial institutions tax by providing that the tax is imposed upon the apportioned Indiana income of financial institutions. (Current law imposes the financial institutions tax on the adjusted gross income of resident financial institutions.) Phases in a reduced premiums tax rate to 1.75%. Provides a credit against the supplemental net income tax based on retaliatory taxes paid. Increases

(Continued next page)

Effective: January 1, 1999 (retroactive); July 1, 1999; January 1, 2000; January 1, 2001.

Harris, Friend

January 26, 1999, read first time and referred to Committee on Ways and Means.
February 25, 1999, amended, reported — Do Pass.
March 4, 1999, read second time, amended, ordered engrossed.

C o p y

the compensation benefits per degree of permanent partial impairment for worker's compensation through 2002. Provides increases in the worker's compensation average weekly wage through 2001. Makes other changes concerning workers' compensation. Changes the base period for computation of unemployment benefits to the last four completed calendar quarters. (Current law provides that the base period for computation of unemployment benefits is the first four of the last five calendar quarters.) Phases in an increase to the earnings base used to compute unemployment compensation as follows: (1) a maximum of $7,200 in a calendar quarter beginning on and after July 1, 2000; (2) a maximum of $8,600 in a calendar quarter beginning on and after July 1, 2001; and (3) a maximum of $10,000 in a calendar quarter beginning on and after July 1, 2002. (Current law provides that the earnings base used to compute unemployment compensation may not exceed $5,800.) Provides that the maximum total amount of unemployment compensation benefits payable to an individual during any benefit period may not exceed 26 times the individual's weekly benefit, or 32% of the individual's wage credits with respect to the individual's base period, whichever is less. (Current law provides that the maximum total amount of unemployment compensation benefits payable to an individual during any benefit period may not exceed 26 times the individual's weekly benefit, or 28% of the individual's wage credits with respect to the individual's base period, whichever is less.) Decreases the minimum wage credit necessary to qualify for unemployment compensation to $2,000 in the base period, and requires the total wage credits in the base period to equal at least 1.25 times the wages paid in the highest quarter. (Current law requires $2,750 in the base period with $1,650 in the last two quarters of the base period, and requires the total wage credits in the base period to equal or exceed 1.25 times the wages in the highest quarter.) Allows the worker's compensation board to perform an assessment at a rate not to exceed 3%. Allows the board to perform an assessment whenever necessary to ensure the continuation of compensation to fund beneficiaries. Increases the award period from 150 to 156 weeks. Authorizes a mutual insurance company (MIC) to reorganize as a mutual insurance holding company (MIHC) with one or more subsidiaries. Establishes principles for the protection of the surplus of an MIHC for the exclusive benefit of its members. Authorizes the formation of stock insurance company subsidiaries and intermediate stock holding companies as subsidiaries of an MIHC. Establishes requirements that any plan of reorganization or initial plan to issue stock must meet, including requirements that the plan be filed before July 1, 2001, that public hearings be held, and that the members of an MIC vote in favor of the plan after notice. Establishes certain requirements applying to mutual insurance holding companies, including the requirement to file annual reports with the insurance commissioner. Prohibits an MIHC and its subsidiaries and affiliates from taking certain actions, including the payment of special compensation to an officer or director for services associated with a stock offering.

C o p y

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March 5, 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.

C o p y

HOUSE BILL No. 1899

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

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

SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Any firm, individual, partnership, limited liability company, or corporation that is awarded a contract by the state, a political subdivision, or a municipal corporation for the construction of a public work, and any subcontractor of the construction, shall pay for each class of work described in subsection (c)(1) on the project a scale of wages that may not be less than the common construction wage.

(b) For the purpose of ascertaining what the common construction wage is in the county, the awarding governmental agency, before advertising for the contract, shall set up a committee of five (5) persons as follows:

(1) One (1) person representing labor, to be named by the president of the state federation of labor.

(2) One (1) person representing industry, to be named by the

awarding agency.

(3) A third member to be named by the governor.

(4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The owner of the project shall make the appointment under this subdivision.

(5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and determine in writing the following:

(1) A classification of the labor to be employed in the performance of the contract for the project, divided, **where applicable,** into the following t~~hree (3) classes:~~ **two (2) skill levels:**

(A) Skilled labor, **including journeymen.**

(B) ~~Semiskilled labor~~ **Apprentice labor.**

~~(C) Unskilled labor.~~

(2) The wage per hour to be paid **to** each of the ~~classes.~~ **classifications and skill levels.**

The committee is ~~not~~ required to ~~consider~~ **make determinations based on** information ~~not~~ presented to the committee at the meeting. IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) The rate of wages determined under subsection (c) shall not be less than the common construction wage for each **trade or craft classification and each** of the ~~three (3) classes of wages~~ **two (2) skill levels** described in subsection (c) that are currently being paid in the county where the project is located.

(e) The provisions of this chapter shall not apply to contracts let by the Indiana department of transportation for the construction of highways, streets, and bridges. IC 8-23-9 applies to state highway projects.

(f) A determination under subsection (c) shall be made and filed with the awarding agency at least two (2) weeks prior to the date fixed for the letting, and a copy of the determination shall be furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

(g) If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) at or before the time required under subsection (f), the awarding agency shall make the

C o p y

determination, and its finding shall be final.

(h) It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

(i) The provisions of this chapter do not apply to public projects in this state that would otherwise be subject to the provisions of this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant shall consent in writing that the provisions of this chapter are applicable to the project.

(j) Notwithstanding any other law, the provisions of this chapter apply to projects that will be:

(1) owned entirely; or

(2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

(k) Notwithstanding any other law, this chapter does not apply to **new construction** projects in which the actual construction costs less than one hundred fifty thousand dollars ($150,000) **or a maintenance, remodel, or repair project that costs less than one hundred thousand dollars ($100,000)**.

(l) If a common wage is required, the committee appointed for the project under subsection (b) shall meet at a set time and at a designated public place each week.

SECTION 2. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The definitions in this section apply throughout this chapter:

(1) "Common construction wage" means a scale of wages for each ~~class~~ **classification** of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located **for similar types of construction,** as determined by the committee described in section 1(b) of this chapter, ~~after having considered:~~ **based on the evidence of the following:**

(A) Reports ~~from~~ **or survey data gathered by** the department of workforce development ~~and (B)~~ **or the United States Department of Labor.**

(B) Current wages payable to workers under the terms of applicable collective bargaining agreements between bona fide organizations of labor and employees that apply or pertain to the county in which the public work is located.

(C) Any other **objectively verifiable** information **showing wages actually paid to construction workers in the county**

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where the project is located submitted by any person to the committee established under section 1(b) of this chapter.

The determined scale of wages must include costs incurred or reasonably anticipated in providing benefits to workers for training and apprenticeships or other similar programs, medical care, hospital care, and pension benefits. However, this chapter does not require the purchase of or participation in a particular health insurance plan, pension plan, or benefits plan.

(2) "State of Indiana" includes any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of the state, excepting as otherwise provided in this chapter.

(3) "Municipal corporation" includes any county, city, town, or school corporation, as well as any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of any such municipal corporation. The term also includes a redevelopment commission established under IC 36-7-14-3.

(4) "Public work" includes any public building, highway, street, alley, bridge, sewer, drain, improvement, or any other work of any nature or character whatsoever which is paid for out of public funds, excepting as otherwise provided in this chapter.

(5) "Apprentice" means a person:

(A) employed and registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training; or

(B) employed in the first ninety (90) days of probationary employment as an apprentice in an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training as eligible for probationary employment as an apprentice.

SECTION 3. IC 6-3-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 7. (a) As used in this section "retaliatory obligations" means any taxes, fines, penalties, fees, or other similar obligations that are imposed by another state upon insurance companies of Indiana, or their agents, that are greater than those that are required for insurance companies organized in the other state.**

C o p y

(b) An insurance company organized under the laws of Indiana is entitled to a credit against the tax imposed under this chapter equal to the following:

STEP ONE: Determine the result of:

(A) the sum of the retaliatory obligations paid to other states; minus

(B) for all states included in clause (A), determine the sum of the like obligations that would be imposed on the taxpayer if it were treated like an insurance company organized in each of these states.

STEP TWO: Determine the result of:

(A) the STEP ONE amount; multiplied by

(B) for the taxable years beginning in the following years:

(i) for 2000, twenty percent (20%);

(ii) for 2001, forty percent (40%);

(iii) for 2002, sixty percent (60%);

(iv) for 2003, twenty percent (80%); and

(v) for 2004 and thereafter, one hundred percent (100%).

If the STEP TWO amount exceeds the company's supplemental net income tax liability, then the taxpayer may carry the excess over to the immediately succeeding taxable years. The credit carryover may not be used for any taxable year that begins more than five (5) years after the year that the credit was determined. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

SECTION 4. IC 6-5.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's ~~adjusted gross income or~~ apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying eight and one-half percent (8.5%) times the remainder of:

(1) the taxpayer's ~~adjusted gross income or~~ apportioned income; minus

(2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable

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to the taxpayer under IC 6-5.5-2 for the taxable year of the loss. A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(c) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(d) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

SECTION 5. IC 6-5.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 3. For a ~~nonresident~~ taxpayer that is not filing a combined return, the taxpayer's apportioned income consists of the taxpayer's adjusted

C o p y

gross income for that year multiplied by the quotient of:

(1) the taxpayer's total receipts attributable to transacting business in Indiana, as determined under IC 6-5.5-4; divided by

(2) the taxpayer's total receipts from transacting business in all taxing jurisdictions, as determined under IC 6-5.5-4.

SECTION 6. IC 6-5.5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 4. For a taxpayer filing a combined return for its unitary group, the group's apportioned income for a taxable year consists of:

(1) the aggregate adjusted gross income, from whatever source derived, of the ~~resident taxpayer members of the unitary group and the nonresident~~ members of the unitary group; multiplied by

(2) the quotient of:

(A) all the receipts of the ~~resident taxpayer members of the unitary group from whatever source derived plus the receipts of the nonresident~~ taxpayer members of the unitary group that are attributable to transacting business in Indiana; divided by

(B) the receipts of all the members of the unitary group from transacting business in all taxing jurisdictions.

SECTION 7. IC 6-5.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 1. This chapter applies to ~~the following:~~

~~(1) Nonresident~~ **all** taxpayers.

~~(2) Nonresident members of a unitary group that file a combined return.~~

SECTION 8. IC 22-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his injuries, and in addition thereto such surgical, hospital and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of

C o p y

either party, require that treatment by the physician and services and supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any treatment of an injured employee without the express written consent of the employee and the treating medical personnel. At the time of any medical treatment that a representative of the employer wishes to attend, the representative of the employer shall inform the injured employee and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employer's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.

~~(c)~~ **(d)** After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and his right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable

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for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for his injuries by spiritual means or prayer in lieu of the physician or surgeon and other medical services and supplies required under this section.

~~(d)~~ **(e)** If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable cost of those services and supplies shall, subject to the approval of the worker's compensation board, be paid by the employer.

~~(e)~~ **(f)** Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(f)~~ **(g)** If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

~~(g)~~ **(h)** This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

(1) medical care furnished by health care providers selected by agreement before or after injury; or

(2) the findings of a health care provider who was chosen by

C o p y

agreement.

SECTION 9. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After an injury and during the period of claimed resulting disability or impairment, the employee, if ~~so~~ requested by the employee's employer or ordered by the industrial board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the worker's compensation board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and his right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the budget agency. If such examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for such loss of wages upon the basis of the employee's average daily wage. When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel payable under this section shall be paid from the point in Indiana nearest to the

C o p y

employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(c) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination if the employee so desires. In all cases where the examination is made by a physician or surgeon engaged by the employer and the injured employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employer. Such statement shall be furnished to the employee or the employee's representative, as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection ~~(e)~~ **(f)**. If such physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(d) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any examination of an injured employee without the express written consent of the employee and the treating medical personnel. At the time of any medical examination that a representative of the employer wishes to attend, the representative of the employer shall inform the injured employee and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employer's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the

C o p y

board.

~~(d)~~ **(e)** In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employee. Such statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection ~~(e)~~ **(f)**. If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the industrial board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

~~(e)~~ **(f)** All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other

C o p y

grounds.

~~(f)~~ **(g)** Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such action shall be construed as delivery to the employer or employee.

~~(g)~~ **(h)** Any party may object to a statement on the basis that the statement does not meet the requirements of subsection ~~(e)~~ **(f)**. The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection ~~(e)~~ **(f)**.

~~(h)~~ **(i)** The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the worker's compensation board orders an autopsy and such autopsy is refused by the surviving spouse or next of kin, then any claim for compensation on account of such death shall be suspended and abated during such refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in the discharge of the coroner's duties, shall be held in any case by any person, without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the worker's compensation board.

SECTION 10. IC 22-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the

C o p y

employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred dollars ($100) average weekly wages, for the periods stated for the injuries. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of his average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty

C o p y

(60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks; for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of

C o p y

fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars ($100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly

C o p y

wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not

C o p y

exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(c) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (d) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1)

C o p y

phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the

C o p y

proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to

C o p y

twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, **and before July 1, 2000,** for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), nine hundred fifty dollars ($950) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand four hundred fifty dollars ($1,450) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand eight hundred dollars ($1,800) per degree; for each

C o p y

degree of permanent impairment above fifty (50), two thousand six hundred dollars ($2,600) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand eight hundred fifty dollars ($1,850) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars ($2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand four hundred dollars ($3,400) per degree.

(9) With respect to injuries occurring on and after July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand fifty dollars ($1,050) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand five hundred dollars ($3,500) per degree; for each degree of permanent impairment above fifty (50), four thousand four hundred dollars ($4,400) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to injuries occurring on or after July 1, 2000, **and before July 1, 2001,** seven hundred sixty-two dollars ($762).

(9) With respect to injuries occurring on or after July 1, 2001,

C o p y

and before July 1, 2002, eight hundred seven dollars ($807).

(10) With respect to injuries occurring on or after July 1, 2002, eight hundred forty dollars ($840).

SECTION 11. IC 22-3-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally impaired by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent impairment out of a special fund known as the second injury fund, and created in the manner described in subsection (b).

(b) **Whenever in the discretion of the chairman of the workers compensation board it is necessary to perform an assessment in order to ensure that fund beneficiaries, including applicants under IC 22-3-3-4(e), continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice to all insurance carriers insuring employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and to all employers carrying the employer's own risk stating that an assessment is necessary.** Every insurance carrier insuring employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, ~~shall, on or before April 10 of each year,~~ **within thirty (30) days of the board's mailing of notice that an assessment is necessary,** pay to the worker's compensation board for the benefit of said fund, a sum ~~equal to one percent (1%)~~ **not to exceed three percent (3%)** of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. **Compensation to be considered for purposes of calculating the assessment shall include payments for temporary total disability, temporary partial disability, permanent total disability, and permanent partial impairment, but shall exclude payments for medical payments.** ~~If the amount to the credit of the second injury fund as of April 1 of any year exceeds five hundred thousand dollars ($500,000), the payments of one percent (1%) shall not be assessed or collected during the~~

C o p y

~~ensuing year. But when on April 1 of any year the amount to the credit of the fund is less than five hundred thousand dollars ($500,000), the payments of one percent (1%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into such fund.~~

(c) The sums shall be paid by the worker's compensation board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(d) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the worker's compensation board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (e).

(e) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed ~~one hundred fifty (150) weeks~~ **one hundred fifty-six (156) weeks** upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(f) The additional award may be renewed during the employee's

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total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed ~~one hundred fifty (150) weeks~~ **one hundred fifty-six (156) weeks** each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the worker's compensation board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

SECTION 12. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars ($70) nor less than thirty dollars ($30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars ($75) and not less than thirty dollars ($30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars ($85) and not less than thirty-five dollars ($35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars ($95) and not less than thirty-five dollars ($35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars ($100) if no dependents; (2) one hundred five dollars ($105) if one (1) dependent; (3) one hundred ten dollars ($110) if two (2) dependents; (4) one hundred fifteen dollars ($115) if three (3) dependents; (5) one hundred twenty dollars ($120) if four (4) dependents; and (6) one hundred twenty-five dollars ($125) if five (5) or more dependents; and (B) Not less than thirty-five dollars ($35). In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars ($135), and (B) not less than seventy-five dollars ($75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total

C o p y

disability, temporary partial disability and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars ($156) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be (1) not more than one hundred eighty dollars ($180); and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars ($195), and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be (1) not more than two hundred ten dollars ($210), and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars ($234) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars ($249) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the

C o p y

injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars ($267) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars ($285) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars ($384) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be (1) not more than four hundred eleven dollars ($411) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be (1) not more than four hundred forty-one dollars ($441) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be (1) not more than four hundred ninety-two dollars ($492) and (2) not less than seventy-five

C o p y

dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be (1) not more than five hundred forty dollars ($540) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be (1) not more than five hundred ninety-one dollars ($591) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be (1) not more than six hundred forty-two dollars ($642) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75); ~~and~~

C o p y

(4) with respect to injuries occurring on and after July 1, 2000, **and before July 1, 2001:**

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred seven dollars ($807); and

(B) not less than seventy-five dollars ($75); and

(6) with respect to injuries occurring on and after July 1, 2002:

(A) not more than eight hundred forty dollars ($840); and

(B) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars ($12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars ($15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars ($16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars ($20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision

C o p y

of this law or any combination of provisions shall not exceed twenty-five thousand dollars ($25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars ($30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars ($45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars ($52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars ($60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars ($65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy thousand dollars ($70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars ($78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars ($83,000) in any case. With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars

C o p y

($89,000) in any case. With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars ($95,000) in any case. With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars ($180,000) in any case.

With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(e) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any

C o p y

combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to an injury occurring on and after July 1, 2000, **and before July 1, 2001,** two hundred fifty-four thousand dollars ($254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred sixty-nine thousand dollars ($269,000).

(6) With respect to an injury occurring on and after July 1, 2002, two hundred eighty thousand dollars ($280,000).

SECTION 13. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the

C o p y

reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to work;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent

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medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work, there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary total disability for any work, there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total

C o p y

disability for any work, there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, up to one hundred thirty-five dollars ($135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work, there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work, there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the later period shall be included as part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work, there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1974, from

C o p y

occupational disease resulting in temporary partial disability for work, there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which he is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule, the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars ($100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

C o p y

For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

C o p y

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any

C o p y

compensation due for permanent disfigurement.

With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third

C o p y

(1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, (10) ten degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

C o p y

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for

C o p y

each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, **and before July 1, 2000,** for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), nine hundred fifty dollars ($950) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand four hundred fifty dollars ($1,450) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand six

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hundred dollars ($2,600) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, and before July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand eight hundred fifty dollars ($1,850) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars ($2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand four hundred dollars ($3,400) per degree.

(9) With respect to disablements occurring on and after July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand fifty dollars ($1,050) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand five hundred dollars ($3,500) per degree; for each degree of permanent impairment above fifty (50), four thousand four hundred dollars ($4,400) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars

C o p y

($732).

(8) With respect to disablements occurring on or after July 1, 2000, **and before July 1, 2001,** seven hundred sixty-two dollars ($762).

(9) With respect to disablements occurring on or after July 1, 2001, and before July 1, 2002, eight hundred seven dollars ($807).

(10) With respect to disablements occurring on or after July 1, 2002, eight hundred forty dollars ($840).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which he suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, he shall not

C o p y

at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7), after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when

C o p y

made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

SECTION 14. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: **Sec. 16.1. (a) Every insurance carrier insuring employers who are or may be liable under this article to pay compensation for disablement or death from occupational diseases of their employees under this article and every employer carrying the employer's own risk shall, within thirty (30) days of the board's mailing of notice that an assessment is necessary, pay to the worker's compensation board for the benefit of a fund to be known as the occupational diseases second injury fund. The payment shall not exceed three percent (3%) of the total amount of all payments under this chapter for occupational diseases paid to employees with occupational diseases**

C o p y

or their beneficiaries under this chapter for the calendar year next preceding the due date of the payment. Compensation to be considered for purposes of calculating the assessment includes payments for occupational diseases paid to employees with occupational diseases or their beneficiaries under this chapter but excludes payments for medical payments.

(b) The sums shall be paid by the worker's compensation board to the treasurer of state to be deposited in a special account known as the occupational diseases second injury fund. The funds are not part of the state general fund. Any balance remaining in the account at the end of any fiscal year does not revert to the state general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the occupational diseases second injury fund under this section and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(c) If an employee who is entitled to compensation under this chapter either:

(1) exhausts the maximum benefits under section 19 of this chapter without having received the full amount of award granted to the employee under section 16 of this chapter; or

(2) exhausts the employee's benefits under section 16 of this chapter;

the employee may apply to the worker's compensation board, which may award the employee compensation from the occupational diseases second injury fund established by this section, as provided under subsection (d).

(d) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's disablement from occupational disease, not to exceed the maximum then applicable under section 19 of this chapter for a period not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from an occupational disease (as defined in section 10 of this chapter) of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any

C o p y

gainful employment not associated with rehabilitative or vocational therapy.

(e) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

SECTION 15. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, ~~said~~ **the** employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of ~~said~~ **the** travel by the state of Indiana to its employees.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary.

(c) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any treatment of an employee with an occupational disease without the express written consent of the employee and the treating medical personnel. At the time of any medical treatment that a representative of the employer wishes to attend, the representative of the employer shall inform the employee with an occupational disease and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employer's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.

C o p y

(d) After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and his right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for his disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

~~(c)~~ **(e)** Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(d)~~ **(f)** If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as

C o p y

specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within ~~said~~ **the** period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

~~(e)~~ **(g)** This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

(1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or

(2) makes the findings of a provider chosen in this manner binding upon the parties.

~~(f)~~ **(h)** The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 16. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars ($135); and

(B) not less than seventy-five dollars ($75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars ($156); and

(B) not less than seventy-five dollars ($75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars ($180); and

(B) not less than seventy-five dollars ($75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars ($195); and

(B) not less than seventy-five dollars ($75);

(5) on and after July 1, 1980, and before July 1, 1983, the average

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weekly wages are considered to be:
(A) not more than two hundred ten dollars ($210); and
(B) not less than seventy-five dollars ($75);
(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:
(A) not more than two hundred thirty-four dollars ($234); and
(B) not less than seventy-five dollars ($75); and
(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:
(A) not more than two hundred forty-nine dollars ($249); and
(B) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:
(1) not more than two hundred sixty-seven dollars ($267); and
(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:
(1) not more than two hundred eighty-five dollars ($285); and
(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:
(1) not more than three hundred eighty-four dollars ($384); and
(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:
(1) not more than four hundred eleven dollars ($411); and
(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:
(1) not more than four hundred forty-one dollars ($441); and
(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability,

C o p y

temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75); ~~and~~

(4) with respect to occupational diseases ~~occuring~~ **occurring** on and after July 1, 2000, **and before July 1, 2001:**

(A) not more than seven hundred sixty-two dollars ($762); and

C o p y

(B) not less than seventy-five dollars ($75);

(5) with respect to occupational diseases occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred seven dollars ($807); and

(B) not less than seventy-five dollars ($75); and

(6) with respect to occupational diseases occurring on and after July 1, 2002:

(A) not more than eight hundred forty dollars ($840); and

(B) not less than seventy-five dollars ($75).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars ($45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars ($52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars ($60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars ($65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars ($70,000) in any case;

(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars ($78,000) in any case; and

(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars ($83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death

C o p y

occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

C o p y

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, **and before July 1, 2001,** two hundred fifty-four thousand dollars ($254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred sixty-nine thousand dollars ($269,000).

(6) With respect to disability or death occurring on and after July 1, 2002, two hundred eighty thousand dollars ($280,000).

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then

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the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).

SECTION 17. IC 22-3-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) After disablement and during the period of claimed resulting disability or impairment, the employee, if ~~so~~ requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought to recover damages against

C o p y

any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the board, the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate as is then currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for the loss of wages upon the basis of such employee's average daily wage.

(c) When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel, payable under this section, shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(d) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination, if the employee so desires. In all cases, where the examination is made by a physician or surgeon engaged by the employer and the disabled or injured employee has no physician or surgeon present at the examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by the physician or surgeon to the employer. This statement shall be furnished to the employee or the employee's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that

C o p y

physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection ~~(f)~~ **(g)**. If the physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician shall not be permitted to testify before the worker's compensation board as to any facts learned in the examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) No representative of the employer or insurance carrier, including case managers or rehabilitation nurses, may be present at any examination of an employee with an occupational disease without the express written consent of the employee and the treating medical personnel. At the time of any medical examination that a representative of the employer wishes to attend, the representative of the employer shall inform the employee with an occupational disease and treating medical personnel that their written consent is required before the attendance of the employer's representative. The employee's compensation and benefits may not be jeopardized in any way due to the employer's failure or refusal to complete a written waiver allowing the attendance of the employer's representative. The employer's representative may not in any way cause the employee to believe that the employee's compensation and benefits will be terminated if the employee fails or refuses to complete a written waiver allowing the attendance of the employer's representative. The written waivers shall be executed on forms prescribed by the board.

~~(e)~~ **(f)** In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all the facts that are reported by such physician or surgeon to the employee. The statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection ~~(f)~~ **(g)**. If the physician or surgeon fails or refuses to furnish the employer or the employer's representative with such statement thirty (30) days before

C o p y

the hearing, then the statement may not be submitted as evidence, and the physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

~~(f)~~ **(g)** All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

~~(g)~~ **(h)** Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

~~(h)~~ **(i)** Any party may object to a statement on the basis that the statement does not meet the requirements of subsection ~~(e)~~ **(f)**. The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection ~~(f)~~ **(g)**.

~~(i)~~ **(j)** The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the

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surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

SECTION 18. IC 22-4-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. "Base period" means the ~~first four (4) of the~~ last ~~five (5)~~ **four (4)** completed calendar quarters immediately preceding the first day of an individual's benefit period. ~~Provided,~~ However, ~~That~~ for a claim computed in accordance with IC ~~1971,~~ 22-4-22, the base period shall be the base period as outlined in the paying state's law.

SECTION 19. IC 22-4-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars ($3,666) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after April 1, 1984, and before April 1, 1985, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand nine hundred twenty-six dollars ($3,926) and may not include payments specified in section 2(b) of this chapter.

(c) For calendar quarters beginning on and after April 1, 1985, and before January 1, 1991, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand one hundred eighty-six dollars ($4,186) and may not include payments specified in section 2(b) of this chapter.

(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not

C o p y

exceed four thousand eight hundred ten dollars ($4,810) and may not include payments specified in section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 1995, and before July 1, 1997, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand dollars ($5,000) and may not include payments specified in section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars ($5,400) and may not include payments specified in section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars ($5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, **and before July 1, 2000,** "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars ($5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not include payments that are excluded from the definition of wages under section 2(b) of this chapter and may not exceed the following:

(1) Seven thousand two hundred dollars ($7,200) in a calendar quarter beginning on and after July 1, 2000.

(2) Eight thousand six hundred dollars ($8,600) in a calendar

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quarter beginning on and after July 1, 2001.

(3) Ten thousand dollars ($10,000) in a calendar quarter beginning on and after July 1, 2002.

SECTION 20. IC 22-4-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Benefits shall be computed upon the basis of wage credits of an individual in his base period. Wage credits shall be reported by the employer and credited to the individual in the manner prescribed by the board. With respect to initial claims filed for any week beginning on and after July 4, 1959, and before July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times his weekly benefit, or twenty-five percent (25%) of his wage credits with respect to his base period, whichever is the lesser.

(b) With respect to initial claims filed for any week beginning on and after July 7, 1991, **and before July 1, 1999**, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times the individual's weekly benefit, or twenty-eight percent (28%) of the individual's wage credits with respect to the individual's base period, whichever is less. If such maximum total amount of benefits is not a multiple of one dollar ($1), it shall be computed to the next lower multiple of one dollar ($1).

(c) With respect to initial claims filed for any week beginning on and after July 1, 1999, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times the individual's weekly benefit, or thirty-two percent (32%) of the individual's wage credits with respect to the individual's base period, whichever is less. If the maximum total amount of benefits is not a multiple of one dollar ($1), it shall be computed to the next lower multiple of one dollar ($1).

~~(b)~~ **(d)** The total extended benefit amount payable to any eligible individual with respect to his applicable benefit period shall be fifty percent (50%) of the total amount of regular benefits (including dependents' allowances) which were payable to him under this article in the applicable benefit year, or thirteen (13) times the weekly benefit amount (including dependents' allowances) which was payable to him under this article for a week of total unemployment in the applicable benefit year, whichever is the lesser amount.

~~(c)~~ **(e)** This subsection applies to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during another time specified

C o p y

in another state statute. An individual is entitled to thirteen (13) weeks of additional benefits, as originally determined, if:

(1) the individual has established:

(A) a disaster unemployment claim under the Stafford Disaster Relief and Emergency Assistance Act; or

(B) a state unemployment insurance claim as a direct result of a major disaster;

(2) all regular benefits and all disaster unemployment assistance benefits:

(A) have been exhausted by the individual; or

(B) are no longer payable to the individual due to the expiration of the disaster assistance period; and

(3) the individual remains unemployed as a direct result of the disaster.

SECTION 21. IC 22-4-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 6, 1980, and before July 7, 1985:

(1) the individual must have established, after the last day of his last base period, if any, wage credits (as defined in IC 22-4-4-3) and within the meaning of IC 22-4-22-3 equal to at least one and one-quarter (1.25) times the wages paid to him in the calendar quarter in which his wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of his base period in a total amount of not less than nine hundred dollars ($900) and an aggregate amount in the four (4) calendar quarters of his base period of not less than one thousand five hundred dollars ($1,500).

(b) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 7, 1985, and before January 1, 1992:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-half (1.5) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand five hundred dollars ($1,500) and an aggregate amount in the four (4) calendar

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quarters of the individual's base period of not less than two thousand five hundred dollars ($2,500).

(c) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after January 1, 1992, and before July 1, 1995:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand five hundred dollars ($1,500) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand five hundred dollars ($2,500).

(d) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 1, 1995, **and before July 1, 1999:**

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand six hundred fifty dollars ($1,650) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand seven hundred fifty dollars ($2,750).

(e) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 1, 1999:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in an

C o p y

aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand dollars ($2,000).

~~(e)~~ **(f)** As a further condition precedent to the payment of benefits to an individual with respect to a benefit year established on and after July 1, 1995, an insured worker may not receive benefits in a benefit year unless after the beginning of the immediately preceding benefit year during which the individual received benefits, the individual performed insured work and earned wages in employment under IC 22-4-8 in an amount not less than the individual's weekly benefit amount established for the individual in the preceding benefit year in each of eight (8) weeks.

SECTION 22. IC 22-4-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left his employment without good cause in connection with the work or who was discharged from his employment for just cause is ineligible for ~~waiting period or~~ benefit rights for the week in which the disqualifying separation occurred and until he has earned remuneration in employment equal to or exceeding the weekly benefit amount of his claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) ~~When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of his current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. When twenty-five percent (25%) of the maximum benefit amount, as initially determined, exceeds the unpaid balance remaining in the claim, such reduction will be limited to the unpaid balance.~~

~~(c)~~ The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from his prior employment if:

(A) he left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of betterment of wages or working conditions and thereafter was employed on said job for not less than ten (10) weeks;

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(B) having been simultaneously employed by two (2) employers, he leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) he left to accept recall made by a base-period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left his work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, he shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because he is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's prior employment if:

(A) the prior employment was outside the individual's labor

C o p y

market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

~~(d)~~ **(c)** "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 23. IC 27-1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. **(a)** Upon authorization of the dissolution, the board of directors shall then proceed to **do all the following:**

~~(a)~~ **(1)** Cause a notice that the corporation is about to be dissolved to be published at least once in a newspaper of general

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circulation, printed and published in the English language, in the county in which the principal office of the corporation is located, and at least once in a newspaper of general circulation, printed and published in the English language in the city of Indianapolis, Marion County, Indiana, and to be mailed to each creditor of the corporation.

~~(b)~~ **(2)** Collect all of the corporate assets.

~~(c)~~ **(3)** Pay and discharge all of the corporate debts and liabilities, **including any tax, penalty, and interest that have accrued under this article.** ~~and~~

~~(d)~~ **(4)** After the expiration of a period of thirty (30) days following the publication and mailing of said notice, distribute the remaining corporate assets and property among the shareholders, members or policyholders according to their respective interests.

(b) In case the holders of shares or policies are unknown or shall fail or refuse to accept their distributive shares in such property and assets, or are under any disability, or can not be found, after diligent inquiry or in case the ownership of any shares or policies is in dispute, the board of directors shall deposit the distributive portions of such shares of stock or policies with the clerk of the circuit court in the county in which the principal office is located for the use and benefit of those who may be lawfully entitled thereto, and such deposit shall have the same force and effect as if payment had been made directly to and accepted by the persons lawfully entitled thereto. Such distributive shares shall be paid over by such clerk to such shareholders or policyholders, respectively, or to the lawful owner of the shares or policies, the ownership of which has been in dispute, or to their respective legal representatives, upon satisfactory proof being made to such clerk of their respective rights thereto.

SECTION 24. IC 27-1-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

(1) considerations received for reinsurance of risks within this

C o p y

state from companies authorized to transact an insurance business in this state;

(2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

(4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

~~(c)(1)~~ **(c)** For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to ~~two percent (2%) of~~ the excess, if any, of the gross premiums over the allowable deductions **multiplied by the following rate for the year that the report covers:**

(1) For 2000, one and ninety-five hundredths percent (1.95%).

(2) For 2001, one and nine-tenths percent (1.9%).

(3) For 2002, one and eighty-five hundredths percent (1.85%).

(4) For 2003, one and eight-tenths percent (1.8%).

(5) For 2004 and thereafter, one and seventy-five hundredths percent (1.75%).

~~(c)(2)~~ **(d)** Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

C o p y

~~(c)(3)~~ **(e)** Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

~~(c)(4)~~ **(f)** Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

~~(c)(5)~~ **(g)** In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

~~(i)~~ **(1)** twenty-five percent (25%) of the total tax paid during the preceding calendar year; or

~~(ii)~~ **(2)** twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

~~(d)~~ **(h)** The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying ~~only~~ a tax on premiums as set out in this section.

~~(e)~~ **(i)** Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars ($100) for each additional day such report and payment shall be delayed, to be recovered in an action in the

C o p y

name of the state of Indiana on the relation of the department of insurance, in any court of competent jurisdiction, and it shall be the duty of the department to revoke all authority of such defaulting company to do business within this state, or suspend such authority during the period of such default, in the discretion of the department.

SECTION 25. IC 27-14 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY LAW

Chapter 1. General Provisions and Definitions

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

Sec. 2. (a) The requirements of this section constitute the members' surplus protection principle for purposes of this article. The members' surplus protection principle is intended to restrict the use of members' surplus after the effective date of a plan of reorganization for the benefit of the members of the MIHC. No part of the members' surplus may be used except to conduct the business of insurance in the ordinary course and to expand the business of the MIC in existence as of the effective date of the plan of reorganization. No part of the members' surplus may be used to make payments to stockholders of an intermediate stock holding company or a stock insurance company subsidiary (other than payments in satisfaction of contractual obligations under policies of insurance or annuity contracts held by stockholders) or to pay compensation to employees, directors, or officers of a company except as provided in subsection (d).

(b) For purposes of this article:

(1) a mutual insurance company (MIC) is owned by the members of the mutual insurance company; and

(2) a mutual insurance holding company (MIHC) organized under this article is owned by the members of the mutual insurance holding company.

(c) After the effective date of a reorganization under this article, no part of the members' surplus may be paid or distributed to any person other than to members of the MIHC except as provided in this subsection. A company may use members' surplus to operate after the effective date of a plan of reorganization in the ordinary course of the insurance business; provided, however, that the compensation of employees, directors, or officers of a company from members' surplus (if any) shall include only those amounts

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that satisfy any one (1) of the following criteria:

(1) Amounts that are payable with respect to services rendered prior to the effective date of the plan of reorganization.

(2) Amounts that are consistent with compensation payable prior to the effective date of the plan of reorganization that would be deemed to be reasonable compensation by the Internal Revenue Service and therefore allowed as proper expense deductions for federal income tax purposes.

(3) Amounts that are disclosed to the policyholders in proxy solicitation materials or other written materials approved by the commissioner as part of the notice of the meeting of the members called to approve a plan of reorganization, are approved by the commissioner in principle and concept as part of the approval of the plan of reorganization, and are approved by the commissioner as to specific amount prior to payment after the effective date of the plan of reorganization.

(4) Amounts that the commissioner deems necessary to preserve the safety and soundness of the stock insurance company subsidiary by enabling it to engage and retain capable employees.

The "ordinary course of the insurance business" shall include, but not be limited to, expanding the business of any company as of the effective date of a plan of reorganization into other insurance, insurance-related, and financial services businesses. Any expansion of business may be accomplished through acquisition, merger, consolidation, strategic alliance, joint venture, or other business combination. The assets in which the members' surplus is held may be invested, reinvested, sold, liquidated, exchanged, or otherwise transferred and transformed without regulation other than applicable laws limiting investments of all insurance companies.

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

(e) For the purposes of this article, ownership means that the policyholders or members have voting rights as provided by law and by the MIC's or MIHC's articles of incorporation and bylaws and the right to receive cash, stock, or other assets in the event of a conversion to a stock company under IC 27-1-8-13 or a dissolution under IC 27-1-10, as provided by those laws and by the MIC's or MIHC's articles of incorporation or bylaws.

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

C o p y

this article.

Sec. 4. (a) Subject to subsection (b), "acting in concert" means:

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

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

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

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

(1) its trustee; or

(2) a person who serves in a capacity similar to a trustee;

solely for the purpose of determining whether capital stock held by the trustee or the person in a similar capacity and capital stock held by the plan will be aggregated.

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

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

(1) controls;

(2) is controlled by; or

(3) is under common control with;

another person.

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

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

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

(A) an officer;

(B) a partner; or

(C) directly or indirectly the beneficial owner of at least ten percent (10%) of any class of equity securities.

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

(A) relative;

(B) spouse; or

(C) relative of the spouse;

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of the individual who shares the domicile of the individual.

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

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

(1) has a beneficial interest in; or

(2) serves as a trustee or in a similar fiduciary capacity for;

an employee benefit plan.

Sec. 9. "Board" means:

(1) the board of directors of an MIHC, an MIC, an intermediate stock holding company, or a stock insurance company subsidiary; or

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

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

Sec. 11. "Company" means an entity:

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

(2) that:

(A) is owned, entirely or in part, directly or indirectly, by an MIHC; and

(B) owns directly or indirectly all or part of the stock of a stock insurance company subsidiary.

Sec. 12. "Effective date" means, with respect to a plan, the date on which the plan becomes effective under this article.

Sec. 13. "Eligible member" means, with respect to a plan, a person who is a member of an MIC or MIHC, as applicable, on the adoption date of a plan.

Sec. 14. "Employee benefit plan" means an employee benefit plan established by an MIHC, or by one (1) or more of the subsidiaries of an MIHC, for the benefit of its:

(1) employees; or

(2) sales agents.

Sec. 15. "Financial services businesses" includes investment banking, commercial banking, industrial banking, savings and loan associations, credit unions, trust companies, other lending and loan brokerage services, services related to the extension of credit (including but not limited to real estate and personal property

C o p y

appraisal; arranging equity financing; check-guaranty services; collection agency services; asset management, servicing, and collection activities; real estate settlement services; and lease financing transactions), securities broker-dealer and trading services, private placement services, acting as a futures commission merchant, securities underwriting, transactions in bullion, precious metals, and foreign currency, investment advisory services, financial planning services, third party administration of insurance policy claims and accounts receivable, the advance or loan of funds using accounts receivable as collateral, organization and operation of investment companies and mutual funds, employee benefit planning and consultation services, actuarial services, issuance of money orders, savings bonds, and traveler's checks, and other operations and services either closely related to or a proper incident to the foregoing.

Sec. 16. "Intermediate stock holding company" means a company other than a stock insurance company subsidiary and its subsidiaries that:

(1) is owned entirely or in part by an MIHC; and

(2) directly or indirectly owns all or part of the capital stock of a stock insurance company subsidiary.

Sec. 17. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

Sec. 18. "Member" means a person that, according to the:

(1) records; and

(2) articles of incorporation and bylaws;

of an MIC or MIHC, as applicable, is a member of the MIC or MIHC, as applicable.

Sec. 19. "Members' surplus" means the surplus and any net unrealized capital gains of a mutual insurance company that exist on the effective date of a reorganization under this article.

Sec. 20. "Mutual insurance company" or "MIC" means a mutual insurer that is:

(1) submitting; or

(2) subject to;

a plan of reorganization under this article.

Sec. 21. "Mutual insurance holding company" or "MIHC" means a mutual insurance holding company established under IC 27-14-2.

Sec. 22. "Net income after taxes and net realized gains" means:

(1) as to stock insurance company subsidiaries, the net income of the stock insurance company subsidiary after:

C o p y

(A) income taxes; and

(B) net realized gains (reduced by capital gains tax, if any) on the sale of assets that were held as of the effective date of the plan of reorganization, but not to exceed the net unrealized capital gains as of the effective date of the plan of reorganization;

as reported on its statutory annual statements; or

(2) as to any intermediate stock holding company, the consolidated net income of the intermediate stock holding company after:

(A) income taxes; and

(B) net realized gains (reduced by capital gains tax, if any) on the sale of assets that were held as of the effective date of the plan of reorganization, but not to exceed the net unrealized capital gains as of the effective date of the plan of reorganization;

as reported on its audited consolidated financial statements.

For the purposes of this section, "net realized capital gains" means realized capital gains less realized capital losses for the same accounting period. For the purposes of this section, "net unrealized capital gains" means unrealized capital gains less unrealized capital losses as of the effective date of the plan of reorganization.

Sec. 23. "Outside director" means an individual who:

(1) is a member of a board of:

(A) an MIHC;

(B) an intermediate stock holding company; or

(C) a stock insurance company subsidiary;

(2) is a "non-employee Director" as that term is defined by the Securities and Exchange Commission in Rule 16b-3(b)(3)(i) promulgated under the Securities Exchange Act of 1934, as amended.

Sec. 24. "Parent company" means either of the following:

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

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

Sec. 25. "Participating policy" means an insurance policy providing for the distribution of policy dividends.

Sec. 26. "Person" means any of the following:

(1) An individual.

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

Sec. 27. "Plan" means a plan:
(1) of reorganization; or
(2) to issue stock.

Sec. 28. "Plan of reorganization" means a plan adopted under IC 27-14-2.

Sec. 29. "Plan to issue stock" means a plan to issue shares of voting capital stock adopted under IC 27-14-4.

Sec. 30. "Policy" means a contract providing one (1) or more of the kinds of insurance described in IC 27-1-5-1.

Sec. 31. "Stock insurance company subsidiary" means:
(1) a stock insurance company that is owned entirely or in part by an MIHC or an intermediate stock holding company; and
(2) the policyholders of which may be or are entitled to become members of the MIHC.

Sec. 32. "Subsidiary" means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:
(1) directly; or
(2) indirectly, through one (1) or more intermediaries.

Sec. 33. "Voting capital stock" means capital stock whose holder has the right to vote in the election of directors.

Chapter 2. Mutual Insurance Company Reorganization

Sec. 1. (a) A mutual insurance company (MIC) may reorganize under this chapter as a mutual insurance holding company (MIHC) with one (1) or more subsidiaries after the following have occurred:
(1) The favorable vote of its board of directors to reorganize.
(2) The filing of an application with the commissioner before July 1, 2001.
(3) A notice of a public hearing is made to its members and the public.
(4) At least one (1) public hearing conducted by the commissioner.
(5) The approval of the commissioner of the plan.
(6) A favorable vote of the eligible members of the MIC.

C o p y

(7) The issuance of an order of completion by the commissioner.

(b) The subsidiaries of an MIC that reorganizes as an MIHC under this chapter:

(1) must include at least one (1) stock insurance company subsidiary; and

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

(c) An application to reorganize as an MIHC may not be filed with the commissioner under this article after June 30, 2001.

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

(1) The establishment of at least one (1) company.

(2) The amendment or restatement of the articles and bylaws of any company.

(3) The transfer or acquisition of any or all of the assets and liabilities of any company.

(4) The merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more mutual insurance companies.

(5) The merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more intermediate stock holding companies as part of the merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more MIHCs.

(6) The merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more stock insurance companies.

(7) The merger of an MIC's members' ownership interests into any existing MIHC, with the continued corporate existence of the reorganized MIC as a stock insurance company subsidiary.

(8) The issuance, acquisition, or transfer of capital stock.

Sec. 3. (a) A plan of reorganization under this chapter must be adopted by the board of directors of the MIC.

(b) For a plan of reorganization to be adopted by the board of directors of an MIC, at least seventy-five percent (75%) of the

C o p y

members of the board of directors must vote in favor of the adoption.

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

(1) A plan of reorganization.

(2) The form of the notices to be sent to members under this chapter, including a notice of the public hearing and a notice informing members of their right to vote on the plan.

(3) A copy of the:

(A) proposed articles of incorporation; and

(B) bylaws;

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

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

(A) the proposed articles of amendment; and

(B) amended bylaws;

of the company, which in the case of each domestic insurance company must comply with the requirements of IC 27-1-8.

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

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

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

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

(3) It must describe the:

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

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

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

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

C o p y

reorganization, the MIHC must at all times have the direct or indirect:

(A) power to cast at least fifty-one percent (51%) of the votes on all matters submitted to a vote of the holders of common stock (and each class of stock entitled to vote on any matter submitted to security holders for a vote, including the election of directors) of each reorganized insurer and any intermediate stock holding company of the MIHC; and

(B) ownership of shares of stock entitled to:

(i) receipt of at least fifty-one percent (51%) of all dividends declared on common stock of each reorganized insurer and any intermediate stock holding company of the MIHC; and

(ii) receipt of at least fifty-one percent (51%) of the net proceeds to common stockholders upon any dissolution of each reorganized insurer and any intermediate stock holding company of the MIHC.

(5) It must provide that:

(A) the:

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

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

under the articles of incorporation and bylaws of the MIHC;

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

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

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

(7) It must describe the:

(A) establishment of companies;

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(B) amendment or restatement of the articles and bylaws of a company; and

(C) merger of companies;

that will take place under the plan of reorganization.

(8) It must provide a list of:

(A) all individuals who are or have been selected to become directors or officers of the MIHC and its subsidiaries;

(B) all directors who will qualify as outside directors in accordance with IC 27-14-1-23; and

(C) other individuals who perform or will perform duties customarily performed by a director or officer.

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

(A) the individual's principal occupation;

(B) all offices and positions the individual has held in the preceding five (5) years;

(C) any crime of which the individual has been convicted (other than traffic violations) in the preceding ten (10) years;

(D) information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven (7) years;

(E) information concerning the bankruptcy of any corporation of which the individual was an officer or director during the previous seven (7) years;

(F) information concerning any state or federal securities law allegations against the individual that within the previous ten (10) years resulted in:

(i) a determination that the individual violated the state or federal securities law;

(ii) a plea of nolo contendere; or

(iii) a consent decree;

(G) information concerning the revocation during the previous ten (10) years of any state or federal license issued to the individual; and

(H) information as to whether the individual was refused a performance or other bond.

(10) With respect to a policy of a stock insurance company that goes into force after the effective date of the reorganization, the policy must provide that:

(A) the owner of the policy; or

(B) another person or persons specified in:

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(i) the policy; or

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

becomes a member of the MIHC except that a plan of reorganization may provide that any person who becomes an owner of a policy of a stock insurance company or who would otherwise become a member under a policy issued during a particular period of not more than three (3) years immediately after the effective date of the plan of reorganization will not become a member until after the expiration of that period.

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

(A) the policy continues to remain in force under the policy's terms as the policy of a stock insurance company subsidiary;

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

(C) the policyholder's right to benefits, values, guarantees, and other policy obligations of the MIC continues after the effective date of the plan of reorganization as obligations of the stock insurance company subsidiary.

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

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

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

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

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

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

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

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

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

C o p y

(B) with the consent of the commissioner.

(b) For a plan of reorganization to be:

(1) amended; or

(2) terminated;

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

Sec. 7. (a) The commissioner shall, as soon as practicable after a plan of reorganization is filed with the commissioner, conduct a public hearing under IC 4-22-2-26 in Indianapolis or in the city where the principal office of the applicant is located. The public hearing shall be held at a place, date, and time specified by the commissioner to afford interested persons an opportunity to present information, views, arguments, or comments about the plan.

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

(1) the city of Indianapolis;

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

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

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

(c) The notice provided under this section must:

(1) refer to the applicable statutory provisions;

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

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

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

(1) Reference to the applicable statutory provisions.

(2) A statement of the date, time, and location of the hearing.

(3) A brief statement of the subject of the hearing, including specific notice to the member that the member's ownership interest in the MIC will be affected by the reorganization.

Sec. 9. The commissioner shall not approve a plan of

C o p y

reorganization submitted under this article unless the applicant has shown, by a preponderance of the evidence, that:

(1) the plan of reorganization:

(A) complies with the law;

(B) includes the disclosures and notices required under this article;

(C) is fair to the members of the MIC; and

(D) complies with the members' surplus protection principle; and

(2) the intended operations of the applicant, as set forth in the plan of reorganization, is fair to the members of the MIC and complies with the members' surplus protection principle.

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

(1) the approval of the plan by the eligible members under this chapter; and

(2) the requirements of sections 17 and 18 of this chapter.

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

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

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

(1) be mailed at least thirty (30) days before the meeting;

(2) refer to the applicable statutory provisions;

(3) state the date, time, and location of the meeting;

(4) include a brief statement of the subject of the meeting; and

(5) describe the member's right to attend and participate in the meeting.

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

Sec. 13. Before the special or annual meeting at which the eligible members of an MIC vote on a plan of reorganization, the

C o p y

MIC shall provide the eligible members with information about the plan sufficient for the members, in the reasonable determination of the commissioner, to make an informed decision about the plan of reorganization.

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

(1) may vote in person or by proxy if the proxy:

(A) includes reference to the applicable statutory provisions;

(B) states the date, time, and location of the meeting;

(C) contains a brief statement of the subject of the meeting, including specific notice to the member that the member's interest in the MIC that will be affected by the reorganization; and

(D) was solicited and obtained from the member after the MIC has submitted the plan of reorganization to the commissioner under this article; and

(2) is entitled to cast only one (1) vote on the proposed plan of reorganization, regardless of the number of policies or the amount of insurance that the member has with the applicant or any affiliate of the applicant.

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

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

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

(1) the commissioner must have issued notice to the applicant that the commissioner has approved the plan of reorganization of the applicant under section 10 of this chapter;

(2) a public hearing must have been conducted under this chapter;

(3) the commissioner must have received the minutes of the meeting of the members at which the plan was approved reflecting that the plan of reorganization was on the agenda and the plan was approved, if the members voted to approve

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the plan at a special or annual meeting; and

(4) the articles of incorporation of the applicant must have been certified by the secretary of -state and transmitted to the commissioner.

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

(1) a permit for completion of organization as provided in IC 27-1-6-11, in the case of a newly organized domestic insurance company; or

(2) an amended certificate of authority as provided in IC 27-1-8-9, in the case of amended articles of incorporation of a domestic insurance company.

Sec. 18. A plan of reorganization is effective when each stock insurance company subsidiary or MIHC affected by the plan has filed:

(1) its articles of incorporation or, if appropriate, its articles of amendment; and

(2) the certificate of authority issued to the company by the commissioner under this chapter;

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

Sec. 19. The organization of any domestic insurance company under a plan of reorganization under this article must be conducted under IC 27-1-6 concerning the formation of domestic insurance companies.

Sec. 20. The amendment of the articles of incorporation of a domestic insurance company under a plan of reorganization under this article must be conducted in compliance with IC 27-1-8.

Chapter 3. Mutual Insurance Holding Companies

Sec. 1. An MIHC organized under this article:

(1) must meet the requirements of IC 27-14-2; and

(2) is subject to rules that the commissioner may adopt under IC 4-22-2.

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

(1) The name of the MIHC, which must include the term "mutual" or the abbreviation "MIHC".

(2) A provision that no actions will be taken by the MIHC that contravene the members' surplus protection principle established in this article.

(3) A provision specifying that the MIHC must, at all times,

C o p y

have the direct or indirect power to cast at least fifty-one percent (51%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.

(4) A provision specifying that the MIHC does not have the power to engage in the business of issuing insurance policies or contracts, except through a stock insurance company subsidiary.

(5) A provision specifying that the MIHC is not authorized to issue voting or any other capital stock.

(6) A provision setting forth the rights of members of the MIHC in the equity of the MIHC upon liquidation, including the rights of the members to the assets of the MIHC.

(7) A provision specifying that:

(A) a member of the MIHC is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the MIHC; and

(B) no assessment may be imposed upon the members of the MIHC by any person, including:

(i) the board of directors, members, or creditors of the MIHC; and

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

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

Sec. 3. Members of an MIHC have rights and obligations specified in:

(1) this article; and

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

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

(1) all stock insurance subsidiaries; and

(2) an intermediate stock holding company, if any;

of the MIC.

(b) After the effective date of the reorganization of an MIC as an MIHC under this chapter, the MIHC must at all times have the direct or indirect:

(1) power to cast at least fifty-one percent (51%) of the votes on all matters submitted to a vote of the holders of common stock (any class of stock entitled to vote generally on matters

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submitted to security holders for a vote, including the election of directors) of each reorganized insurer and any stock holding company of the MIHC; and

(2) ownership of shares of stock entitled to:

(A) receipt of at least fifty-one percent (51%) of all dividends declared on common stock of each reorganized insurer and any stock holding company of the MIHC; and

(B) receipt of at least fifty-one percent (51%) of the net proceeds to common stockholders upon any dissolution of each reorganized insurer and any stock holding company of the MIHC.

Sec. 5. (a) For the purposes of IC 27-1-23:

(1) an MIHC and its affiliates constitute an insurance holding company system; and

(2) an MIHC is considered to be an "insurer".

However, a separate filing or an approval is not required under IC 27-1-23 for an acquisition or a reorganization that is included in a plan approved under this article.

(b) For the purposes of this section, a "material transaction" means:

(1) a transaction described in IC 27-1-23-4(b) between:

(A) an MIHC and any affiliate; or

(B) between any affiliates of an MIHC;

if the transaction equals or exceeds the percentages of admitted assets or surplus set forth in IC 27-1-23-4(b) of any reorganized insurer of the MIHC; or

(2) a transaction described in IC 27-1-23-4(b) between an MIHC and any person as specified in a rule adopted by the commissioner under IC 4-22-2 or an order issued by the commissioner.

(c) An MIHC may not enter into a material transaction unless the MIHC has notified the commissioner in writing of its intention to enter into a material transaction at least thirty (30) days before the transaction, or such shorter period as the commissioner may permit, and the commissioner has not disapproved the transaction within that period.

(d) In addition to the requirements of IC 27-1-23-4(a) and IC 27-1-23-4(d), a material transaction must:

(1) be fair and reasonable to the members of the MIHC; and

(2) not violate the members' surplus protection principle.

(e) An MIHC and its affiliates may not enter into transactions that are part of a plan or series of like transactions if the purpose

C o p y

of those separate transactions is to circumvent any rules of the commissioner prohibiting a material transaction or this section.

Sec. 6. (a) At least sixty-seven percent (67%) of the following must be made up of outside directors:

(1) The board of directors of an MIHC.

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

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

(4) Any audit committee or executive committee of the board of directors of:

(A) an MIHC;

(B) an intermediate stock holding company; or

(C) a stock insurance company subsidiary.

(b) All of the directors who are members of any management compensation committee of the following entities must be outside directors:

(1) An MIHC.

(2) An intermediate stock holding company.

(3) A stock insurance company subsidiary.

(c) All of the directors who are members of any pricing committee of the following entities with responsibility for approving the price of stock sold in any offering under this article must be outside directors:

(1) An intermediate stock holding company.

(2) A stock insurance company subsidiary.

(d) The commissioner may determine, after furnishing the affected company and director with notice and opportunity to be heard, that an individual does not qualify as an outside director or otherwise should not be considered an outside director. Such an individual may continue to serve as a director, but from the date the commissioner notifies the affected company in writing of his determination and the basis therefor, the individual may not be considered an outside director.

(e) A director's failure to qualify as or be considered an outside director does not affect the validity of any action taken in good faith by the company, the board of directors, or any committee of the board of directors.

Sec. 7. (a) With the written approval of the commissioner, and subject to any conditions imposed by the commissioner, an MIHC may do any of the following:

(1) Merge or consolidate with, or acquire the assets of:

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(A) an MIHC organized under this article; or

(B) a similar entity organized under the laws of any other state.

(b) Subject to approval and filing requirements imposed by IC 27 and other states' laws, an MIHC may do the following:

(1) Acquire the stock of a stock insurance company as a subsidiary of the MIHC or an intermediate stock holding company of the MIHC.

(2) Organize a domestic intermediate stock holding company as a wholly owned subsidiary.

(3) Organize a stock insurance company as a subsidiary.

(4) Acquire the assets or all or any part of the stock of any insurance business, insurance-related business, or business entity engaged in financial services businesses.

(5) Organize or acquire the debt or equity securities of any business entity other than those engaged in insurance or insurance related businesses or in financial services businesses, so long as the MIHC does not control and does not have the right to control the business entity and does not hold more than 10% of the issued and outstanding debt or equity securities of the business entity.

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

(1) has and may exercise all the rights and privileges of insurance companies formed under this title; and

(2) is subject to all the requirements and regulations imposed upon insurance companies formed under this title.

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

(1) An MIHC does not have the right or privilege to write insurance (except through a stock insurance company subsidiary) and is not subject to any requirement or rule adopted under IC 4-22-2 relating to the writing of insurance.

(2) An MIHC is not subject to the deposit requirement in IC 27-1-6-15(d).

(3) An MIHC is not subject to any statute or rule adopted under IC 4-22-2 that is imposed upon insurance companies formed under this title to the extent that the statute or rule is in conflict with this article.

(4) An MIHC is not subject to the investment requirements under IC 27-1-12 or IC 27-1-13 that limit or restrict investments in subsidiaries.

(5) An MIHC is not subject to risk based capital requirements under IC 27-1-36.

C o p y

(6) An MIHC is not subject to a requirement under IC 27 if the commissioner determines by order or rule adopted by the commissioner under IC 4-22-2 that the requirement does not apply to the MIHC.

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

(1) Audited financial statements, including:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flows; and

(D) footnotes.

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

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

(4) A statement that the MIHC and its affiliates have complied with section 12 of this chapter.

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

Sec. 10. A membership interest in an MIHC does not constitute a security under Indiana law.

Sec. 11. (a) After the effective date of a plan of reorganization, the officers and directors of the MIHC:

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

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

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

To the extent that any company has stockholders other than the MIHC or an intermediate stock holding company, then the fiduciary duties that the officers and directors of the MIHC owe to the members of the MIHC shall be co-extensive with the fiduciary duties owed by the directors of any Indiana corporation to its

C o p y

shareholders.

(b) An action may be brought to recover for the violation of fiduciary responsibilities under this article in accordance with IC 34-11-2-4 or, in the case of fraud, in accordance with IC 34-11-2-7.

Sec. 12. (a) The following transactions between an MIHC or an affiliate of an MIHC and any person other than an affiliate may not be entered into unless the MIHC has notified the commissioner in writing of its intention to enter into such a transaction at least thirty (30) days before entering into the transaction, or a shorter period if permitted by the commissioner, and the commissioner has not disapproved it within that period:

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

(2) Material transactions, specified by rule, that the commissioner deter-mines may adversely affect the interests of the policyholders of affiliates of the MIHC or that do not comply with the members' surplus protection principle.

This subsection does not authorize or permit any transactions not otherwise authorized under this article.

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

(c) A stock insurance company subsidiary or intermediate stock holding company of the MIHC that has any shareholder other than the MIHC or a direct or indirect wholly owned subsidiary of the MIHC may not declare or pay any dividend or other distribution on its capital stock except to the extent of one (1) or more years of net income after taxes and net realized gains after the effective date of the plan of reorganization.

Chapter 4. Issuance of Capital Stock

Sec. 1. (a) This chapter applies only to the initial public offering of voting capital stock by a subsidiary of an MIHC after a

C o p y

reorganization under this article.

(b) A subsidiary organized under this title may issue shares of any class or type of capital stock permitted under this title, and other subsidiaries, including an intermediate stock holding company, may issue any type of stock permitted by the law under which it is organized. However, a stock insurance company subsidiary and an intermediate stock holding company may issue shares of voting capital stock to a person or entity other than:

(1) the MIHC of which it is a subsidiary; or

(2) an intermediate stock holding company or stock insurance company subsidiary that is a direct or indirect subsidiary of the MIHC referred to in subdivision (1);

only in compliance with this article and with applicable federal and state securities laws.

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

(1) by the board of directors of the MIHC; or

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

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

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

(1) A proposed plan to issue voting capital stock.

(2) The form of notice to be sent to members, informing members of their right to vote on the plan.

(3) The form of the proxy statement to be used to solicit the votes of members. The form must describe the plan and must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.

(4) The form of proxy to be solicited from members.

(5) A copy of the proposed articles of incorporation and

C o p y

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

(6) If it is necessary to amend the current articles of incorporation or bylaws of a company that is affected by the plan, a copy of the proposed articles of amendment and amended bylaws of the company, which in the case of each domestic insurance company must comply with the requirements of IC 27-1-8.

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

(8) A description of:

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

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

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

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

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

(9) A list of:

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

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

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

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

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

(12) Any other information requested by the commissioner.

Sec. 5. (a) A plan to issue voting capital stock in a public offering (other than an offering solely in connection with a consolidation, merger, share exchange, or other business combination or an offering of stock under a stock option or other employee benefit plan) must do the following:

C o p y

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

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

(3) Provide a fair and equitable means for allocating shares of voting capital stock in the event of an oversubscription to the shares by eligible members exercising subscription rights received under this chapter.

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

(A) in a public offering through an underwriter;

(B) through private placement; or

(C) by any other method approved by the commissioner that is fair and equitable to members.

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

(A) purchase at least the minimum number of shares of voting capital stock; or

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

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

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

(B) after approval of the waiver by the board of directors of the MIHC and by the commissioner.

(7) Establish a pricing committee within the board of directors of the entity making the offering of voting capital stock, consisting exclusively of outside directors.

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

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

C o p y

Sec. 6. Subject to the limitations of IC 27-14-5, a plan to issue voting capital stock may do the following:

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

(2) Provide for:

(A) the establishment of; and

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

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

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

(A) person; or

(B) group of persons acting in concert;

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

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

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

(B) a specified percentage of not less than one percent (1%) of the total number of outstanding shares.

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

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

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

(i) register, under the securities laws of the jurisdiction,

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as a broker, dealer, salesman, or agent; or

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

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

Sec. 7. Notwithstanding any provision of this article, an MIHC or an affiliate of an MIHC may not use any form of a stock option or other preference with respect to the sale or purchase of any voting capital stock or other equity instrument of the MIHC or an affiliate of the MIHC to compensate an officer or director of the MIHC or an affiliate of the MIHC for services in connection with a plan to issue stock.

Chapter 5. Restrictions on Capital and Other Stock

Sec. 1. A plan to issue voting capital stock that is filed with the commissioner under this article must do the following:

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

(2) Require that, after the effective date, the MIHC must at all times have the direct or indirect power to cast at least fifty-one percent (51%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.

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

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

(B) more than five (5) years after the initial issuance of voting capital stock, ten percent (10%) of the total number of shares of voting capital stock to be issued;

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

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

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

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

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

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

(A) any shares attributed to the officers and directors and their associates but held by one (1) or more employee benefit plans that satisfy the requirements of Section 401(a), 403(b), 404(c), 408, 423, or 501(c)(9) of the Internal Revenue Code; or

(B) any options or rights to acquire shares pursuant to an employee benefit plan that complies with Section 422 of the Internal Revenue Code.

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

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

(B) more than five (5) years after the initial issuance of voting capital stock, ten percent (10%) of the total number of shares of nonvoting equities or other dividend paying instruments to be issued.

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

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

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

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

may not exceed five percent (5%) of the total number of shares of nonvoting equities and other nonvoting dividend paying instruments to be issued under the plan, not including:

(A) any nonvoting equities or instruments attributed to the officers and directors and their associates but held by one (1) or more employee benefit plans that satisfy the requirements of Section 401(a), 403(b), 404(c), 408, 423, or 501(c)(9) of the Internal Revenue Code; or

(B) any options or rights to acquire shares pursuant to an employee benefit plan that complies with Section 422 of the

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Internal Revenue Code.

(7) An inadvertent ownership of securities that exceeds the securities ownership limitations in this chapter does not violate this chapter if:

(A) a sufficient number of securities are divested within thirty (30) days after the limitation was first known to be exceeded so that the limitation is no longer exceeded; and

(B) during the period when the limitation is known to have been exceeded, the owner of the securities:

(i) does not vote any securities in excess of the limitation; and

(ii) does not accept a dividend in respect of any securities that exceed the limitations.

(8) For purposes of determining compliance with ownership restrictions in this chapter, a person to whom a stock purchase option or warrant has been granted under this chapter is not considered to own the underlying securities until the stock purchase option or warrant is exercised.

(9) An increase in a person's percentage ownership of securities does not constitute a violation of the securities ownership restrictions in this chapter if the increase in percentage ownership results solely from a decrease in the aggregate number of securities outstanding; provided, however, that the person must take prompt action to divest the excess number of shares in accordance with subdivision (7).

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

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

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

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

(11) Provide that the aggregate number of shares of voting

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

(12) Describe:

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

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

Chapter 6. Public Hearing, Commissioner Approval, and Effective Date of Plan to Issue Stock

Sec. 1. Not more than:

(1) sixty (60) days after the acceptance of an application filed with respect to a plan to issue stock under IC 27-14-4; or

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

the commissioner may conduct a public hearing under IC 4-22-2-26 in Indianapolis at a place, date, and time specified by the commissioner to afford interested persons an opportunity to present information, views, arguments, or comments in regard to the plan.

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

(1) the city of Indianapolis;

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

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

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

(b) The notice provided under this section must:

(1) refer to the applicable statutory provisions;

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

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

Sec. 3. In compliance with the later of:

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

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

the commissioner shall approve or disapprove the plan under IC 27-14-4 to issue stock.

Sec. 4. The commissioner shall approve a plan to issue stock

C o p y

submitted under IC 27-14-4 unless the commissioner makes at least one (1) of the following findings with respect to the plan:

(1) Disapproval of the plan is necessary to prevent practices that will cause financial impairment to the applicant or its subsidiaries.

(2) The financial or management resources of the applicant or its subsidiaries or affiliates warrant disapproval.

(3) The plan does not comply with the provisions of this article.

(4) The proposed plan is unfair to members.

(5) The plan does not comply with the members' surplus protection principle of this article.

Sec. 5. (a) The commissioner shall immediately notify the applicant upon reaching a decision on a plan submitted under this chapter.

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

(c) A decision of the commissioner approving a plan to issue stock must specify the method by which the offering price will be determined.

Sec. 6. The approval by the commissioner of a plan to issue stock expires one hundred eighty (180) days after the date of approval, except as otherwise provided by an order of the commissioner.

Sec. 7. The organization of a domestic insurance company under a plan under this article must be conducted in compliance with the provisions of IC 27-1-6 concerning the formation of domestic insurance companies, except as provided in this chapter.

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

Chapter 7. Miscellaneous Provisions

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

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

Sec. 2. A civil action:

C o p y

(1) challenging the validity of; or

(2) arising out of;

action that is taken or proposed to be taken under this article must commence not later than sixty (60) days after the approval by the commissioner of the plan under which or in respect of which the action is taken or proposed to be taken.

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

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

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

Sec. 5. An MIHC and its subsidiaries and affiliates may not do any of the following:

(1) Lend funds to any person to finance the purchase of stock in a stock offering by an MIHC or any of its subsidiaries other than policyholder loans granted under the terms of an insurance policy of a subsidiary.

(2) Pay commissions, special fees, or other special or extraordinary compensation to officers, directors, interested persons, or affiliates for arranging, promoting, aiding, assisting, or participating in the structure or placement of a stock offering by the MIHC or any of its subsidiaries, except to the extent permitted under IC 27-14-4.

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

Sec. 6. (a) Except as provided in subsection (b), a stock insurance company subsidiary to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this article has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the MIC that is the subject of the plan of reorganization.

(b) An MIHC resulting from a plan of reorganization of an MIC under this article has all obligations and liabilities of the MIC for any claim, asserted or otherwise, that existed at the effective date of the reorganization and that:

(1) seeks the imposition of a constructive or charitable trust

C o p y

on assets of the MIC for the benefit of policyholders, members, or other persons;

(2) seeks distribution or return of assets, or other form of compensation, from the MIC to policyholders or members; or

(3) otherwise arises out of, or relates to, the ownership interest of policyholders or members of the MIC, or to the value of their ownership interests, including any claim that challenges a statutory transaction engaged in by the MIC before the effective date of the reorganization.

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

(1) the proceeding may be continued after the effective date, as if the reorganization had not occurred; or

(2) the stock insurance company subsidiary that succeeds to the MIC's business may be substituted in the proceeding for the MIC;

except that the MIHC resulting from the plan of reorganization shall be substituted for the MIC and any subsidiaries of the MIC in all proceedings involving any claim described in section 6(b) of this chapter.

Sec. 8. Subject to IC 27-14-1-2, an MIHC may convert to a stock insurance company under IC 27-1-8-13 as though the MIHC were an MIC. If an MIHC converts to a stock insurance company under IC 27-1-8-13, the surplus of the MIHC as of the effective date of the conversion must be determined and distributed in accordance with IC 27-1-8-13.

Sec. 9. The commissioner shall, at the applicant's expense, hire attorneys, actuaries, accountants, investment bankers, and other experts as may be necessary to assist the commissioner in reviewing all matters under this article that are associated with a plan of reorganization or a plan to issue stock. The commissioner may at any time require an applicant to deposit an amount of money with the department of insurance in anticipation of expenses to be incurred by the commissioner under this article.

Sec. 10. (a) Except as otherwise specifically provided in this chapter, IC 5-14 applies to all filings made under this article.

(b) Filings, information, and documents made with or provided to the commissioner under this article may include information that might be damaging to a converting mutual or its affiliates if made available to competitors. Subject to subsection (c), all documents containing trade secrets of a converting mutual or its affiliates and marked "confidential" by the converting mutual:

C o p y

(1) are declared confidential for purposes of IC 5-14-3-4;
(2) are not subject to inspection and copying by the public under IC 5-14-3-3;
(3) may be disclosed by the commissioner to the department of insurance of another state if that department of insurance agrees to keep the information confidential; and
(4) may not be disclosed by the commissioner to any person other than a department of insurance under subdivision (3) without the written consent of the converting mutual.

(c) Subject to subsection (e), the commissioner may disclose to any person all or part of any document marked "confidential" in the commissioner's possession as the result of being filed under this article if the following conditions are met:

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

(d) The commissioner may disclose information under subsection (c) in a manner and subject to limitations as the commissioner considers appropriate.

(e) If:

(1) not more than six (6) business days have elapsed since the converting mutual received notice of a proposed disclosure; and
(2) the converting mutual has notified the commissioner that it or another interested party has filed an action seeking a protective order from a circuit or superior court to prevent or to limit disclosure;

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

Sec. 11. (a) An existing domestic MIHC may, with the prior approval of the commissioner:

(1) acquire direct or indirect ownership of a converting

C o p y

foreign MIC that becomes a stock insurer in compliance with the laws of its state of domicile; and

(2) grant membership interests and equity rights to the members or policyholders of a foreign mutual insurer that merges with a direct or indirect domestic or foreign subsidiary of the MIHC or is otherwise acquired by the MIHC.

(b) The commissioner shall consider the fairness of the terms and conditions of the transaction, whether the interests of the members of each MIHC that is a party to the transaction are protected in a manner consistent with the members' surplus protection principle, whether the proposed transaction is in the public interest, and whether the transaction complies with the members' surplus protection principle when determining whether to approve a transaction under subsection (a).

Sec. 12. The concurrent reorganization of two (2) or more domestic MICs into a single MIHC structure under IC 27-14-2 may be accomplished by a joint application and a joint plan of reorganization and may be approved by the commissioner following a combined hearing. The commissioner may allow such other procedures as may be necessary or desirable to avoid unnecessary or duplicative costs and efforts in satisfying the requirements of this article and in effectuating the reorganization.

Sec. 13. The commissioner is authorized to adopt rules under IC 4-22-2 to carry out the purposes of this article.

SECTION 26. [EFFECTIVE UPON PASSAGE] **(a) IC 27-14, as added by this act, is intended to enable mutual insurance companies to seek additional capital more effectively to:**

(1) enhance their financial strength and flexibility;

(2) support long term growth internally and through mergers and acquisitions; and

(3) expand and enhance the domestic insurance companies of this state.

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

(1) reorganize into a mutual insurance holding company structure; and

(2) raise capital through the sale of capital stock.

SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: IC 6-5.5-2-2; IC 6-5.5-2-5; IC 6-5.5-2-5.3.

C o p y

SECTION 28. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: **IC 6-5.5-2-1, IC 6-5.5-2-3, 6-5.5-2-4, and IC 6-5.5-4-1, all as amended by this act, apply to taxable years that begin after December 31, 1998.**

SECTION 29. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1899, 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:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1899 as introduced.)

BAUER, Chair

Committee Vote: yeas 16, nays 5.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1899 be amended to read as follows:

Page 71, line 34, after "." insert "**The members' surplus protection principle is intended to restrict the use of members' surplus after the effective date of a plan of reorganization for the benefit of the members of the MIHC. No part of the members' surplus may be used except to conduct the business of insurance in the ordinary course and to expand the business of the MIC in existence as of the effective date of the plan of reorganization. No part of the members' surplus may be used to make payments to stockholders of an intermediate stock holding company or a stock insurance company subsidiary (other than payments in satisfaction of contractual obligations under policies of insurance or annuity contracts held by stockholders) or to pay compensation to employees, directors, or officers of a company except as provided in subsection (d).**".

Page 71, delete lines 41 through 42, begin a new paragraph and insert:

"**(c) After the effective date of a reorganization under this article, no part of the members' surplus may be paid or distributed to any person other than to members of the MIHC except as provided in this subsection. A company may use members' surplus to operate after the effective date of a plan of reorganization in the ordinary course of the insurance business; provided, however, that the compensation of employees, directors, or officers of a company from members' surplus (if any) shall include only those amounts that satisfy any one (1) of the following criteria:**

(1) Amounts that are payable with respect to services rendered prior to the effective date of the plan of reorganization.

(2) Amounts that are consistent with compensation payable prior to the effective date of the plan of reorganization that would be deemed to be reasonable compensation by the Internal Revenue Service and therefore allowed as proper expense deductions for federal income tax purposes.

(3) Amounts that are disclosed to the policyholders in proxy solicitation materials or other written materials approved by the commissioner as part of the notice of the meeting of the members called to approve a plan of reorganization, are approved by the commissioner in principle and concept as part of the approval of the plan of reorganization, and are

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approved by the commissioner as to specific amount prior to payment after the effective date of the plan of reorganization.

(4) Amounts that the commissioner deems necessary to preserve the safety and soundness of the stock insurance company subsidiary by enabling it to engage and retain capable employees.

The "ordinary course of the insurance business" shall include, but not be limited to, expanding the business of any company as of the effective date of a plan of reorganization into other insurance, insurance-related, and financial services businesses. Any expansion of business may be accomplished through acquisition, merger, consolidation, strategic alliance, joint venture, or other business combination. The assets in which the members' surplus is held may be invested, reinvested, sold, liquidated, exchanged, or otherwise transferred and transformed without regulation other than applicable laws limiting investments of all insurance companies.".

Page 72, delete lines 1 through 14.

Page 72, line 15, delete "(f)" and insert "**(d)**".

Page 72, line 15, after "not" insert "**approve,** ".

Page 72, line 15, after "take" insert "**,**".

Page 72, line 18, delete "(g)" and insert "**(e)**".

Page 72, line 19, delete "having" and insert "**have**".

Page 72, delete lines 25 through 29.

Page 74, between lines 25 and 26, begin a new paragraph and insert:

"**Sec. 15. "Financial services businesses" includes investment banking, commercial banking, industrial banking, savings and loan associations, credit unions, trust companies, other lending and loan brokerage services, services related to the extension of credit (including but not limited to real estate and personal property appraisal; arranging equity financing; check-guaranty services; collection agency services; asset management, servicing, and collection activities; real estate settlement services; and lease financing transactions), securities broker-dealer and trading services, private placement services, acting as a futures commission merchant, securities underwriting, transactions in bullion, precious metals, and foreign currency, investment advisory services, financial planning services, third party administration of insurance policy claims and accounts receivable, the advance or loan of funds using accounts receivable as collateral, organization and operation of investment companies and mutual funds, employee benefit planning and consultation services, actuarial services, issuance of money orders, savings bonds, and traveler's checks, and other**

C o p y

operations and services either closely related to or a proper incident to the foregoing.".

Page 74, line 26, delete "15." and insert "**16.**".

Page 74, line 29, delete ", directly or indirectly,".

Page 74, line 33, delete "16." and insert "**17.**".

Page 74, line 33, delete "refers to" and insert "**means**".

Page 74, line 35, delete "17." and insert "**18.**".

Page 74, line 40, delete "18." and insert "**19.**".

Page 74, line 40, delete "built-in" and insert "**net unrealized capital**".

Page 75, line 1, delete "19." and insert "**20.**".

Page 75, line 6, delete "20." and insert "**21.**".

Page 75, line 9, delete "21." and insert "**22.**".

Page 75, line 13, delete "as".

Page 75, line 15, delete "reorganization;" and insert "**plan of reorganization, but not to exceed the net unrealized capital gains as of the effective date of the plan of reorganization;**".

Page 75, line 21, delete "as".

Page 75, line 23, delete "reorganization;" and insert "**plan of reorganization, but not to exceed the net unrealized capital gains as of the effective date of the plan of reorganization;**".

Page 75, between lines 24 and 25, begin a new line blocked left and insert:

"**For the purposes of this section, "net realized capital gains" means realized capital gains less realized capital losses for the same accounting period. For the purposes of this section, "net unrealized capital gains" means unrealized capital gains less unrealized capital losses as of the effective date of the plan of reorganization.**".

Page 75, line 25, delete "22." and insert "**23.**".

Page 75, delete lines 30 through 42, begin a new line block indented and insert:

"**(2) is a "non-employee Director" as that term is defined by the Securities and Exchange Commission in Rule 16b-3(b)(3)(i) promulgated under the Securities Exchange Act of 1934, as amended.**".

Page 76, delete lines 1 through 16.

Page 76, line 17, delete "23." and insert "**24.**".

Page 76, line 24, delete "24." and insert "**25.**".

Page 76, line 26, delete "25." and insert "**26.**".

Page 76, line 34, delete "26." and insert "**27.**".

Page 76, line 37, delete "27." and insert "**28.**".

Page 76, line 39, delete "28." and insert "**29.**".

C o p y

Page 76, line 41, delete "29." and insert "**30.**".

Page 77, line 1, delete "30." and insert "**31.**".

Page 77, line 1, after "means" insert "**:**".

Page 77, line 1, before "a" begin a new line block indented and insert:

"**(1)**".

Page 77, line 3, delete "." and insert "**; and**

(2) the policyholders of which may be or are entitled to become members of the MIHC.".

Page 77, line 4, delete "31." and insert "**32.**".

Page 77, line 9, delete "32." and insert "**33.**".

Page 77, between lines 32 and 33, begin a new paragraph and insert:

"**(c) An application to reorganize as an MIHC may not be filed with the commissioner under this article after June 30, 2001.**".

Page 77, delete lines 41 through 42, begin a new line block indented and insert:

"**(4) The merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more mutual insurance companies.**

(5) The merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more intermediate stock holding companies as part of the merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more MIHCs.

(6) The merger, consolidation, or creation of an affiliate relationship (whereby separate corporations are joined under common control) between two (2) or more stock insurance companies.

(7) The merger of an MIC's members' ownership interests into any existing MIHC, with the continued corporate existence of the reorganized MIC as a stock insurance company subsidiary.

(8) The issuance, acquisition, or transfer of capital stock.".

Page 78, delete lines 1 through 3.

Page 79, delete lines 7 through 13, begin a new line block indented and insert:

"**(4) It must provide that, after the effective date of the reorganization, the MIHC must at all times have the direct or indirect:**

C o p y

(A) power to cast at least fifty-one percent (51%) of the votes on all matters submitted to a vote of the holders of common stock (and each class of stock entitled to vote on any matter submitted to security holders for a vote, including the election of directors) of each reorganized insurer and any intermediate stock holding company of the MIHC; and

(B) ownership of shares of stock entitled to:

(i) receipt of at least fifty-one percent (51%) of all dividends declared on common stock of each reorganized insurer and any intermediate stock holding company of the MIHC; and

(ii) receipt of at least fifty-one percent (51%) of the net proceeds to common stockholders upon any dissolution of each reorganized insurer and any intermediate stock holding company of the MIHC.".

Page 79, line 28, delete "lapse or other".

Page 80, line 3, delete "and".

Page 80, between lines 3 and 4, begin a new line double block indented and insert:

"**(B) all directors who will qualify as outside directors in accordance with IC 27-14-1-23; and**".

Page 80, line 4, delete "(B)" and insert "**(C)**".

Page 80, line 31, delete "or any stock insurance" and insert "**.**".

Page 80, delete line 32.

Page 80, line 33, after "policy" insert "**of a stock insurance company**".

Page 80, line 42, after "policy" insert "**of a stock insurance company**".

Page 81, line 11, after "policy;" insert "**and**".

Page 81, line 15, delete "; and" and insert "**.**".

Page 81, delete lines 16 through 21.

Page 81, line 27, delete "that resulted from the reorganization".

Page 81, line 28, delete "of a domestic MIC".

Page 82, line 11, delete "in Indianapolis" and insert "**under IC 4-22-2-26 in Indianapolis or in the city where the principal office of the applicant is located. The public hearing shall be held**".

Page 82, delete lines 30 through 38.

Page 83, delete lines 8 through 16, begin a new paragraph and insert:

"**Sec. 9. The commissioner shall not approve a plan of reorganization submitted under this article unless the applicant has**

C o p y

shown, by a preponderance of the evidence, that:

(1) the plan of reorganization:

(A) complies with the law;

(B) includes the disclosures and notices required under this article;

(C) is fair to the members of the MIC; and

(D) complies with the members' surplus protection principle; and

(2) the intended operations of the applicant, as set forth in the plan of reorganization, is fair to the members of the MIC and complies with the members' surplus protection principle.".

Page 86, line 39, after "company" insert "**, if any**".

Page 86, delete lines 41 through 42, begin a new paragraph and insert:

"**(b) After the effective date of the reorganization of an MIC as an MIHC under this chapter, the MIHC must at all times have the direct or indirect:**

(1) power to cast at least fifty-one percent (51%) of the votes on all matters submitted to a vote of the holders of common stock (any class of stock entitled to vote generally on matters submitted to security holders for a vote, including the election of directors) of each reorganized insurer and any stock holding company of the MIHC; and

(2) ownership of shares of stock entitled to:

(A) receipt of at least fifty-one percent (51%) of all dividends declared on common stock of each reorganized insurer and any stock holding company of the MIHC; and

(B) receipt of at least fifty-one percent (51%) of the net proceeds to common stockholders upon any dissolution of each reorganized insurer and any stock holding company of the MIHC.

Sec. 5. (a) For the purposes of IC 27-1-23:

(1) an MIHC and its affiliates constitute an insurance holding company system; and

(2) an MIHC is considered to be an "insurer".

However, a separate filing or an approval is not required under IC 27-1-23 for an acquisition or a reorganization that is included in a plan approved under this article.

(b) For the purposes of this section, a "material transaction" means:

(1) a transaction described in IC 27-1-23-4(b) between:

(A) an MIHC and any affiliate; or

C o p y

(B) between any affiliates of an MIHC;

if the transaction equals or exceeds the percentages of admitted assets or surplus set forth in IC 27-1-23-4(b) of any reorganized insurer of the MIHC; or

(2) a transaction described in IC 27-1-23-4(b) between an MIHC and any person as specified in a rule adopted by the commissioner under IC 4-22-2 or an order issued by the commissioner.

(c) An MIHC may not enter into a material transaction unless the MIHC has notified the commissioner in writing of its intention to enter into a material transaction at least thirty (30) days before the transaction, or such shorter period as the commissioner may permit, and the commissioner has not disapproved the transaction within that period.

(d) In addition to the requirements of IC 27-1-23-4(a) and IC 27-1-23-4(d), a material transaction must:

(1) be fair and reasonable to the members of the MIHC; and

(2) not violate the members' surplus protection principle.

(e) An MIHC and its affiliates may not enter into transactions that are part of a plan or series of like transactions if the purpose of those separate transactions is to circumvent any rules of the commissioner prohibiting a material transaction or this section.".

Page 87, delete lines 1 through 11.

Page 87, line 12, after "6." insert "**(a)**".

Page 87, delete lines 19 through 37, begin a new line block indented and insert:

"**(4) Any audit committee or executive committee of the board of directors of:**

(A) an MIHC;

(B) an intermediate stock holding company; or

(C) a stock insurance company subsidiary.

(b) All of the directors who are members of any management compensation committee of the following entities must be outside directors:

(1) An MIHC.

(2) An intermediate stock holding company.

(3) A stock insurance company subsidiary.

(c) All of the directors who are members of any pricing committee of the following entities with responsibility for approving the price of stock sold in any offering under this article must be outside directors:

(1) An intermediate stock holding company.

C o p y

(2) A stock insurance company subsidiary.

(d) The commissioner may determine, after furnishing the affected company and director with notice and opportunity to be heard, that an individual does not qualify as an outside director or otherwise should not be considered an outside director. Such an individual may continue to serve as a director, but from the date the commissioner notifies the affected company in writing of his determination and the basis therefor, the individual may not be considered an outside director.

(e) A director's failure to qualify as or be considered an outside director does not affect the validity of any action taken in good faith by the company, the board of directors, or any committee of the board of directors.

Sec. 7. (a) With the written approval of the commissioner, and subject to any conditions imposed by the commissioner, an MIHC may do any of the following:

(1) Merge or consolidate with, or acquire the assets of:

(A) an MIHC organized under this article; or

(B) a similar entity organized under the laws of any other state.

(b) Subject to approval and filing requirements imposed by IC 27 and other states' laws, an MIHC may do the following:

(1) Acquire the stock of a stock insurance company as a subsidiary of the MIHC or an intermediate stock holding company of the MIHC.

(2) Organize a domestic intermediate stock holding company as a wholly owned subsidiary.

(3) Organize a stock insurance company as a subsidiary.

(4) Acquire the assets or all or any part of the stock of any insurance business, insurance-related business, or business entity engaged in financial services businesses.

(5) Organize or acquire the debt or equity securities of any business entity other than those engaged in insurance or insurance related businesses or in financial services businesses, so long as the MIHC does not control and does not have the right to control the business entity and does not hold more than 10% of the issued and outstanding debt or equity securities of the business entity.".

Page 88, line 6, delete "surplus requirements" and insert "**deposit requirement**".

Page 88, line 7, delete "IC 27-1-6-15." and insert "**IC 27-1-6-15(d).**".

C o p y

Page 88, between lines 11 and 12, begin a new line block indented and insert:

"**(4) An MIHC is not subject to the investment requirements under IC 27-1-12 or IC 27-1-13 that limit or restrict investments in subsidiaries.**

(5) An MIHC is not subject to risk based capital requirements under IC 27-1-36.

(6) An MIHC is not subject to a requirement under IC 27 if the commissioner determines by order or rule adopted by the commissioner under IC 4-22-2 that the requirement does not apply to the MIHC.".

Page 88, line 25, delete "13" and insert "**12**".

Page 88, delete lines 29 through 34.

Page 88, line 35, delete "11." and insert "**10.**".

Page 88, line 37, delete "12." and insert "**11.**".

Page 89, between lines 8 and 9, begin a new line blocked left and insert:

"**To the extent that any company has stockholders other than the MIHC or an intermediate stock holding company, then the fiduciary duties that the officers and directors of the MIHC owe to the members of the MIHC shall be co-extensive with the fiduciary duties owed by the directors of any Indiana corporation to its shareholders.**".

Page 89, line 13, delete "13." and insert "**12.**".

Page 89, delete lines 20 through 23.

Page 89, line 24, delete "(2)" and insert "**(1)**".

Page 89, delete lines 34 through 35.

Page 89, line 36, delete "(4)" and insert "**(2)**".

Page 90, line 8, after "years of" insert "**net income after taxes and net realized gains after the effective date of the plan of reorganization.**".

Page 90, delete lines 9 through 15.

Page 90, line 31, after "article" insert "**and with applicable federal and state securities laws**".

Page 93, delete lines 1 through 6.

Page 93, line 7, delete "(7)" and insert "**(6)**".

Page 93, line 15, delete "(8)" and insert "**(7)**".

Page 93, line 38, delete "are".

Page 93, delete line 39.

Page 93, line 40, delete "Code or that".

Page 95, delete lines 28 through 32, begin a new line block indented and insert:

C o p y

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

(A) any shares attributed to the officers and directors and their associates but held by one (1) or more employee benefit plans that satisfy the requirements of Section 401(a), 403(b), 404(c), 408, 423, or 501(c)(9) of the Internal Revenue Code; or

(B) any options or rights to acquire shares pursuant to an employee benefit plan that complies with Section 422 of the Internal Revenue Code.".

Page 96, delete lines 11 through 16, begin a new line block indented and insert:

"**may not exceed five percent (5%) of the total number of shares of nonvoting equities and other nonvoting dividend paying instruments to be issued under the plan, not including:**

(A) any nonvoting equities or instruments attributed to the officers and directors and their associates but held by one (1) or more employee benefit plans that satisfy the requirements of Section 401(a), 403(b), 404(c), 408, 423, or 501(c)(9) of the Internal Revenue Code; or

(B) any options or rights to acquire shares pursuant to an employee benefit plan that complies with Section 422 of the Internal Revenue Code.

(7) An inadvertent ownership of securities that exceeds the securities ownership limitations in this chapter does not violate this chapter if:

(A) a sufficient number of securities are divested within thirty (30) days after the limitation was first known to be exceeded so that the limitation is no longer exceeded; and

(B) during the period when the limitation is known to have been exceeded, the owner of the securities:

(i) does not vote any securities in excess of the limitation; and

(ii) does not accept a dividend in respect of any securities that exceed the limitations.

(8) For purposes of determining compliance with ownership restrictions in this chapter, a person to whom a stock purchase option or warrant has been granted under this chapter is not considered to own the underlying securities until the stock purchase option or warrant is exercised.

(9) An increase in a person's percentage ownership of securities does not constitute a violation of the securities

C o p y

ownership restrictions in this chapter if the increase in percentage ownership results solely from a decrease in the aggregate number of securities outstanding; provided, however, that the person must take prompt action to divest the excess number of shares in accordance with subdivision (7).".

Page 96, line 17, delete "(7)" and insert "**(10)**".

Page 96, line 32, delete "(8)" and insert "**(11)**".

Page 96, line 36, delete "(9)" and insert "**(12)**".

Page 97, line 6, after "hearing" insert "**under IC 4-22-2-26**".

Page 97, delete lines 24 through 31.

Page 97, line 32, delete "4." and insert "**3.**".

Page 97, line 39, delete "5." and insert "**4.**".

Page 98, line 9, delete "principles" and insert "**principle**".

Page 98, line 10, delete "6." and insert "**5.**".

Page 98, line 19, delete "7." and insert "**6.**".

Page 98, line 23, delete "8." and insert "**7.**".

Page 98, line 27, delete "9." and insert "**8.**".

Page 99, delete lines 28 through 39, begin a new paragraph and insert:

"**Sec. 6. (a) Except as provided in subsection (b), a stock insurance company subsidiary to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this article has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the MIC that is the subject of the plan of reorganization.**

(b) An MIHC resulting from a plan of reorganization of an MIC under this article has all obligations and liabilities of the MIC for any claim, asserted or otherwise, that existed at the effective date of the reorganization and that:

(1) seeks the imposition of a constructive or charitable trust on assets of the MIC for the benefit of policyholders, members, or other persons;

(2) seeks distribution or return of assets, or other form of compensation, from the MIC to policyholders or members; or

(3) otherwise arises out of, or relates to, the ownership interest of policyholders or members of the MIC, or to the value of their ownership interests, including any claim that challenges a statutory transaction engaged in by the MIC before the effective date of the reorganization.".

Page 100, line 7, delete "claims relating to the ownership" and insert

C o p y

"**any claim described in section 6(b) of this chapter.**".

Page 100, delete lines 8 through 10.

Page 100, line 12, delete "holding".

Page 100, line 13, after "MIC." insert "**If an MIHC converts to a stock insurance company under IC 27-1-8-13, the surplus of the MIHC as of the effective date of the conversion must be determined and distributed in accordance with IC 27-1-8-13.**".

Page 100, between lines 21 and 22, begin a new paragraph and insert:

"**Sec. 10. (a) Except as otherwise specifically provided in this chapter, IC 5-14 applies to all filings made under this article.**

(b) Filings, information, and documents made with or provided to the commissioner under this article may include information that might be damaging to a converting mutual or its affiliates if made available to competitors. Subject to subsection (c), all documents containing trade secrets of a converting mutual or its affiliates and marked "confidential" by the converting mutual:

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

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

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

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

(c) Subject to subsection (e), the commissioner may disclose to any person all or part of any document marked "confidential" in the commissioner's possession as the result of being filed under this article if the following conditions are met:

(1) The commissioner must give written notice of the proposed disclosure to the converting mutual and any other person requesting disclosure.

(2) The converting mutual must be given an opportunity in private to respond to the proposed disclosure.

(3) The commissioner must give consideration to any legitimate interest in preserving trade secrets.

(4) The commissioner must determine that the eligible members or other policyholders have a compelling interest that would be served by disclosure.

(5) At least five (5) business days have elapsed from the converting mutual's receipt of written notice.

C o p y

(d) The commissioner may disclose information under subsection (c) in a manner and subject to limitations as the commissioner considers appropriate.

(e) If:

(1) not more than six (6) business days have elapsed since the converting mutual received notice of a proposed disclosure; and

(2) the converting mutual has notified the commissioner that it or another interested party has filed an action seeking a protective order from a circuit or superior court to prevent or to limit disclosure;

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

Sec. 11. (a) An existing domestic MIHC may, with the prior approval of the commissioner:

(1) acquire direct or indirect ownership of a converting foreign MIC that becomes a stock insurer in compliance with the laws of its state of domicile; and

(2) grant membership interests and equity rights to the members or policyholders of a foreign mutual insurer that merges with a direct or indirect domestic or foreign subsidiary of the MIHC or is otherwise acquired by the MIHC.

(b) The commissioner shall consider the fairness of the terms and conditions of the transaction, whether the interests of the members of each MIHC that is a party to the transaction are protected in a manner consistent with the members' surplus protection principle, whether the proposed transaction is in the public interest, and whether the transaction complies with the members' surplus protection principle when determining whether to approve a transaction under subsection (a).

Sec. 12. The concurrent reorganization of two (2) or more domestic MICs into a single MIHC structure under IC 27-14-2 may be accomplished by a joint application and a joint plan of reorganization and may be approved by the commissioner following a combined hearing. The commissioner may allow such other procedures as may be necessary or desirable to avoid unnecessary or duplicative costs and efforts in satisfying the requirements of this article and in effectuating the reorganization.

Sec. 13. The commissioner is authorized to adopt rules under IC 4-22-2 to carry out the purposes of this article.

C o p y

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

(1) enhance their financial strength and flexibility;

(2) support long term growth internally and through mergers and acquisitions; and

(3) expand and enhance the domestic insurance companies of this state.

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

(1) reorganize into a mutual insurance holding company structure; and

(2) raise capital through the sale of capital stock.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1899 as printed February 26, 1999.)

FRY

HOUSE MOTION

Mr. Speaker: I move that House Bill 1899 be amended to read as follows:

Page 5, line 31, delete "TWO" and insert "**ONE**".

(Reference is to HB 1899 as printed February 26, 1999.)

HARRIS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1899 be amended to read as follows:

Page 1, delete lines 1 through 15.

Page 2, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to HB 1899 as printed February 26, 1999.)

HARRIS

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