Reprinted
February 15, 2011

HOUSE BILL No. 1486

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Citations Affected: IC 4-22; IC 5-22; IC 27-1; IC 27-2; IC 27-4; IC 27-6; IC 27-7; IC 27-8; IC 27-9; IC 27-13; IC 27-14; IC 27-16; noncode.

Synopsis: Insurance matters. Makes various changes to the law concerning retention of an examiner by the department of insurance, annual audited financial reporting, insurance producer education and licensing, insurer investments, holding company system transactions, insurance administrator licensing fees, risk based capital, credit for reinsurance with reduced collateral, requirements applying to certain domestic insurers and health maintenance organizations, small employer health insurance plans. Adds a law providing for limited purpose subsidiary life insurance companies. Adds a law providing for independent adjuster licensing. Defines "industrial insured" for purposes of certain insurer transactions exempt from licensure requirements. Adds a provision concerning treatment of certain agreements in the event of insurer rehabilitation. Amends a provision concerning the conversion of a mutual insurance holding company into a stock company to replace a reference to the former statute on the demutualization of mutual insurance companies with a reference to the current statute on the demutualization of mutual insurance companies. Defines "working capital" for purposes of the law regulating professional employer organizations (PEOs). Amends the current law applying to PEOs with respect to registration and financial requirements and unemployment compensation status. Repeals provisions concerning notice of insurance administrator claim recoding and concerning individual policies in the small employer group health insurance law. Makes conforming amendments.

Effective: Upon passage; July 1, 2011.

Lehman, Fry C, GiaQuinta

January 20, 2011, read first time and referred to Committee on Insurance.
February 10, 2011, amended, reported — Do Pass.
February 14, 2011, read second time, amended, ordered engrossed.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1486

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

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.35-2010, SECTION 2, AND AS AMENDED BY P.L.113-2010, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted

by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7 **or IC 27-1-12.1.**

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, *IC 4-33-22-12,* or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's

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health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

~~*(32) An emergency rule adopted by the state athletic commission under IC 25-9-1-4.5.*~~

~~*(32)*~~ ~~*(33)*~~ **(32)** An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.

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~~(34)~~ *(33)* An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).

~~(35)~~ **(34)** *A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.*

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may

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not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 5-22-1-2, AS AMENDED BY P.L.217-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. Except as provided in this article, this article does not apply to the following:

(1) The commission for higher education.

(2) A state educational institution. However, IC 5-22-5-9 and IC 5-22-15 apply to a state educational institution.

(3) Military officers and military and armory boards of the state.

(4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.

(5) A local hospital authority under IC 5-1-4.

(6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.

(7) Hospitals established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.

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(8) A library board under IC 36-12-3-16(b).
(9) A local housing authority under IC 36-7-18.
(10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.
(11) A person paying for a purchase or lease with funds other than public funds.
(12) A person that has entered into an agreement with a governmental body under IC 5-23.
(13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.
(14) The department of financial institutions established by IC 28-11-1-1.
(15) The insurance commissioner in retaining an examiner for purposes of IC 27-1-3.1-9.

SECTION 3. IC 27-1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this article, and unless a different meaning appears from the context: (a) "Insurance" means a contract of insurance or an agreement by which one (1) party, for a consideration, promises to pay money or its equivalent or to do an act valuable to the insured upon the destruction, loss or injury of something in which the other party has a pecuniary interest, or in consideration of a price paid, adequate to the risk, becomes security to the other against loss by certain specified risks; to grant indemnity or security against loss for a consideration.

(b) "Commissioner" means the "insurance commissioner" of this state.

(c) "Department" means "the department of insurance" of this state.

(d) The term "company" or "corporation" means an insurance company and includes all persons, partnerships, corporations, associations, orders or societies engaged in or proposing to engage in making any kind of insurance authorized by the laws of this state.

(e) The term "domestic company" or "domestic corporation" means an insurance company organized under the insurance laws of this state.

(f) The term "foreign company" or "foreign corporation" means an insurance company organized under the laws of any state of the United States other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(g) The term "alien company" or "alien corporation" means an insurance company organized under the laws of any country other than the United States or territory or insular possession thereof or of the

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District of Columbia.

(h) The term "person" includes individuals, corporations, associations, and partnerships; personal pronoun includes all genders; the singular includes the plural and the plural includes the singular.

(k) The term "insurance solicitor" means any natural person employed to aid an insurance producer in any manner in soliciting, negotiating, or effecting contracts of insurance or indemnity other than life.

(l) The term "principal office" means that office maintained by the corporation in this state, the address of which is required by the provisions of this article to be kept on file in the office of the department.

(m) The term "articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger, consolidation and reinsurance, and in case of corporations, heretofore organized, articles of reorganization filed in the office of the secretary of state, and all amendments thereto.

(n) The term "shareholder" means one who is a holder of record of shares of stock in a corporation, unless the context otherwise requires.

(o) The term "policyholder" means one who is a holder of a contract of insurance in an insurance company.

(p) The term "member" means one who holds a contract of insurance or is insured in an insurance company other than a stock corporation.

(q) The term "capital stock" means the aggregate amount of the par value of all shares of capital stock.

(r) The term "capital" means the aggregate amount paid in on the shares of capital stock of a corporation issued and outstanding.

(s) The term "life insurance company" means any company making one or more of the kinds of insurance set out and defined in class 1(a) of IC 27-1-5-1.

(t) The term "casualty insurance company" means any company making the kind or kinds of insurance set out and defined in class 2 of IC 27-1-5-1.

(u) The term "fire and marine insurance company" means any company making the kind or kinds of insurance set out and defined in class 3 of IC 27-1-5-1.

(v) The term "certificate of authority" means an instrument in writing issued by the department to an insurer, which sets out the authority of such insurer to engage in the business of insurance or activities connected therewith.

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(w) The term "premium" means money or any other thing of value paid or given in consideration to an insurer, insurance producer, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

(z) "Agency billed" refers to a system in which an insured pays a premium directly to an insurance agency.

(aa) "Reinsurer" means an insurer that:

(1) is principally engaged in the business of reinsurance;

(2) does not conduct a significant amount of direct insurance as a percentage of the insurer's net premiums; and

(3) is not engaged on an ongoing basis in the business of soliciting direct insurance.

SECTION 4. IC 27-1-3.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Upon the adoption of an examination report under section 11(a)(1) of this chapter, the commissioner shall continue to hold the content of the examination report as confidential information for a period of thirty (30) days except to the extent provided in section 10(b) of this chapter. Thereafter, the report shall be open for public inspection.

(b) This chapter does not prevent or prohibit the commissioner from disclosing the content of an examination report, preliminary examination report, or results, or any matter relating thereto, to **the National Association of Insurance Commissioners,** the insurance department of any other state or country, or to law enforcement officials of Indiana or any other state or agency of the federal government at any time, if the agency or office receiving the report or

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matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

(c) If the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceedings or actions authorized by law.

(d) This chapter does not limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or company work papers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the commissioner may, in the commissioner's sole discretion, consider appropriate.

SECTION 5. IC 27-1-3.1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination under this chapter **(including trade secrets and information obtained from a federal agency, a foreign country, or the National Association of Insurance Commissioners, or under another state law)** are confidential for the purposes of IC 5-14-3-4, are not subject to subpoena, and may not be made public by the commissioner or any other person, except to the extent provided in section 14 of this chapter. However, access may also be granted to the National Association of Insurance Commissioners. Those parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

SECTION 6. IC 27-1-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) For the purposes of this chapter, the commissioner may not recognize as an independent auditor any individual or firm that is not:

(1) a certified public accountant (if an individual) or made up of certified public accountants (if a firm); or

(2) in good standing with:

(A) the American Institute of Certified Public Accountants; and

(B) all of the authorities that license certified public accountants and certified public accounting firms in the states in which the individual or firm is licensed to practice.

(b) A partner or other individual responsible for rendering a report may not act in that capacity for more than ~~seven (7)~~ **five (5)**

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consecutive years. An individual who has been responsible for rendering a report for ~~seven (7)~~ **five (5)** years is disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for ~~two (2)~~ **five (5)** years. A domestic insurer may apply to the commissioner and request to be exempted from the ~~seven (7)~~ **five (5)** year rotation requirement on the basis of unusual circumstances. The commissioner may consider the following factors in determining if relief should be granted:

(1) The number of partners, expertise of the partners, or number of insurance clients in the currently registered firm.

(2) The premium volume of the domestic insurer.

(3) The number of jurisdictions in which the domestic insurer transacts business.

(c) The commissioner may not recognize as an independent auditor or accept an annual audited financial report prepared in whole or part by a person who:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act under federal law (18 U.S.C. 1961 through 1968) or state law (IC 35-45-6) or any dishonest conduct or practices under federal or state law;

(2) has been found to have violated the insurance law of this state with respect to any previous reports submitted under this chapter; or

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under this chapter.

(d) The commissioner may conduct a hearing under IC 4-21.5 to determine whether an independent auditor engaged by a domestic insurer is sufficiently independent of that domestic insurer to be capable of exercising independent judgment and expressing an objective opinion on the financial statements in the annual financial report filed by the insurer under this chapter. If the commissioner determines that the auditor is not sufficiently independent of the insurer, the commissioner shall require the insurer to replace the auditor with another that is sufficiently independent of the insurer.

SECTION 7. IC 27-1-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.1. Limited Purpose Subsidiary Life Insurance Companies

Sec. 1. As used in this chapter, "affiliate" means a domestic life

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insurance company that is a wholly owned subsidiary of the parent of a limited purpose subsidiary.

Sec. 2. As used in this chapter, "limited purpose subsidiary" means a subsidiary life insurance company that is organized under this chapter.

Sec. 3. As used in this chapter, "organizing domestic life insurance company" refers to a life insurance company that organizes a limited purpose subsidiary under this chapter.

Sec. 4. As used in this chapter, "parent" means a person that through at least one (1) intermediary wholly owns an organizing domestic life insurance company.

Sec. 5. As used in this chapter, "risk" means a risk:

(1) that is associated with a life insurance policy that is:

(A) written by a ceding domestic life insurance company; or

(B) assumed by a ceding domestic life insurance company from an affiliate; and

(2) for which a ceding domestic life insurance company holds direct statutory reserves for the policy as required under IC 27-1-12-10.5.

Sec. 6. A domestic life insurance company that is authorized to engage in the business of insurance in Indiana may organize a limited purpose subsidiary under this chapter.

Sec. 7. Before assuming risk under a reinsurance contract, a limited purpose subsidiary must do all of the following:

(1) Comply with IC 27-1-6.

(2) File with the commissioner an affidavit, signed by the limited purpose subsidiary's president, vice president, treasurer, or chief financial officer, including all of the following to the best of the individual's knowledge after reasonable inquiry:

(A) That the proposed organization and operation of the limited purpose subsidiary complies with this chapter.

(B) That the limited purpose subsidiary's investment policy reflects and considers the liquidity of assets and the reasonable preservation, administration, and management of the assets with respect to the risks associated with reinsurance contracts issued by the limited purpose subsidiary.

(C) That the reinsurance contract and any arrangement intended to secure the limited purpose subsidiary's obligations under the reinsurance contract (including an

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agreement to implement the arrangement) comply with this chapter.

(3) File with the commissioner the opinion of a qualified independent actuary approved by the commissioner that the methodology and assumptions (including significant stress tests of key assumptions) used to establish and discount reserves held by the limited purpose subsidiary are sufficient to provide for the risk assumed by the limited purpose subsidiary.

(4) File with the commissioner the limited purpose subsidiary's plan of operation, including the following:

(A) A statement that the limited purpose subsidiary will, before each offer and sale of securities of or by the limited purpose subsidiary, file with the commissioner, in a form acceptable to the commissioner, a legal opinion that the offering and sale of securities:

(i) of the limited purpose subsidiary complies with all federal securities laws; and

(ii) by the limited purpose subsidiary complies with all Indiana securities laws.

(B) A complete description of all reinsurance transactions, reinsurance security arrangements, securitizations, and any other material transactions or arrangements of the limited purpose subsidiary.

(C) The source and form of the limited purpose subsidiary's capital and surplus.

(D) The investment policy of the limited purpose subsidiary.

(E) Pro forma balance sheets and income statements that illustrate at least one (1) adverse case scenario, as determined using criteria required by the commissioner, for the performance of the limited purpose subsidiary under all reinsurance contracts.

(F) Risk-based capital requirements, including a requirement that the limited purpose subsidiary must maintain risk-based capital equal to the product of two and one half (2 1/2) and the number determined under the life risk-based capital formula in accordance with the National Association of Insurance Commissioners' risk-based capital instructions.

(G) Notice and reporting of material transactions.

(H) Policies for payment of dividends and other

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distributions to the organizing domestic life insurance company.

(I) Copies of all contracts between the limited purpose subsidiary and affiliates.

(J) Other documentation or information required by the commissioner.

(5) Obtain from the commissioner a certificate of authority to engage in the business of reinsurance in Indiana.

Sec. 8. (a) The commissioner may issue a certificate of authority to a limited purpose subsidiary upon a finding by the commissioner of all of the following:

(1) That the proposed plan of operation provides for a viable operation of the limited purpose subsidiary.

(2) That the terms of all proposed reinsurance contracts and related transactions of the limited purpose subsidiary comply with this chapter and any other applicable insurance laws.

(3) That the proposed plan of operation is not hazardous to any ceding insurer.

(b) The commissioner may, in conjunction with the issuance of a certificate of authority to a limited purpose subsidiary, issue an order containing any terms or conditions applying to the limited purpose subsidiary's authority to engage in the business of reinsurance, including terms or conditions concerning the organization, licensing, or operation of the limited purpose subsidiary, consistent with this chapter and determined necessary by the commissioner.

(c) A limited purpose subsidiary shall produce or disclose its plan of operation, amendments, and records, books, documents, reports, and other information that the commissioner requires the limited purpose subsidiary to produce or disclose under:

(1) this chapter;

(2) rules adopted under section 15 of this chapter; or

(3) an order under IC 27-1-3.1.

(d) The commissioner has the powers enumerated in IC 27-1-3.1 with respect to a limited purpose subsidiary.

Sec. 9. A limited purpose subsidiary that is granted a certificate of authority by the commissioner under this chapter:

(1) is wholly owned by the organizing domestic life insurance company;

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

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(A) organizing domestic life insurance company; and

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

are authorized;

(3) may reinsure only risks of:

(A) the organizing domestic life insurance company; and

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

(4) may access alternative forms of financing.

Sec. 10. An organizing domestic life insurance company may invest funds from the organizing domestic life insurance company's surplus in a limited purpose subsidiary that is organized by the organizing domestic life insurance company.

Sec. 11. The officers and directors of an organizing domestic life insurance company may serve as officers and directors of a limited purpose subsidiary organized by the organizing domestic life insurance company.

Sec. 12. A limited purpose subsidiary may, upon approval of the commissioner, purchase reinsurance to cede the reinsurance risks assumed by the limited purpose subsidiary.

Sec. 13. Assets of a limited purpose subsidiary that are approved by the commissioner as admitted assets must:

(1) comply with requirements established by the commissioner under section 14 of this chapter; and

(2) be reported as admitted assets of the limited purpose subsidiary.

Sec. 14. (a) A limited purpose subsidiary shall do the following:

(1) Provide to the commissioner, not later than forty-five (45) days after the closing date of the transactions of an insurance securitization, a copy of a complete set of executed documentation of the insurance securitization.

(2) Notify the commissioner, not later than two (2) business days after any material change in the financial condition or management of the limited purpose subsidiary, written notice of the material change.

(3) Annually file with the commissioner the actuarial opinion of the limited purpose subsidiary's internal actuary concerning reserves held by the limited purpose subsidiary for all risks assumed by the limited purpose subsidiary under the limited purpose subsidiary's reinsurance contracts.

(4) Biennially file with the commissioner the actuarial opinion:

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(A) of a qualified independent actuary approved by the commissioner; and

(B) concerning the methodology and assumptions used by the limited purpose subsidiary in establishing the reserves held by the limited purpose subsidiary.

(5) Annually file with the commissioner a report of the limited purpose subsidiary's risk-based capital level as of the end of the immediately preceding calendar year, including the information required by the risk-based capital instructions of the National Association of Insurance Commissioners.

(6) Immediately notify the commissioner concerning any action by a ceding insurer or other person to foreclose on or otherwise take possession of collateral provided by the limited purpose subsidiary to secure an obligation of the limited purpose subsidiary.

(b) A limited purpose subsidiary may, after approval of the commissioner, discount the reserves held by the limited purpose subsidiary in accordance with an actuarial opinion filed under subsection (a)(3).

(c) Unless otherwise required by the commissioner, a limited purpose subsidiary is not required to file a report, notice, or other document with the National Association of Insurance Commissioners.

Sec. 15. (a) The commissioner shall, before approving a limited purpose subsidiary under this chapter, adopt rules under IC 4-22-2 to implement this chapter.

(b) The rules adopted under subsection (a) must specify the following concerning limited purpose subsidiaries:

(1) Requirements for reserves, including actuarial certification.

(2) Requirements for securities.

(3) Authorized investments.

(4) Requirements with respect to reinsurance ceded or assumed by the limited purpose subsidiary.

(5) Requirements for dividends and distributions.

(6) Requirements for operations.

(7) Conditions of, forms for, and approval of the financing of a limited purpose subsidiary.

(c) The commissioner may adopt emergency rules under IC 4-22-2-37.1 to implement this section if the commissioner determines that:

(1) the need for a rule is so immediate and substantial that

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rulemaking procedures under IC 4-22-2-23 through IC 4-22-2-36 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

SECTION 8. IC 27-1-15.6-2, AS AMENDED BY P.L.145-2006, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The following definitions apply throughout this chapter, IC 27-1-15.7, and IC 27-1-15.8:

(1) "Bureau" refers to the child support bureau established by IC 31-25-3-1.

(2) "Business entity" means a corporation, an association, a partnership, a limited liability company, a limited liability partnership, or another legal entity.

(3) "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

(4) "Consultant" means a person who:

(A) holds himself or herself out to the public as being engaged in the business of offering; or

(B) for a fee, offers;

any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued in Indiana.

(5) "Delinquent" means the condition of being at least:

(A) two thousand dollars ($2,000); or

(B) three (3) months;

past due in the payment of court ordered child support.

(6) "FINRA" refers to the independent Financial Industry Regulatory Authority.

~~(6)~~ **(7)** "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer:

(A) maintains the insurance producer's principal place of residence or principal place of business; and

(B) is licensed to act as an insurance producer.

~~(7)~~ **(8)** "Insurance producer" means a person required to be licensed under the laws of Indiana to sell, solicit, or negotiate insurance.

~~(8)~~ **(9)** "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.

~~(9)~~ **(10)** "Limited line credit insurance" includes the following:

(A) Credit life insurance.

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(B) Credit disability insurance.
(C) Credit property insurance.
(D) Credit unemployment insurance.
(E) Involuntary unemployment insurance.
(F) Mortgage life insurance.
(G) Mortgage guaranty insurance.
(H) Mortgage disability insurance.
(I) Guaranteed automobile protection (gap) insurance.
(J) Any other form of insurance:
(i) that is offered in connection with an extension of credit and is limited to partially or wholly extinguishing that credit obligation; and
(ii) that the insurance commissioner determines should be designated a form of limited line credit insurance.

~~(10)~~ **(11)** "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(11)~~ **(12)** "Limited lines insurance" means any of the following:
(A) The lines of insurance defined in section 18 of this chapter.
(B) Any line of insurance the recognition of which is considered necessary by the commissioner for the purpose of complying with section 8(e) of this chapter.
(C) For purposes of section 8(e) of this chapter, any form of insurance with respect to which authority is granted by a home state that restricts the authority granted by a limited lines producer's license to less than total authority in the associated major lines described in section 7(a)(1) through 7(a)(6) of this chapter.

~~(12)~~ **(13)** "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(13)~~ **(14)** "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

~~(14)~~ **(15)** "Person" means an individual or a business entity.

~~(15)~~ **(16)** "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of a company.

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~~(16)~~ **(17)** "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

~~(17)~~ **(18)** "Surplus lines producer" means a person who sells, solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

~~(18)~~ **(19)** "Terminate" means:

(A) the cancellation of the relationship between an insurance producer and the insurer; or

(B) the termination of a producer's authority to transact insurance.

~~(19)~~ **(20)** "Uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

~~(20)~~ **(21)** "Uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident producer licensing.

SECTION 9. IC 27-1-15.6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) Unless denied licensure under section 12 of this chapter, a person who has met the requirements of sections 5 and 6 of this chapter shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one **(1)** or more of the following lines of authority:

(1) Life — insurance coverage on human lives, including benefits of endowment and annuities, that may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness — insurance coverage for sickness, bodily injury, or accidental death that may include benefits for disability income.

(3) Property — insurance coverage for the direct or consequential loss of or damage to property of every kind.

(4) Casualty — insurance coverage against legal liability, including liability for death, injury, or disability, or for damage to real or personal property.

(5) Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts and variable annuities.

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(6) Personal lines — property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Credit — limited line credit insurance.

(8) Title — insurance coverage against loss or damage on account of encumbrances on or defects in the title to real estate.

(9) Any other line of insurance permitted under Indiana laws or administrative rules.

(b) A person who requests ~~and receives~~ qualification under subsection (a)(5) for variable life and annuity products:

(1) is considered to have requested; and

(2) shall receive;

a life qualification under subsection (a)(1) **until the person completes the educational requirement specified in section 19.5 of this chapter and changes the person's life qualification status to a variable life and variable annuity products qualification status under section 19.5 of this chapter.**

(c) A resident insurance producer may not request separate qualifications for property insurance and casualty insurance under subsection (a).

(d) An insurance producer license remains in effect unless revoked or suspended, as long as the renewal fee set forth in section 32 of this chapter is paid and the educational requirements for resident individual producers are met by the due date.

(e) An individual insurance producer who:

(1) allows the individual insurance producer's license to lapse; and

(2) completed all required continuing education before the license expired;

may, not more than twelve (12) months after the expiration date of the license, reinstate the same license without the necessity of passing a written examination. A penalty in the amount of three (3) times the unpaid renewal fee shall be required for any renewal fee received after the expiration date of the license. However, the department of insurance may waive the penalty if the renewal fee is received not more than thirty (30) days after the expiration date of the license.

(f) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of the license renewal procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with the license renewal procedures.

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(g) An insurance producer license shall contain the licensee's name, address, personal identification number, date of issuance, lines of authority, expiration date, and any other information the commissioner considers necessary.

(h) A licensee shall inform the commissioner of a change of address not more than thirty (30) days after the change by any means acceptable to the commissioner. The failure of a licensee to timely inform the commissioner of a change in legal name or address shall result in a penalty under section 12 of this chapter.

(i) To assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to perform ministerial functions, including the collection of fees related to producer licensing, that the commissioner and the nongovernmental entity consider appropriate.

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 10. IC 27-1-15.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) An individual who applies for an insurance producer license in Indiana and who was previously licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination. However, the exemption provided by this subsection is available only if:

(1) the individual is currently licensed in the other state; or

(2) the application is received within ninety (90) days after the cancellation of the applicant's previous license and:

(A) the other state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's Producer Database records that are maintained by the National Association of Insurance Commissioners, its

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affiliates, or its subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) If a person is licensed as an insurance producer in another state and moves to Indiana, the person, to be authorized to act as an insurance producer in Indiana, must make application to become a resident licensee under section 6 of this chapter within ninety (90) days after establishing legal residence in Indiana. However, the person is not required to take prelicensing education or examination to obtain a license for any line of authority for which the person held a license in the other state unless the commissioner determines otherwise by rule.

(c) An individual who:

(1) has attained the designation of chartered life underwriter, certified financial planner, ~~or~~ chartered financial consultant, **or another nationally recognized designation approved by the commissioner or the National Association of Insurance Commissioners;** and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

(A) 7(a)(1);

(B) 7(a)(2); or

(C) 7(a)(5);

of this chapter;

is not required to complete prelicensing education and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

(d) An individual who: ~~has:~~

(1) **has** attained the designation of chartered property and casualty underwriter, certified insurance counselor, ~~or~~ accredited advisor in insurance, **or another nationally recognized designation approved by the commissioner or the National Association of Insurance Commissioners;** and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

(A) 7(a)(3);

(B) 7(a)(4); or

(C) 7(a)(6);

of this chapter;

is not required to complete prelicensing education and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

(e) An individual who:

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(1) has attained a bachelor's degree in insurance; and

(2) applies for an insurance producer license in Indiana requesting qualification under section 7(a)(1) through 7(a)(6) of this chapter;

is not required to complete prelicensing education and is required to take only the part of the examination required under section 5 of this chapter that pertains to Indiana laws and rules.

SECTION 11. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

(1) the producer's license shall never be reinstated; and

(2) the former licensee, after the license revocation, is not eligible to submit an application for a license to the department.

(b) The commissioner may **reprimand,** levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.

(2) Violating:

(A) an insurance law;

(B) a regulation;

(C) a subpoena of an insurance commissioner; or

(D) an order of an insurance commissioner;

of Indiana or of another state.

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(6) Having been convicted of a felony.

(7) Admitting to having committed or being found to have committed any unfair trade practice or fraud in the business of insurance.

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

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(9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly using notes or any other reference material to complete an examination for an insurance license.

(12) Knowingly accepting insurance business from an individual who is not licensed.

(13) Failing to comply with an administrative or court order imposing a child support obligation.

(14) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

(15) Failing to satisfy the continuing education requirements established by IC 27-1-15.7.

(16) Violating section 31 of this chapter.

(17) Failing to timely inform the commissioner of a change in legal name or address, in violation of section 7(h) of this chapter.

(c) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(d) If the commissioner refuses to renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise the applicant or licensee, in a writing sent through regular first class mail, of the reason for the denial of the applicant's application or the nonrenewal of the licensee's license. The applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or nonrenewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held not more than thirty (30) days after the applicant or licensee makes the written demand, and shall be conducted under IC 4-21.5.

(e) The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that a violation of an individual licensee acting on behalf of the partnership or corporation was known or should have been known by one (1) or more of the partners, officers, or managers of the partnership or corporation and:

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(1) the violation was not reported to the commissioner; and
(2) no corrective action was taken.

(f) In addition to or in lieu of any applicable denial, suspension, or revocation of a license under subsection (b), a person may, after a hearing, be subject to the imposition by the commissioner under subsection (b) of a civil penalty of not less than fifty dollars ($50) and not more than ten thousand dollars ($10,000). A penalty imposed under this subsection may be enforced in the same manner as a civil judgement.

(g) A licensed insurance producer or limited lines producer shall, not more than ten (10) days after the producer receives a request in a registered or certified letter from the commissioner, furnish the commissioner with a full and complete report listing each insurer with which the licensee has held an appointment during the year preceding the request.

(h) If a licensee fails to provide the report requested under subsection (g) not more than ten (10) days after the licensee receives the request, the commissioner may, in the commissioner's sole discretion, without a hearing, and in addition to any other sanctions allowed by law, suspend any insurance license held by the licensee pending receipt of the appointment report.

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination of a license by the commissioner under this section.

(j) The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being used or will be used by the applicant or licensee for the purpose of writing controlled business. As used in this subsection, "controlled business" means:

(1) insurance written on the interests of:
(A) the applicant or licensee;
(B) the applicant's or licensee's immediate family; or
(C) the applicant's or licensee's employer; or

(2) insurance covering:
(A) the applicant or licensee;
(B) members of the applicant's or licensee's immediate family; or
(C) either:
(i) a corporation, limited liability company, association, or partnership; or
(ii) the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation,

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limited liability company, association, or partnership;

of which the applicant or licensee or a member of the applicant's or licensee's immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. A license is considered to have been used or intended to be used for the purpose of writing controlled business if the commissioner finds that during any twelve (12) month period the aggregate commissions earned from the controlled business exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by the applicant or licensee during the same period.

(k) The commissioner has the authority to:

(1) enforce the provisions of; and

(2) impose any penalty or remedy authorized by;

this chapter or any other provision of this title against any person who is under investigation for or charged with a violation of this chapter or any other provision of this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(l) For purposes of this section, the violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract shall be considered a violation described in subsection (b)(2).

(m) The commissioner may order a licensee to make restitution if the commissioner finds that the licensee has committed a violation described in:

(1) subsection (b)(4);

(2) subsection (b)(7);

(3) subsection (b)(8); or

(4) subsection (b)(16).

(n) The commissioner shall notify the securities commissioner appointed under IC 23-19-6-1(a) when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license.

SECTION 12. IC 27-1-15.6-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 19.5. (a) As used in this section, "variable life and annuity" means insurance that is used to fund insurance coverage provided under variable life insurance contracts and variable annuities.**

(b) A person shall not sell, solicit, or negotiate variable life and annuity insurance unless the person meets the following

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requirements:

(1) The person is licensed as either of the following:

(A) An insurance producer with a life qualification under section 7(a)(1) of this chapter.

(B) An insurance producer with an accident and health or sickness qualification under section 7(a)(2) of this chapter.

(2) The person has adequate knowledge of an annuity product to recommend the annuity product.

(3) The person complies with the insurer's training standards for variable life and annuity products.

(4) The person:

(A) is registered with the FINRA; and

(B) meets the broker-dealer registration requirements of:

(i) FINRA for a Series 6 limited representative license and IC 23-19-4 for a Series 63 securities license; or

(ii) FINRA for a Series 7 general securities registered representative license and IC 23-19-4 for a Series 63 securities license.

(c) A person may be licensed as an insurance producer with a variable life and variable annuity products qualification if the person is:

(1) licensed under section 7 of this chapter; and

(2) granted a change in status under subsection (d).

(d) If, after a person is licensed under this chapter as an insurance producer with a life qualification, the person wants to solicit the sale of an annuity product, the person shall:

(1) request that the commissioner change the person's status as an insurance producer with a life qualification to status as an insurance producer with a variable life and variable annuity products qualification under section 7(a)(5) of this chapter; and

(2) show proof of having completed a single four (4) hour annuity training course that is conducted through a structured setting or self-study method and approved by the department in accordance with the requirements for approval that apply to continuing education courses under IC 27-1-15.7.

SECTION 13. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6,

~~(1)~~ a resident insurance producer must complete at least ~~twenty~~

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~~(20)~~ **twenty-four (24)** hours of credit in continuing education courses. a~~nd~~

~~(2) a resident limited lines producer must complete at least five (5) hours of credit in continuing education courses.~~

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) **Except as provided in subsection (c),** to renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of credit in continuing education courses related to the business of title insurance with at least one (1) hour of instruction in a structured setting or comparable self-study in each of the following:

(1) Ethical practices in the marketing and selling of title insurance.

(2) Title insurance underwriting.

(3) Escrow issues.

(4) Principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

(1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

(2) A limited line credit insurance producer.

~~(3) An insurance producer who is at least seventy (70) years of age and has been a licensed insurance producer continuously for at least twenty (20) years immediately preceding the license renewal date.~~

(3) A nonresident limited lines producer with a title qualification:

(A) whose home state requires continuing education for a title qualification; and

(B) who has met the continuing education requirements

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described in clause (A).

(d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the effective date of the licensee's last renewal of a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than ~~twenty (20)~~ **twenty-four (24)** hours of credit in continuing education courses to renew the license.

(f) Except as provided in subsection (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

(g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

(h) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

(i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.

(j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(k) A licensee who completes a continuing education course that:

(1) is approved by the commissioner under section 4 of this chapter;

(2) is held in a classroom setting; and

(3) concerns ethics;

shall receive continuing education credit for the number of hours for which the course is approved plus additional hours, not to exceed two (2) hours in a renewal period, equal to the number of hours for which

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the course is approved.

SECTION 14. IC 27-1-15.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

(1) Be conducted or developed by an:

(A) insurance trade association;

(B) accredited college or university;

(C) educational organization certified by the insurance producer education and continuing education advisory council; or

(D) insurance company licensed to do business in Indiana.

(2) Provide for self-study or instruction provided by an approved instructor in a structured setting, as follows:

(A) For life insurance producers, not less than ~~twenty-four (24)~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of life insurance.

(B) For health insurance producers, not less than ~~twenty-four (24)~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of health insurance.

(C) For life and health insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of life insurance; and

(iv) principles of health insurance.

(D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or

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comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of property insurance; and

(iv) principles of liability insurance.

(E) For personal lines producers, a minimum of ~~twenty-four (24)~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

(F) For title insurance producers, not less than ten (10) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of title insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of title insurance, including underwriting and escrow issues; and

(iv) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

(G) For variable life and variable annuity product producers, not less than four (4) hours of instruction in a structured setting or comparable self-study on:

(i) types and classifications of annuities;

(ii) identification of the parties to an annuity;

(iii) the manner in which fixed, variable, and indexed annuity contract provisions affect consumers;

(iv) income taxation of qualified and non-qualified annuities;

(v) primary uses of annuities; and

(vi) appropriate sales practices, replacement, and disclosure requirements.

(3) Instruction provided in a structured setting must be provided only by individuals who meet the qualifications established by the

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commissioner under subsection (b).

(b) The commissioner, after consulting with the insurance producer education and continuing education advisory council, shall adopt rules under IC 4-22-2 prescribing the criteria that a person must meet to render instruction in a certified prelicensing course of study.

(c) The commissioner shall adopt rules under IC 4-22-2 prescribing the subject matter that an insurance producer program of study must cover to qualify for certification as a certified prelicensing course of study under this section.

(d) The commissioner may make recommendations that the commissioner considers necessary for improvements in course materials.

(e) The commissioner shall designate a program of study that meets the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

(f) The commissioner may, after notice and opportunity for a hearing, withdraw the certification of a course of study that does not maintain reasonable standards, as determined by the commissioner for the protection of the public.

(g) Current course materials for a prelicensing course of study that is certified under this section must be submitted to the commissioner upon request, but not less frequently than once every three (3) years.

SECTION 15. IC 27-1-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Any foreign or alien corporation admitted to do business in this state may alter or enlarge the character of the business which it is authorized to transact in this state under its articles of incorporation or association, and any amendments thereof filed with the department as provided in section 3 of this chapter, by procuring an amended certificate of authority from the department in the manner provided in subsection (b).

(b) Whenever a foreign or alien corporation desires to procure such amended certificate, it shall present to the department at its office, accompanied by the fees prescribed by law, an application for an amended certificate of authority, setting forth the change desired in the kind or kinds of insurance business under its articles of incorporation or association which it intends to thereafter carry on in this state; the application shall be filed ~~in duplicate~~ in the form prescribed by the department by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified by the oaths of the officers signing the same.

(c) Upon the presentation of such application, accompanied by the corporation's certificate of authority, the department, if it ~~find~~ **finds** that

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it conforms to law and that the foreign or alien company has fulfilled the requirements set forth in subsection (b) and in section 3 of this chapter, may endorse its approval upon ~~each of the duplicate copies of~~ the application, and, in case of the approval of such application and when all fees required by law shall have been paid, shall file one (1) copy of the application in its office, cancel the certificate of authority presented with the application, and issue to the corporation a new certificate of authority, which certificate shall set forth the kind or kinds of business that the corporation is authorized thereafter to transact in this state, which shall be accompanied by one (1) copy of the application bearing the endorsement of the approval of the department.

(d) Upon the issuance of the new certificate of authority by the department, the corporation therein named shall have authority thereafter to transact in this state the kind or kinds of insurance business set forth in such certificate, subject to the terms and conditions prescribed in this article.

SECTION 16. IC 27-1-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) ~~As used in~~ **The definitions set forth in this subsection apply throughout** this section:

~~"Securities" means instruments as defined in IC 26-1-8.1-102.~~

(1) "Broker dealer" means an entity that:

(A) is registered with and subject to the jurisdiction of the Securities and Exchange Commission;

(B) maintains membership in the Securities Investor Protection Corporation; and

(C) has a tangible net worth of at least two hundred fifty million dollars ($250,000,000).

(2) "Clearing corporation" means a corporation as defined in IC 26-1-8.1-102 except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein. "Clearing corporation" may include a corporation organized or existing under the laws of any foreign country and which is legally qualified under such laws to effect transactions in securities by computerized book entry.

(3) "Direct participant" means a bank, trust company, or safety deposit company approved by the commissioner which maintains an account in its name in a clearing corporation and through which an insurance company participates in a clearing corporation.

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(4) "Federal Reserve book-entry system" means the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the Federal Reserve System, or which otherwise have access to such computerized systems.

(5) "Member bank" means a national bank, state bank, or trust company which is a member of the Federal Reserve System and through which an insurance company participates in the Federal Reserve book-entry system.

(6) "Securities" means instruments meeting the definition set forth in IC 26-1-8.1-102.

(b) Notwithstanding any other provision of law, a domestic insurance company may deposit or arrange for the safekeeping of securities held in or purchased for its general account and its separate accounts in a clearing corporation or the Federal Reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of any member bank **or broker dealer** through which an insurance company holds securities in the Federal Reserve book-entry system, and the records of any custodian through which an insurance company holds securities in a clearing corporation, shall at all times show that such securities are held for such insurance company and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation or in the Federal Reserve book-entry system without, in either case, physical delivery of certificates representing such securities.

(c) Any Indiana law requiring an insurance company operating under the laws of Indiana to deposit assets with the department shall be deemed complied with if such deposit is made pursuant to a written agreement between the insurance company and any bank, trust company or a safety deposit company and approved by the commissioner which limits withdrawals to those sanctioned and approved by the department. Deposits so made shall be credited by the

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department as deposits in its possession on the basis of the insurance company's affidavit describing such deposits as to amount and nature.

(d) Notwithstanding any other provisions of law, securities eligible for deposit under the insurance law of this state relating to deposit of securities by an insurance company as a condition of commencing or continuing to do an insurance business in this state may be deposited with a clearing corporation or held in the Federal Reserve book-entry system. Securities deposited with a clearing corporation or held in the Federal Reserve book-entry system and used to meet the deposit requirements under the insurance laws of this state shall be under the control of the commissioner and shall not be withdrawn by the insurance company without the approval of the commissioner. Any insurance company holding such securities in such manner shall provide to the commissioner evidence issued by its custodian or a member bank through which such insurance company has deposited securities with a clearing corporation or held in the Federal Reserve book-entry system, respectively, in order to establish that the securities are actually recorded in an account in the name of the custodian or other direct participant or member bank and evidence that the records of the custodian, other participant, or member bank reflect that such securities are held subject to the order of the commissioner.

(e) The commissioner of insurance is authorized to promulgate rules and regulations governing the deposit by insurance companies of securities with clearing corporations and in the Federal Reserve book-entry system.

SECTION 17. IC 27-1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Material transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(1) The terms shall be fair and reasonable.

(2) The charges or fees for services performed shall be reasonable.

(3) The expenses incurred for any payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

(4) The books, accounts, and records of each party as to all transactions described in this subsection shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions, including accounting information necessary to support the reasonableness of the charges or fees to the respective parties.

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(5) The insurer's surplus as regards policyholders following any transactions with affiliates or shareholder dividend shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and any person in its insurance holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into such transaction at least thirty (30) days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period:

(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal to or exceed:

(A) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and

(B) with respect to life insurers, three percent (3%) of the insurer's admitted assets;

each as of December 31 next preceding.

(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer 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 insurer making such loans or extensions of credit, provided those transactions are equal to or exceed:

(A) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and

(B) with respect to life insurers, three percent (3%) of the insurer's admitted assets;

each as of December 31 next preceding.

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

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(4) Management agreements, service contracts, ~~and~~ cost-sharing arrangements, **lease agreements, and tax allocation agreements.**

(5) Material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the insurer's policyholders.

This subsection does not authorize or permit any transactions that, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

(c) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise.

(d) The commissioner, in reviewing transactions pursuant to subsection (b), shall consider whether the transactions comply with the standards set forth in subsection (a) and whether the transactions may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within thirty (30) days of any investment of the domestic insurer in any one (1) corporation if the total investment in that corporation by the insurance holding company system exceeds ten percent (10%) of the corporation's voting securities.

(f) For purposes of this chapter, in determining whether an insurer's surplus is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance.

(3) The number and size of risks insured in each line of business.

(4) The extent of the geographical dispersion of the insurer's insured risks.

(5) The nature and extent of the insurer's reinsurance program.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio.

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

(8) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors described in subdivisions (1) through (7).

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(9) The adequacy of the insurer's reserves.

(10) The quality and liquidity of investments in subsidiaries, except that the commissioner may discount or treat any such investment in subsidiaries as a disallowed asset for purposes of determining the adequacy of surplus whenever in his judgment such investment so warrants.

(11) The quality of the earnings of the insurer and the extent to which the reported earnings of the insurer include extraordinary items.

(g) No domestic insurer subject to registration under section 3 of this chapter shall pay an extraordinary dividend or make any other extraordinary distribution to its security holders until:

(1) thirty (30) days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or

(2) the commissioner shall have approved such payment within such thirty (30) day period.

(h) For purposes of subsection (g), an extraordinary dividend or distribution is any dividend or distribution of cash or other property whose fair market value, together with that of other dividends or distributions made within the twelve (12) consecutive months ending on the date on which the proposed dividend or distribution is scheduled to be made, exceeds the greater of:

(1) ten percent (10%) of such insurer's surplus as regards policyholders as of the most recently preceding December 31; or

(2) the net gain from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, for the twelve (12) month period ending on the most recently preceding December 31.

(i) Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof, but such a declaration shall confer no rights upon shareholders until:

(1) the commissioner has approved the payment of such dividend or distribution; or

(2) the commissioner has not disapproved the payment within the thirty (30) day period referred to in subsection (g).

SECTION 18. IC 27-1-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this chapter:

(a) "Administrator" ~~except as provided in section 7.5 of this chapter,~~ means a person who directly or indirectly and on behalf of an insurer

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underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage offered or provided by an insurer. The term "administrator" does not include the following persons:

(1) An employer or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees of:

(A) the employer;

(B) the subsidiary; or

(C) an affiliated corporation of the employer.

(2) A union acting for its members.

(3) An insurer.

(4) An insurance producer:

(A) that is licensed under IC 27-1-15.6;

(B) that has:

(i) a life; or

(ii) an accident and health or sickness;

qualification under IC 27-1-15.6-7; and

(C) whose activities are limited exclusively to the sale of insurance.

(5) A creditor acting for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(9) A credit card issuing company that:

(A) advances for; and

(B) collects from, when a credit card holder authorizes the collection;

credit card holders of the credit card issuing company, insurance premiums or charges.

(10) A person that adjusts or settles claims in the normal course of the person's practice or employment as an attorney at law and

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that does not collect charges or premiums in connection with life, annuity, or health coverage.

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) A person that:

(A) is licensed as a managing general agent as required under IC 27-1-33; and

(B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).

(15) A person that:

(A) directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage provided by an insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the insurer.

(b) "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or is controlled by; or

(2) is under common control with;

a specified entity or person.

(c) "Church plan" has the meaning set forth in IC 27-8-10-1.

(d) "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

(e) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether:

(1) through ownership of voting securities;

(2) by contract other than a commercial contract for goods or nonmanagement services; or

(3) otherwise;

unless the power is the result of an official position with the person or a corporate office held by the person. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to

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vote, or holds proxies representing not less than ten percent (10%) of the voting securities of another person.

(f) "Covered individual" means an individual who is covered under a benefit program provided by an insurer.

(g) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(h) "GAAP" refers to consistently applied United States generally accepted accounting principles.

(i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

(j) "Home state" means the District of Columbia or any state or territory of the United States in which an administrator is incorporated or maintains the administrator's principal place of business. If the place in which the administrator is incorporated or maintains the administrator's principal place of business is not governed by a law that is substantially similar to this chapter, the administrator's home state is another state:

(1) in which the administrator conducts the business of the administrator; and

(2) that the administrator declares is the administrator's home state.

(k) "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.

(l) "Insurer" means:

(1) a person who obtains a certificate of authority under:

(A) IC 27-1-3-20;

(B) IC 27-13-3; or

(C) IC 27-13-34; or

(2) an employer that provides life, health, or annuity coverage in Indiana under a governmental plan or a church plan.

(m) "NAIC" refers to the National Association of Insurance Commissioners.

(n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.

(o) "Nonresident administrator" means a person that applies for or holds a license under section 12.2 of this chapter.

(p) "Person" has the meaning set forth in IC 27-1-15.6-2.

(q) "Sell" has the meaning set forth in IC 27-1-15.6-2.

(r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.

(s) "Underwrite" refers to the:

(1) acceptance of a group application or an individual application for coverage of an individual in accordance with the written rules of the insurer; or

(2) planning and coordination of a benefit program provided by

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an insurer.

(t) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

SECTION 19. IC 27-1-25-11.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11.1. (a) If the home state of a person is Indiana, the person shall:

(1) apply to act as an administrator in Indiana upon the uniform application; ~~and~~

(2) pay an application fee in an amount determined by the commissioner; and

~~(2)~~ **(3)** receive a license from the commissioner;

before performing the function of an administrator in Indiana. **The commissioner shall deposit a fee paid under subdivision (2) into the department of insurance fund established by IC 27-1-3-28.**

(b) The uniform application must include or be accompanied by the following:

(1) Basic organizational documents of the applicant, including:

(A) articles of incorporation;

(B) articles of association;

(C) partnership agreement;

(D) trade name certificate;

(E) trust agreement;

(F) shareholder agreement;

(G) other applicable documents; and

(H) amendments to the documents specified in clauses (A) through (G).

(2) Bylaws, rules, regulations, or other documents that regulate the internal affairs of the applicant.

(3) The NAIC biographical affidavits for individuals who are responsible for the conduct of affairs of the applicant, including:

(A) members of the applicant's:

(i) board of directors;

(ii) board of trustees;

(iii) executive committee; or

(iv) other governing board or committee;

(B) principal officers, if the applicant is a corporation;

(C) partners or members, if the applicant is:

(i) a partnership;

(ii) an association; or

(iii) a limited liability company;

(D) shareholders or members that hold, directly or indirectly, at least ten percent (10%) of the:

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(i) voting stock;
(ii) voting securities; or
(iii) voting interest;
of the applicant; and
(E) any other person who exercises control or influence over the affairs of the applicant.
(4) Financial information reflecting a positive net worth, including:
(A) audited annual financial statements prepared by an independent certified public accountant for the two (2) most recent fiscal years; or
(B) if the applicant has been in business for less than two (2) fiscal years, financial statements or reports that are:
(i) prepared in accordance with GAAP; and
(ii) certified by an officer of the applicant;
for any completed fiscal years and for any month during the current fiscal year for which financial statements or reports have been completed.
If an audited financial statement or report required under clause (A) or (B) is prepared on a consolidated basis, the statement or report must include a columnar consolidating or combining worksheet that includes the amounts shown on the consolidated audited financial statement or report, separately reported on the worksheet for each entity included on the statement or report, and an explanation of consolidating and eliminating entries.
(5) Information determined by the commissioner to be necessary for a review of the current financial condition of the applicant.
(6) A description of the business plan of the applicant, including:
(A) information on staffing levels and activities proposed in Indiana and nationwide; and
(B) details concerning the applicant's ability to provide a sufficient number of experienced and qualified personnel for:
(i) claims processing;
(ii) record keeping; and
(iii) underwriting.
(7) Any other information required by the commissioner.
(c) An administrator that applies for licensure under this section shall make copies of written agreements with insurers available for inspection by the commissioner.
(d) An administrator that applies for licensure under this section shall:
(1) produce the administrator's accounts, records, and files for

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examination; and

(2) make the administrator's officers available to provide information concerning the affairs of the administrator;

whenever reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license under this section if the commissioner determines that:

(1) the administrator or an individual who is responsible for the conduct of the affairs of the administrator:

(A) is not:

(i) competent;

(ii) trustworthy;

(iii) financially responsible; or

(iv) of good personal and business reputation; or

(B) has had an:

(i) insurance certificate of authority or insurance license; or

(ii) administrator certificate of authority or administrator license;

denied or revoked for cause by any jurisdiction;

(2) the financial information provided under subsection (b)(4) does not reflect that the applicant has a positive net worth; or

(3) any of the grounds set forth in section 12.4 of this chapter exists with respect to the administrator.

(f) An administrator that applies for a license under this section shall immediately notify the commissioner of a material change in:

(1) the ownership or control of the administrator; or

(2) another fact or circumstance that affects the administrator's qualification for a license.

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that applies for a license under this section and will administer a governmental plan or a church plan shall obtain a bond as required under section 4(g) of this chapter.

(h) A license that is issued under this section is valid:

(1) for one (1) year after the date of issuance, unless subdivision (2) applies; or

(2) until:

~~(1)~~ **(A)** the license is:

~~(A)~~ **(i)** surrendered; or

~~(B)~~ **(ii)** suspended or revoked by the commissioner; or

~~(2)~~ **(B)** the administrator:

~~(A)~~ **(i)** ceases to do business in Indiana; or

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~~(B)~~ **(ii)** is not in compliance with this chapter.

SECTION 20. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12.2. (a) An administrator that:

(1) performs the duties of an administrator in Indiana; and

(2) does not hold a license issued under section 11.1 of this chapter;

shall obtain a nonresident administrator license under this section by filing a uniform application, **accompanied by an application fee in an amount determined by the commissioner,** with the commissioner. **The commissioner shall deposit a fee paid under this subsection into the department of insurance fund established by IC 27-1-3-28.**

(b) Unless the commissioner verifies the nonresident administrator's home state license status through an electronic data base maintained by the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform application filed under subsection (a) must be accompanied by a letter of certification from the nonresident administrator's home state, verifying that the nonresident administrator holds a resident administrator license in the home state.

(c) A nonresident administrator is not eligible for a nonresident administrator license under this section unless the nonresident administrator is licensed as a resident administrator in a home state that has a law or regulation that is substantially similar to this chapter.

(d) Except as provided in subsections (b) and (h), the commissioner shall issue a nonresident administrator license to a nonresident administrator that makes a filing under subsections (a) and (b) upon receipt of the filing.

(e) Unless a nonresident administrator is notified by the commissioner that the commissioner is able to verify the nonresident administrator's home state licensure through an electronic data base described in subsection (b), the nonresident administrator shall:

(1) on September 15 of each year, file **a renewal application and** a statement with the commissioner affirming that the nonresident administrator maintains a current license in the nonresident administrator's home state; and

(2) pay **to the commissioner** a filing fee ~~as required~~ **in an amount determined** by the commissioner.

The commissioner shall ~~collect~~ **deposit** a filing fee ~~required~~ **paid** under subdivision (2) ~~and deposit the fee~~ into the department of insurance fund established by IC 27-1-3-28.

(f) A nonresident administrator that applies for licensure under this section shall:

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(1) produce the accounts of the nonresident administrator;
(2) produce the records and files of the nonresident administrator for examination; and
(3) make the officers of the nonresident administrator available to provide information with respect to the affairs of the nonresident administrator;

when reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident administrator license in Indiana if the nonresident administrator's function in Indiana is limited to the administration of life, health, or annuity coverage for a total of not more than one hundred (100) Indiana residents.

(h) The commissioner may refuse to issue or may delay the issuance of a nonresident administrator license if the commissioner determines that:

(1) due to events occurring; or
(2) based on information obtained;

after the nonresident administrator's home state's licensure of the nonresident administrator, the nonresident administrator is unable to comply with this chapter or grounds exist for the home state's revocation or suspension of the nonresident administrator's home state license.

(i) If the commissioner makes a determination described in subsection (h), the commissioner:

(1) shall provide written notice of the determination to the insurance regulator of the nonresident administrator's home state; and
(2) may delay the issuance of a nonresident administrator license to the nonresident administrator until the commissioner determines that the nonresident administrator is able to comply with this chapter and that grounds do not exist for the home state's revocation or suspension of the nonresident administrator's home state license.

SECTION 21. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

(1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4)

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of this chapter.

(2) The report must be in the form and contain matters prescribed by the commissioner.

(3) The report must be verified by at least two (2) officers of the administrator.

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee **in an amount** determined by the commissioner.

The commissioner shall collect a filing fee paid under subdivision (5) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

(b) The commissioner shall review a report filed under subsection (a) not later than September 1 of the year in which the report is filed. Upon completion of the review, the commissioner shall:

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC:

(A) indicating that the administrator is solvent and in compliance with this chapter; or

(B) noting deficiencies found in the report.

SECTION 22. IC 27-1-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 28. Independent Adjuster Licensing

Sec. 1. This chapter governs the qualifications and procedure for the licensing of independent adjusters.

Sec. 2. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 3. As used in this chapter, "automated claims adjudication system" means a preprogrammed computer system that:

(1) is designed for the collection, data entry, calculation, and system generated final resolution of property insurance claims;

(2) is used only by a licensee or a person described in section 6(b)(2) or 6(b)(3) of this chapter;

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(3) complies with all claim payment requirements under Indiana insurance law; and

(4) is certified as compliant with the claims adjudication requirements of this chapter by an individual who is an:

(A) independent adjuster who is licensed under this chapter; and

(B) officer of a business entity that is licensed under this chapter.

Sec. 4. As used in this chapter, "catastrophe" means an event that is the subject of a declaration by the commissioner and that:

(1) results in a large number of deaths or injuries;

(2) causes extensive damage or destruction of facilities used to provide and sustain human needs;

(3) produces an overwhelming demand on state and local response resources and mechanisms;

(4) causes a severe long term effect on general economic activity; or

(5) severely affects state, local, and private sector capabilities to begin and sustain response activities.

Sec. 5. As used in this chapter, "home state" means:

(1) a state, district, or territory of the United States in which an independent adjuster:

(A) maintains the independent adjuster's principal place of residence or business; and

(B) is licensed to act as a resident independent adjuster; or

(2) if the principal place of residence described in subdivision (1) does not license independent adjusters for the line of authority in which the independent adjuster seeks licensing under this chapter, the state, district, or territory of the United States:

(A) that is designated by the independent adjuster as the independent adjuster's home state; and

(B) in which the independent adjuster is licensed and in good standing.

Sec. 6. (a) As used in this chapter, "independent adjuster" means a person, or an independent contractor or employee of a person, that:

(1) contracts for compensation with insurers or self-insurers to investigate, negotiate, or settle property, casualty, or worker's compensation claims; and

(2) for tax purposes is treated by the insurers or self-insurers in a manner consistent with treatment of an independent

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contractor rather than an employee under Title 26, Subtitle C of the Internal Revenue Code.

(b) The term does not include the following:

(1) An attorney who:

(A) is admitted to practice in Indiana; and

(B) acts in a professional capacity as an attorney.

(2) A person employed solely to do any of the following:

(A) Obtain facts surrounding a claim.

(B) Furnish technical assistance to a licensed independent adjuster.

(3) An individual:

(A) who is an employee of:

(i) an independent adjuster who is licensed under this chapter; or

(ii) an affiliate of an independent adjuster who is licensed under this chapter;

(B) who is supervised by:

(i) an independent adjuster licensed under this chapter; or

(ii) an insurance producer licensed under IC 27-1-15.6;

who supervises not more than twenty-five (25) persons described in this subdivision; and

(C) who is employed solely to:

(i) collect claim information from insureds or claimants;

(ii) furnish claim information to insureds or claimants; or

(iii) perform data entry into an automated claims adjudication system.

(4) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claim payments.

(5) A person that:

(A) performs only executive, administrative, managerial, or clerical duties; and

(B) does not investigate, negotiate, or settle claims with policyholders, claimants, or legal representatives of policyholders or claimants.

(6) A person that settles only reinsurance or subrogation claims.

(7) An officer, director, manager, or employee of an authorized insurer, a managing general agent, a surplus lines insurer, a risk retention group, or an attorney in fact of a

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reciprocal insurer.

(8) A manager of the United States branch of an alien insurer.

(9) A person that investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims.

(10) Under a self-insured arrangement, an individual who adjusts claims on behalf of the individual's employer.

(11) A licensed insurance producer, an attorney in fact of a reciprocal insurer, or a managing general agent of an insurer to whom claim authority has been granted by the insurer.

(12) A person that is authorized to adjust worker's compensation or disability claims under the authority of a third party administrator.

(13) A person that investigates, negotiates, or settles crop insurance claims.

(14) An individual who:

(A) does not adjust losses or determine claim payments; and

(B) is employed to use a specialized skill possessed by the individual to make a determination:

(i) concerning an element of a claim; and

(ii) that is used by an independent adjuster, or an adjuster who is directly employed by an insurer, in adjusting a loss or determining a claim payment.

Sec. 7. As used in this chapter, "NAIC" refers to the National Association of Insurance Commissioners.

Sec. 8. As used in this chapter, "uniform individual application" means the NAIC uniform individual application for resident and nonresident individuals.

Sec. 9. As used in this chapter, "uniform business entity application" means the NAIC uniform business entity application for resident and nonresident business entities.

Sec. 10. A person shall not:

(1) act as an independent adjuster in Indiana; or

(2) hold the person's self out as an independent adjuster in Indiana;

unless the person is licensed or exempt from licensure under this chapter.

Sec. 11. (a) If a catastrophe is declared, an insurer may contract with an individual who:

(1) is not licensed under this chapter; but

(2) is otherwise qualified to adjust claims;

to act as a temporary emergency independent adjuster on behalf

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of the insurer if the insurer obtains for the individual a temporary emergency independent adjuster license under this section.

(b) An insurer described in subsection (a) must, not more than five (5) days after the individual begins to adjust claims arising from the declared catastrophe, submit to the commissioner an application for temporary emergency licensure of the individual under this section.

(c) An application submitted under subsection (b) must include the following information in a format prescribed by the commissioner:

(1) The name of the individual.

(2) The Social Security number of the individual.

(3) The name of the insurer.

(4) The effective date of the contract between the insurer and the individual.

(5) The catastrophe or loss number.

(6) The catastrophe event name.

(7) Other information the commissioner considers necessary.

(d) The commissioner shall establish standards and procedures for temporary emergency independent adjuster licensure under this section.

(e) A temporary emergency independent adjuster license issued under this section is effective for not more than ninety (90) days, unless extended by the commissioner. In the event of multiple catastrophes, an individual who holds a temporary emergency independent adjuster license issued under this section with respect to one (1) declared catastrophe may adjust claims arising from any other catastrophe that occurs within the ninety (90) day period during which the license is effective under this subsection without the insurer applying for an additional temporary emergency independent adjuster license.

(f) The rules adopted by the commissioner under section 2 of this chapter may establish a fee for an application submitted under this section.

Sec. 12. (a) An individual may apply for a resident independent adjuster license by submitting:

(1) a uniform individual application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best of the individual's knowledge; and

(2) an application fee of forty dollars ($40).

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(b) The commissioner shall approve an application submitted under subsection (a) upon finding all of the following:

(1) The individual is at least eighteen (18) years of age.

(2) The individual is eligible to designate Indiana as the individual's home state.

(3) The individual is determined by the commissioner to be trustworthy, reliable, and of good reputation.

(4) The individual has not committed an act that is grounds for probation, suspension, revocation, or refusal of licensure under section 18 of this chapter.

(5) The individual has completed a prelicensing course of study for the line of authority in which the individual has applied for licensing under this section.

(6) The individual has successfully passed the written examination administered under section 15 of this chapter for the line of authority in which the individual has applied for licensing under this section.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

Sec. 13. (a) A business entity may apply for a resident independent adjuster license by submitting:

(1) a uniform business entity application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best knowledge of the individual submitting the application on behalf of the business entity;

(2) an application fee of forty dollars ($40); and

(3) the name, address, Social Security number, and criminal and administrative history of each of the following:

(A) An owner that has at least ten percent (10%) interest or voting interest in the business entity.

(B) A partner of the business entity.

(C) An executive officer of the business entity.

(D) A director of the business entity.

(b) The commissioner shall approve an application submitted by a business entity under subsection (a) upon finding all of the following:

(1) The business entity is eligible to designate Indiana as the business entity's home state.

(2) The business entity has designated an individual independent adjuster licensed under this chapter to be

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responsible for the business entity's compliance with Indiana insurance law.

(3) The business entity has not committed any act that is grounds for probation, suspension, revocation, or refusal of an independent adjuster license under section 18 of this chapter.

(c) The commissioner may require a business entity applying under this section to produce any documents reasonably necessary to verify the information contained in the application.

Sec. 14. (a) An independent adjuster may qualify for an independent adjuster license under this chapter in one (1) or more of the following lines of authority:

(1) Property and casualty insurance.

(2) Worker's compensation insurance.

(b) An independent adjuster licensed under this chapter is not required to hold another independent adjuster, insurance producer, or insurance administrator license in Indiana.

(c) An independent adjuster license:

(1) is effective for two (2) years after the date of issuance unless probated, suspended, revoked, or refused; and

(2) may be renewed if all requirements for renewal, including submission to the commissioner of a renewal fee of forty dollars ($40), are met on or before the renewal date.

(d) If an independent adjuster license expires, the independent adjuster may, within twelve (12) months after the date of expiration, be reissued an independent adjuster license upon receipt by the commissioner of:

(1) a request for reissuance, as prescribed by the commissioner; and

(2) a reissuance fee of eighty dollars ($80).

(e) An independent adjuster who is unable to comply with the license renewal requirements of this section due to:

(1) military service;

(2) long term medical disability; or

(3) another extenuating circumstance determined by the commissioner;

may request a waiver of the renewal requirements or applicable sanction.

(f) A license issued under this chapter must contain the following:

(1) The licensee's name, address, and personal identification number.

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(2) The date of issuance.
(3) The date of expiration.
(4) Other information considered necessary by the commissioner.

(g) An independent adjuster is subject to IC 27-4-1-4.5.

(h) An independent adjuster shall, not more than thirty (30) days after the occurrence of a change of the independent adjuster's:
(1) legal name; or
(2) home state address;
provide written notice to the commissioner of the change.

(i) The commissioner may contract with a nongovernmental entity to perform ministerial functions required by this section, including the collection of data and fees related to licensing.

Sec. 15. (a) Except as provided in section 16 of this chapter, an individual who applies for an independent adjuster license under this chapter must pass a written examination that is:
(1) developed and conducted according to rules adopted by the commissioner under IC 4-22-2; and
(2) intended to test the knowledge of the individual concerning:
(A) the lines of authority in which the individual has applied for licensing under this chapter;
(B) the duties and responsibilities of an independent adjuster; and
(C) Indiana insurance law.

(b) The commissioner may contract with a nongovernmental entity to administer the written examination required by this section.

(c) An individual described in subsection (a) shall remit, with the application to take the written examination required by this section, a nonrefundable examination fee in an amount set by the commissioner or the organization administering the examination.

(d) If an individual:
(1) fails to appear for or to pass an examination; and
(2) desires to reschedule the examination;
the individual shall reapply for the written examination and remit all fees and forms before scheduling an examination date.

Sec. 16. (a) An individual who applies for an independent adjuster license under this chapter and who:
(1) possesses an independent adjuster license for the same line of authority in which the individual has applied for licensing

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under this chapter in a state in which a prelicensing independent adjuster licensure examination is required;

(2) possessed an independent adjuster license that:

(A) was for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required; and

(B) expired less than ninety (90) days before the date the commissioner receives the application; or

(3) provides proof from contracting insurers that the individual has participated in claims adjudication in the same line of authority during the five (5) years immediately preceding the date of application;

is not required to complete a prelicensing course as described in section 12(b)(5) of this chapter or pass a written examination under section 15 of this chapter before being licensed under this chapter.

(b) An applicant who meets the criteria set forth in subsection (a)(1) or (a)(2) must provide certification from the other state that the applicant's independent adjuster license:

(1) is currently in good standing; or

(2) was in good standing at the time of expiration.

(c) A person that:

(1) is licensed as an independent adjuster in another state where a prelicensing independent adjuster licensure examination is required;

(2) establishes legal residency in Indiana; and

(3) applies for a resident independent adjuster license under this chapter less than ninety (90) days after the person establishes legal residency in Indiana;

is not required to complete a prelicensing course as described in section 12(b)(5) of this chapter or pass a written examination under section 15 of this chapter before being licensed under this chapter.

Sec. 17. (a) Except as provided in section 18 of this chapter, the commissioner shall issue a nonresident independent adjuster license to a person if:

(1) the person is currently licensed in good standing as an independent adjuster in the person's home state;

(2) the person has submitted:

(A) the proper application for licensure;

(B) a nonresident application fee of ninety dollars ($90); and

(C) in the case of a business entity, the information

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described in section 13(a)(3) of this chapter; and

(3) the person's designated home state awards nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(b) Except as provided in section 18 of this chapter, if a person that:

(1) is not a resident of Indiana; and

(2) is not licensed as an independent adjuster in another state; desires to obtain an independent adjuster license under this chapter, the person must comply with the requirements of section 12 or 13 of this chapter, and sections 14 and 15 of this chapter, and must remit the nonresident application fee of ninety dollars ($90).

(c) The commissioner may:

(1) verify an independent adjuster's licensure status in another state through an appropriate data base, including the insurance producer data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC; or

(2) request certification of good standing as described in section 16(b) of this chapter.

(d) To maintain a valid nonresident independent adjuster license issued under this chapter:

(1) the independent adjuster must maintain a valid resident independent adjuster license in the independent adjuster's home state; and

(2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(e) For a nonresident independent adjuster license issued under this chapter to be renewed:

(1) the independent adjuster must:

(A) maintain a valid resident independent adjuster license in the independent adjuster's home state; and

(B) remit to the commissioner a nonresident independent adjuster license renewal fee of ninety dollars ($90); and

(2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

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(f) If a nonresident independent adjuster's home state license terminates for any reason other than issuance of a new resident independent adjuster license in a new home state:

(1) the person's nonresident independent adjuster license issued under this chapter also terminates immediately; and

(2) the person shall immediately surrender the nonresident independent adjuster license to the commissioner.

(g) If a nonresident independent adjuster's home state license terminates due to the issuance of a new resident independent adjuster license in a new home state, the independent adjuster shall, not more than thirty (30) days after the nonresident independent adjuster's home state license termination date, provide notice of the termination to the commissioner and the insurance commissioner of any state that has issued a nonresident independent adjuster license to the independent adjuster. The notice must specify the independent adjuster's previous home state address and new home state address.

(h) If a resident independent adjuster's license issued under this chapter terminates for any reason, the resident independent adjuster shall, not more than thirty (30) days after the resident adjuster license termination date, provide notice of the termination to the insurance commissioner of any state that has issued a nonresident independent adjuster license to the resident independent adjuster. If the termination results from a change of the resident independent adjuster's home state, the notice must specify the independent adjuster's previous home state address and new home state address.

Sec. 18. (a) The commissioner may suspend, revoke, or refuse to issue or renew an independent adjuster license, or place an independent adjuster on probation, for a cause set forth in subsection (b).

(b) An independent adjuster is subject to the penalties set forth in subsection (a) for any of the following:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.

(2) Violating an insurance law, a subpoena, or an order of the commissioner or another state's insurance commissioner.

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(4) Improperly withholding, misappropriating, or converting money or property received in the course of doing insurance business.

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(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(6) Having been convicted of a felony.

(7) Having admitted or been found to have committed any unfair trade practice or fraud in the business of insurance.

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business.

(9) Having an insurance license, or its equivalent, probated, suspended, revoked, or refused in another state, province, district, or territory.

(10) Forging another person's name to a document related to an insurance transaction.

(11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.

(12) Failing to comply with an administrative or court order imposing a child support obligation.

(13) Failing to pay state income tax or failing to comply with an administrative or court order directing payment of state income tax.

(c) If the commissioner refuses an application for licensure or for the renewal of an existing license under this chapter, the commissioner shall notify the applicant or licensee in writing, advising of the reason for the refusal. The applicant or licensee may, not more than thirty (30) days after receiving the commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal. The hearing must be held under IC 4-21.5 not more than twenty (20) days after the commissioner receives the applicant's or licensee's written demand.

(d) The commissioner may suspend, revoke, or refuse a business entity's independent adjuster license under this chapter or place a business entity licensed under this chapter on probation if, after a hearing under IC 4-21.5, the commissioner finds that:

(1) the individual licensed independent adjuster designated by the business entity under section 13(b)(2) of this chapter as being responsible for the business entity's compliance with Indiana insurance law committed a violation described in subsection (b) while acting on behalf of or representing the business entity;

(2) the violation was known or should have been known by at

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least one (1) of the business entity's partners, officers, or managers;

(3) the violation was not reported to the commissioner; and

(4) the business entity did not take corrective action.

(e) In addition to or instead of a penalty imposed under subsection (a), the commissioner may, after a hearing under IC 4-21.5, impose a civil penalty of at least fifty dollars ($50) and not more than ten thousand dollars ($10,000), regardless of whether the person on whom the penalty is imposed holds an independent adjuster license issued under this chapter that is in effect. A penalty imposed under this subsection may be enforced in the same manner as a civil judgment.

Sec. 19. (a) Except as provided in subsection (b), an individual who holds a license under this chapter shall, every two (2) years, satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses and report the completion of the courses to the commissioner.

(b) This section does not apply to the following:

(1) An individual who is licensed for less than twelve (12) months before the end of the applicable continuing education biennium.

(2) A licensed nonresident independent adjuster who has met the continuing education requirements of the licensed nonresident independent adjuster's designated home state.

Sec. 20. An independent adjuster shall:

(1) maintain a copy of each contract between the independent adjuster and an insurer or a self-insurer; and

(2) comply with the record retention policy agreed to in the contract described in subdivision (1).

Sec. 21. An independent adjuster shall do all of the following:

(1) Be honest and fair in all communications with an insured, an insurer, a self-insurer, and the public.

(2) Give policyholders and claimants prompt and knowledgeable service and courteous, fair, and objective treatment.

(3) Refrain from:

(A) giving legal advice; or

(B) dealing directly with a policyholder or claimant who is represented by legal counsel unless the legal counsel consents to the direct contact.

(4) Comply with all local, state, and federal privacy and information security laws.

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(5) Identify:

(A) the independent adjuster's self as an independent adjuster; and

(B) if applicable, the independent adjuster's employer;

when dealing with a policyholder or claimant.

(6) Refrain from:

(A) having any financial interest in an adjustment; or

(B) acquiring, for the independent adjuster or any person, an interest or a title in salvage without first receiving written authority from the principal.

Sec. 22. (a) An independent adjuster shall report to the commissioner an administrative action taken against the independent adjuster:

(1) in another jurisdiction; or

(2) by another governmental agency in Indiana;

not more than thirty (30) days after the final disposition of the matter. The report must include a copy of the order or consent order, and any other relevant documentation.

(b) An independent adjuster shall report to the commissioner any criminal action taken against the independent adjuster:

(1) in another jurisdiction; or

(2) by another governmental agency in Indiana;

not more than thirty (30) days after the final disposition of the criminal matter. The report must include a copy of the initial complaint filed, the final order issued by the court, and any other relevant documentation.

Sec. 23. If an independent adjuster uses an automated claims adjudication system, the independent adjuster shall maintain proof of the certification described in section 3(4) of this chapter and provide the proof of certification to the commissioner upon request.

Sec. 24. The commissioner shall deposit a fee received under this chapter into the department of insurance fund established by IC 27-1-3-28.

SECTION 23. IC 27-1-36-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 29. As used in this chapter, "company action level event" means any of the following events:

(1) The filing of an RBC report by an insurer that indicates that:

(A) the insurer's total adjusted capital is:

(i) greater than or equal to its regulatory action level RBC; but

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(ii) less than its company action level RBC; ~~or~~

(B) if a life and health insurer, the insurer:

(i) has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of two and five-tenths (2.5) multiplied by its authorized control level RBC; and

(ii) has a negative trend; **or**

(C) if a property and casualty insurer, the insurer:

(i) has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of three (3) multiplied by its authorized control level RBC; and

(ii) has a negative trend.

(2) The notification by the commissioner to the insurer of an adjusted RBC report that indicates that:

(A) the insurer's total adjusted capital is:

(i) greater than or equal to its regulatory action level RBC; but

(ii) less than its company action level RBC; ~~or~~

(B) if a life and health insurer, the insurer:

(i) has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of two and five-tenths (2.5) multiplied by its authorized control level RBC; and

(ii) has a negative trend; **or**

(C) if a property and casualty insurer, the insurer:

(i) has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of three (3) multiplied by its authorized control level RBC; and

(ii) has a negative trend;

unless the insurer challenges the adjusted RBC report under section 44 of this chapter.

(3) The notification by the commissioner to the insurer that the commissioner has, after a hearing under section 44 of this chapter, rejected the insurer's challenge to an adjusted RBC report described in subdivision (2).

SECTION 24. IC 27-2-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. As used in this chapter, "insurance producer" has the meaning set forth in ~~IC 27-1-15.6-2(7).~~ **IC 27-1-15.6-2.**

SECTION 25. IC 27-4-5-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) It is a Class A infraction for an insurer to transact insurance business in this state, as set forth in subsection (b), without a certificate of authority from the commissioner. However, this section does not apply to the following:

(1) The lawful transaction of surplus lines insurance.

(2) The lawful transaction of reinsurance by insurers.

(3) Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.

(4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses.

(5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs.

(6) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargos, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy.

(7) Transactions in this state involving life insurance, health insurance, or annuities provided to religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions.

(8) Transactions in this state involving contracts of insurance not readily obtainable in the ordinary insurance market and issued to one (1) or more industrial insureds. For purposes of this section, an "industrial insured" means an insured:

(A) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly retained and continuously qualified insurance consultant;

(B) whose aggregate annual premium for insurance on all risks totals at least twenty-five thousand dollars ($25,000); ~~and~~

(C) who has at least twenty-five (25) full-time employees;

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(D) who, on or before February 1 (for the preceding six (6) month period ending December 31) and August 1 (for the preceding six (6) month period ending June 30) of each year, remits to the department an amount equal to two and one-half percent (2.5%) of all gross premiums upon all policies and contracts procured by the insured under this section, plus:

(i) ten percent (10%) of the amount due for the first month after the date specified in this clause, during which the amount described in this clause is not remitted in compliance with this clause; and

(ii) an additional one percent (1%) of the amount due for each additional month during which the amount due under this clause is unpaid; and

(E) who files with the department, with the amount remitted under clause (D), an affidavit specifying all transactions undertaken and policies and contracts procured during the preceding calendar year, including the following:

(i) The description and location of the insured property or risk and the name of the insured.

(ii) The gross premiums charged for the policy or contract.

(iii) The name and home office address of the insurer that issues the policy or contract and the kind of insurance affected.

(iv) A statement that the insured, after diligent effort, was unable to procure from any insurer authorized to transact the particular kind of insurance business in Indiana the full amount of insurance coverage required to protect the insured.

(9) Transactions in Indiana involving the rendering of any service by any ambulance service provider and all fees, costs, and membership payments charged for the service. To qualify under this subdivision, the ambulance service provider:

(A) must have its ambulance service program approved by an ordinance of the legislative body of the county or city in which it operates; and

(B) may not offer any membership program that includes benefits exceeding one (1) year in duration.

(b) Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer constitutes the

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transaction of an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurer" as used in this section includes all persons engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.

(1) The making of or proposing to make, as an insurer, an insurance contract.

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

(3) The taking or receiving of any application for insurance.

(4) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof.

(5) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.

(6) Acting as an agent for or otherwise representing or aiding on behalf of another person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or representing or assisting a person or an insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. This subdivision does not prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of the employer.

(c)(1) The failure of an insurer transacting insurance business in this state to obtain a certificate of authority does not impair the validity of any act or contract of such insurer and does not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority may maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer obtains a certificate of authority.

(2) In the event of failure of any such unauthorized insurer to pay

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any claim or loss within the provisions of such insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract is liable to the insured for the full amount of the claim or loss in the manner provided by the insurance contract.

SECTION 26. IC 27-6-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Credit for reinsurance shall be allowed to any domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:

(1) the reinsurer meets the requirements of:

(A) section 8 of this chapter;

(B) section 9 of this chapter;

(C) sections 10 and 12 of this chapter;

(D) sections 11 and 12 of this chapter; ~~or~~

(E) section 13 of this chapter; **or**

(F) section 16 of this chapter; and

(2) the reinsurance contract provides in substance that, in the event of the insolvency of the ceding insurer, the reinsurance is payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments under this subdivision must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except as provided in IC 27-9-3-30.1. The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to an assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, any assuming insurer may investigate the claim and interpose in the proceeding where the claim is to be adjudicated, at the assuming insurer's expense, any defenses that the assuming insurer considers available to the ceding insurer or the liquidator. If two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense must be apportioned under the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

SECTION 27. IC 27-6-10-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) The commissioner**

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may, after making the considerations required by subsection (b) and ensuring compliance as required by subsection (c), allow credit for reinsurance ceded by a domestic ceding insurer to an assuming insurer or group of assuming insurers that:

(1) does not meet the requirements of sections 8 through 13 of this chapter; and

(2) holds surplus or the equivalent in excess of two hundred fifty million dollars ($250,000,000).

(b) The commissioner shall consider the following before allowing credit for reinsurance under subsection (a):

(1) Whether the assuming insurer:

(A) individually; or

(B) with the assuming insurer's parent and affiliated reinsurers, as determined appropriate by the commissioner;

has a secure financial strength rating from at least two (2) nationally recognized statistical rating organizations that the commissioner considers acceptable.

(2) The domiciliary regulatory jurisdiction of the assuming insurer.

(3) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the assuming insurer.

(4) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(5) The form and substance of:

(A) financial reports required to be filed by the assuming insurer in the domiciliary jurisdiction; or

(B) other public financial statements filed in accordance with generally accepted accounting principles.

(6) The domiciliary regulator's willingness to cooperate with United States regulators in general, and the commissioner in particular.

(7) The history of performance by reinsurers in the domiciliary jurisdiction.

(8) Documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction.

(9) Other matters that the commissioner considers relevant.

(c) The commissioner shall ensure that an assuming insurer or group of assuming insurers has complied with the following before allowing credit for reinsurance under subsection (a):

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(1) The assuming insurer has submitted to the commissioner, in a form prescribed by the commissioner, a stipulation that the assuming insurer:

(A) submits to the jurisdiction of the courts of the United States;

(B) appoints an agent for service of process in the United States; and

(C) agrees to post one hundred percent (100%) collateral for the assuming insurer's United States liabilities if the assuming insurer resists enforcement of a final judgment of a court of the United States.

(2) The assuming insurer has filed with the commissioner, upon application and annually, copies of the following:

(A) Audited financial statements, regulatory filings, and actuarial opinions filed with the assuming insurer's domiciliary regulator.

(B) A report in a form substantially similar to the applicable National Association of Insurance Commissioners Annual Filing Blank.

(C) A report of recoverables that are:

(i) in dispute; or

(ii) more than ninety (90) days past due.

(D) Financial statements of the assuming insurer, the assuming insurer's parent, and affiliated reinsurers.

(d) The commissioner shall do the following:

(1) On an ongoing basis:

(A) evaluate the:

(i) regulatory systems of alien jurisdictions; and

(ii) rights, benefits, and extent of reciprocal recognition afforded by alien jurisdictions to reinsurers that are domiciled and licensed in the United States;

(B) determine the appropriate approach to recognizing the regulatory systems of alien jurisdictions described in clause (A); and

(C) publish a list of alien jurisdictions whose reinsurers may be approved by the commissioner as assuming insurers for which credit for reinsurance may be allowed under this chapter.

(2) In determining the alien jurisdictions to be included on the list published under subdivision (1)(C), the commissioner shall consider the following:

(A) Reciprocal treatment by the alien jurisdiction of

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reinsurers that are domiciled and licensed in the United States.

(B) Solvency procedures involving ceding insurers that are domiciled and licensed in the United States.

(C) Whether the alien jurisdiction adequately and promptly enforces final United States judgments or arbitration awards.

(D) Whether the alien jurisdiction agrees to share information and cooperate with the commissioner with respect to reinsurers that are domiciled and licensed in the alien jurisdiction.

(E) Relevant international standards for mutual recognition of reinsurance regulation.

(3) Consider adoption of recommendations by the National Association of Insurance Commissioners for inclusion on the list published under subdivision (1)(C).

(e) If an assuming insurer or a group of assuming insurers for which credit for reinsurance is allowed under subsection (a) continues throughout the year to pay claims in a timely manner, the assuming insurer or group of assuming insurers is not required to post collateral for the following catastrophe recoverables for one (1) year after the date of the first liability reserve entry by a ceding company resulting from a loss from a defined catastrophe recognized by the commissioner:

(1) Fire.

(2) Allied lines.

(3) Farmowners multiple peril.

(4) Homeowners multiple peril.

(5) Commercial multiple peril.

(6) Inland marine.

(7) Earthquake.

(8) Motor vehicle physical damage.

(f) The commissioner may, in lieu of granting full credit under this section and subject to subsection (g), reduce the amount:

(1) required to be held in trust under section 11 of this chapter; or

(2) of security required to be held under section 14 of this chapter.

(g) The commissioner may, under subsection (f), reduce the amount of required collateral only if the amount of required collateral remaining is not less than the amount specified in the required collateral column in the following table, based on the

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financial strength rating that is lowest in the table and applies to the assuming insurer or group of assuming insurers:

Required Collateral	**Financial Strength Ratings**			
	A.M. Best	**Standard and Poor's**	**Moody's**	**Fitch Ratings**
0%	**A++**	**AAA**	**Aaa**	**AAA**
10%	**A+**	**AA+, AA, AA-**	**Aa1, Aa2, Aa3**	**AA+, AA, AA-**
20%	**A, A-**	**A+, A, A-**	**A1, A2, A3**	**A+, A, A-**
75%	**B++, B+**	**BBB+, BBB, BBB-**	**Baa1, Baa2, Baa3**	**BBB+, BBB, BBB-**
100%	**B, B-, C++, C+, C, C-, D, E, F**	**BB+, BB, BB-, B+, B, B-,CCC, CC, C, D, R**	**Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C**	**BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD**

SECTION 28. IC 27-7-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. **(a)** Any domestic corporation having:

(1) among its purposes the insuring against loss or damage on account of encumbrances upon or defects in the title to real estate; **and**

(2) a physical office in Indiana;

is hereby authorized to organize under IC 23-1, and any foreign corporation, having among its purposes the insuring against loss or damage on account of encumbrances upon or defects in the title to real estate, is hereby authorized to and may be admitted to do business in this state under IC 23-1. Any domestic or foreign corporation, organized or admitted to do business before or after June 7, 1937, as provided in this section, may engage in business as a title insurance company by complying with the provisions of this chapter.

(b) A domestic corporation admitted to do business as described in subsection (a) shall provide written notice to the department of insurance and all policyholders of a change in location of the domestic corporation's physical office in Indiana, including the address and telephone number of the new location.

SECTION 29. IC 27-7-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3.5. (a) A domestic corporation admitted to do business as described in section 3 of this chapter is subject to the following:**

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(1) IC 27-1-6-21.
(2) IC 27-1-7-11.
(3) IC 27-9.

(b) A foreign corporation admitted to do business as described in section 3 of this chapter is subject to IC 27-1-17-9.

SECTION 30. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16.5. (a) As used in this section, "delivery state" means any state other than Indiana in which a policy is delivered or issued for delivery.

(b) Except as provided in subsection (c), (d), or (e), a certificate may not be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana.

(c) A certificate may be issued to a resident of Indiana pursuant to a group policy not described in subsection (d) that is delivered or issued for delivery in a state other than Indiana if:

(1) the delivery state has a law substantially similar to section 16 of this chapter;
(2) the delivery state has approved the group policy; and
(3) the policy or the certificate contains provisions that are:
(A) substantially similar to the provisions required by:
(i) section 19 of this chapter;
(ii) section 21 of this chapter; and
(iii) IC 27-8-5.6; and
(B) consistent with the requirements set forth in:
(i) section 24 of this chapter;
(ii) IC 27-8-6;
(iii) IC 27-8-14;
(iv) IC 27-8-23;
(v) 760 IAC 1-38.1; and
(vi) 760 IAC 1-39.

(d) A certificate may be issued to a resident of Indiana under an association group policy, a discretionary group policy, or a trust group policy that is delivered or issued for delivery in a state other than Indiana if:

(1) the delivery state has a law substantially similar to section 16 of this chapter;
(2) the delivery state has approved the group policy; and
(3) the policy or the certificate contains provisions that are:
(A) substantially similar to the provisions required by:
(i) section 19 of this chapter or, if the policy or certificate is described in section 2.5(b)(2) of this chapter, section 2.5 of

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this chapter;
(ii) section ~~19.2~~ **19.3** of this chapter if the policy or certificate contains a waiver of coverage;
(iii) section 21 of this chapter; and
(iv) IC 27-8-5.6; and
(B) consistent with the requirements set forth in:
(i) section 15.6 of this chapter;
(ii) section 24 of this chapter;
(iii) section 26 of this chapter;
(iv) IC 27-8-6;
(v) IC 27-8-14;
(vi) IC 27-8-14.1;
(vii) IC 27-8-14.5;
(viii) IC 27-8-14.7;
(ix) IC 27-8-14.8;
(x) IC 27-8-20;
(xi) IC 27-8-23;
(xii) IC 27-8-24.3;
(xiii) IC 27-8-26;
(xiv) IC 27-8-28;
(xv) IC 27-8-29;
(xvi) 760 IAC 1-38.1; and
(xvii) 760 IAC 1-39.

(e) A certificate may be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana if the commissioner determines that the policy pursuant to which the certificate is issued meets the requirements set forth in section 17(a) of this chapter.

(f) This section does not affect any other provision of Indiana law governing the terms or benefits of coverage provided to a resident of Indiana under any certificate or policy of insurance.

SECTION 31. IC 27-8-5-17, AS AMENDED BY P.L.218-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) A group accident and sickness insurance policy shall not be delivered or issued for delivery in Indiana to a group that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A), 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

(1) the group applies to the commissioner for approval as a discretionary group;
(2) the commissioner reviews the group according to the same standards as a group described in section 16 of this chapter; and

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(3) the commissioner finds that:

~~(1)~~ **(A)** the issuance of the policy is not contrary to the best interest of the public;

~~(2)~~ **(B)** the issuance of the policy would result in economies of acquisition or administration; and

~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to the premiums charged.

(b) Except as otherwise provided in this chapter, an insurer may exclude or limit the coverage under a policy described in subsection (a) on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

SECTION 32. IC 27-8-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. This chapter applies to any ~~individual or~~ group health insurance plan that is issued for delivery in Indiana to at least ~~three (3)~~ **two (2)** employees of a small employer located in Indiana if one (1) of the following conditions is met:

(1) Any part of the premium or benefits is paid by a small employer or any covered individual is reimbursed, whether through wage adjustments or otherwise, by a small employer for any part of the premium not including the administrative expenses of administering a payroll deduction plan where the employee contributes one hundred percent (100%) of the premium without reimbursement.

(2) The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for purposes of Section 106 or 162 of the United States Internal Revenue Code.

SECTION 33. IC 27-8-15-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.5. (a) As used in this chapter, "eligible employee" means an employee:

(1) who is employed to work at least thirty (30) hours each week; ~~The term includes:~~

~~(A) a sole proprietor; and~~

~~(B) a partner in a partnership;~~

~~if the sole proprietor or partner is included as an employee under a health insurance plan of a small employer;~~ and

(2) who meets an applicable waiting period required by a small employer before gaining coverage under a health insurance policy.

(b) The term includes:

(1) a sole proprietor;

(2) a partner in a partnership; and

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(3) an owner of an S corporation;

regardless of whether the sole proprietor, partner, or owner is included as an employee for purposes of taxation of a small employer.

~~(b)~~ **(c)** The term does not include:

(1) an employee who works on a temporary or substitute basis; or

(2) a seasonal employee.

SECTION 34. IC 27-8-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Except as provided in section 28 of this chapter, as used in this chapter, "health insurance plan" or "plan" means any:

(1) hospital or medical expense incurred policy or certificate;

(2) hospital or medical service plan contract; or

(3) health maintenance organization subscriber contract;

provided to the employees of a small employer.

(b) The term does not include the following:

(1) Accident-only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy. ~~issued as an individual policy.~~

~~(6) A limited benefit health insurance policy issued as an individual policy.~~

~~(7)~~ **(6)** A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

~~(8)~~ **(7)** A policy that provides ~~a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.~~ **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

(A) hospital confinement, critical illness, or intensive care; or

(B) gaps for deductibles or copayments.

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

(A) provided to individuals who are eligible for Medicare; and

(B) not marketed as, or held out to be, a Medicare

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supplement policy.

SECTION 35. IC 27-8-15-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) If an eligible employee who has been continuously covered under a health insurance plan for at least ninety (90) days:

(1) loses coverage under the plan as the result of:

(A) termination of employment;

(B) reduction of hours;

(C) marriage dissolution; or

(D) attainment of any age specified in the plan; ~~and~~

(2) is not eligible for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act of 1985; and

~~(2)~~ **(3)** requests a conversion policy from the small employer insurer that insured the health insurance plan;

the individual is entitled to receive a conversion policy from the small employer insurer.

(b) A request under subsection ~~(a)(2)~~ **(a)** must be made within thirty (30) days after the individual loses coverage under the health insurance plan.

(c) The premium for a conversion policy issued under this section shall not exceed one hundred fifty percent (150%) of the rate that would have been charged under the small employer health insurance plan with respect to the individual if the individual had been covered as an eligible employee under the plan during the same period. If the health insurance plan under which the individual was covered is canceled or is not renewed, the rates shall be based on the rate that would have been charged with respect to the individual if the plan had continued in force, as determined by the small employer insurer in accordance with standard actuarial principles.

(d) A conversion policy issued under this section must be approved by the insurance commissioner as described in IC 27-8-5-1. The commissioner may not approve a conversion policy unless the policy and its benefits are:

(1) comparable to those required under IC 27-13-1-4(a)(2) through IC 27-13-1-4(a)(5);

(2) reasonable in relation to the premium charged; and

(3) in compliance with IC 27-8-6-1.

If the benefit limits of the conversion policy are not more than the benefit limits of the small employer's health insurance plan, the small employer insurer shall credit the individual with any waiting period, deductible, or coinsurance credited to the individual under the small

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employer's health insurance plan.

(e) This section expires on the effective date of a mechanism enacted by the general assembly to offset the potential fiscal impact on small employers and small employer insurers that results from the establishment of a continuation policy under section 31.1 of this chapter.

SECTION 36. IC 27-9-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 3.1. Treatment of Certain Agreements

Sec. 1. (a) As used in this chapter, "actual direct compensatory damages" includes:

(1) normal and reasonable costs of cover;

(2) other reasonable measures of damages used in the derivatives market, the securities market, or another market for contract claims.

(b) The term does not include:

(1) punitive or exemplary damages:

(2) damages for lost profit or lost opportunity; or

(3) damages for pain and suffering.

Sec. 2. As used in this chapter, "business day" means a day other than:

(1) Saturday;

(2) Sunday; or

(3) a day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

Sec. 3. As used in this chapter, "commodity contract" means any of the following:

(1) A contract for the purchase or sale of a commodity:

(A) for future delivery on; or

(B) subject to the rules of;

a board of trade or contract market under the federal Commodity Exchange Act (7 U.S.C. 1 et seq.) or a board of trade outside the United States.

(2) An agreement that is:

(A) subject to regulation under Section 19 of the federal Commodity Exchange Act (7 U.S.C. 1 et seq.); and

(B) commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract.

(3) An agreement or transaction that is:

(A) subject to regulation under Section 4c(b) of the federal

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Commodity Exchange Act (7 U.S.C. 1 et seq.); and

(B) commonly known to the commodities trade as a commodity option.

(4) A combination of the contracts, agreements, or transactions described in subdivisions (1) through (3).

(5) An option to enter into:

(A) a contract;

(B) an agreement;

(C) a transaction; or

(D) a combination of contracts, agreements, or transactions;

described in subdivisions (1) through (4).

Sec. 4. As used in this chapter, "contractual right" includes the following:

(1) A right set forth in a rule, bylaw, or resolution of the governing board of any of the following:

(A) A derivatives clearing organization (as defined in the federal Commodity Exchange Act (7 U.S.C. 1 et seq.)).

(B) A multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act (12 U.S.C. 1821)).

(C) A national securities exchange, national securities association, or securities clearing agency.

(D) A contract market designated under the federal Commodity Exchange Act (7 U.S.C. 1 et seq.).

(E) A derivatives transaction execution facility registered under the federal Commodity Exchange Act (7 U.S.C. 1 et seq.).

(F) A board of trade (as defined in the federal Commodity Exchange Act (7 U.S.C. 1 et seq.)).

(2) A right, regardless of whether evidenced in writing, arising:

(A) under statutory or common law;

(B) under the law merchant; or

(C) by reason of normal business practice.

Sec. 5. As used in this chapter, "forward contract" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1821).

Sec. 6. (a) As used in this chapter, "netting agreement" means a new agreement that:

(1) allows the parties to a previous agreement to aggregate the amounts owing by each party under all transactions that are

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outstanding under the previous agreement; and
(2) replaces the amounts owing under the previous agreement with a single net amount:
(A) resulting from the aggregation under subdivision (1); and
(B) owing:
(i) by one (1) party; and
(ii) to the other party;
to the previous agreement.

(b) The single net amount described in subsection (a)(2) may be determined as follows:
(1) In the event of a relevant default (including counterparty bankruptcy) as specified in the previous agreement, all transactions of a certain type are netted at:
(A) market value; or
(B) if:
(i) otherwise specified in the contract; or
(ii) market value is impossible to obtain;
an amount equal to the loss suffered by the nondefaulting party as a result of the default.
(2) Under the new agreement, the parties agree that legal obligations of the parties to make required payments under at least one (1) series of related transactions under the previous agreement are:
(A) canceled; and
(B) replaced by a new legal obligation to make payments on only the single net amount under the new agreement.
(3) In the event of a cash settled trade, the parties agree that legal obligations of:
(A) the parties; or
(B) a party and parents or affiliates of a party;
under related or unrelated transactions are canceled and replaced by the cash settled trade.

Sec. 7. As used in this chapter, "qualified financial contract" means a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, or a similar agreement, as determined by the commissioner.

Sec. 8. As used in this chapter, "repurchase agreement"has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1821).

Sec. 9. As used in this chapter, "securities contract" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C.

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1821).

Sec. 10. As used in this chapter, "swap agreement" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1821).

Sec. 11. As used in this chapter, "walkaway clause" means a provision in a netting agreement or qualified financial contract that, after calculation of the value of a party's position or an amount due to or from a party under the netting agreement or qualified financial contract upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract, either:

(1) does not create a payment obligation of a party; or

(2) voids any part of a payment obligation of a party;

solely because of the party's status as a nondefaulting party.

Sec. 12. Notwithstanding a provision of IC 27-9-3 or this chapter to the contrary, a person may exercise any of the following:

(1) A contractual right to cause the termination, liquidation, acceleration, or close-out of obligations in connection with a netting agreement or qualified financial contract with an insurer due to:

(A) the insolvency, financial condition, or default of the insurer if the right is enforceable under applicable law other than this chapter; or

(B) the commencement of a formal delinquency proceeding under IC 27-9-3.

(2) A right under:

(A) a pledge, security, collateral, reimbursement, guarantee agreement, or similar security agreement; or

(B) an arrangement or credit enhancement relating to at least one (1) netting agreement or qualified financial contract.

(3) A right to set off or net out a termination value, payment amount, or other transfer obligation arising in connection with at least one (1) qualified financial contract in which the counterparty or the counterparty's guarantor is organized under the laws of:

(A) the United States; or

(B) a state or foreign jurisdiction approved as eligible for netting by the Securities Valuation Office of the NAIC.

Sec. 13. (a) If a counterparty to a netting agreement or qualified financial contract with an insurer that is subject to a proceeding under IC 27-9-3 terminates, liquidates, closes out, or accelerates

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the netting agreement or qualified financial contract, damages must be measured as of the date of termination, liquidation, close-out, or acceleration.

(b) The amount of a claim for damages under subsection (a) is equal to the actual direct compensatory damages calculated in accordance with section 19 of this chapter.

Sec. 14. (a) Notwithstanding a walkaway clause in a netting agreement or qualified financial contract, upon termination of the netting agreement or qualified financial contract, any net or settlement amount owed by a nondefaulting party to an insurer against which an application or petition has been filed under IC 27-9-3 must be transferred:

(1) to; or

(2) according to the order of;

the receiver for the insurer, regardless of whether the insurer is the defaulting party.

(b) For purposes of subsection (a), a limited two-way payment or first method provision in a netting agreement or qualified financial contract with an insurer that has defaulted is considered to be a full two-way payment or second method provision as against the defaulting insurer.

Sec. 15. In making a transfer of a netting agreement or qualified financial contract of an insurer that is subject to a proceeding under IC 27-9-3, the receiver shall either:

(1) transfer to one (1) party, other than an insurer subject to a proceeding under IC 27-9-3, all netting agreements and qualified financial contracts between a counterparty or an affiliate of a counterparty and the insurer that is the subject of the proceeding, including:

(A) all rights and obligations of each party; and

(B) all property, including guarantees or credit enhancements, that secures claims of each party;

under each netting agreement and qualified financial contract; or

(2) transfer none of the netting agreements, qualified financial contracts, rights, obligations, or property referred to in subdivision (1) with respect to a counterparty or an affiliate of a counterparty.

Sec. 16. If an insurer's receiver makes a transfer of at least one (1) netting agreement or qualified financial contract under section 14 of this chapter, the receiver shall use the receiver's best efforts to notify any person that is a party to the netting agreement or

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qualified financial contract before noon, local time of the receiver, on the business day following the transfer.

Sec. 17. Notwithstanding IC 27-9-3 and this chapter, a receiver may not avoid a transfer of money or other property arising in connection with:

(1) a netting agreement or qualified financial contract;

(2) a pledge, security, collateral, reimbursement, guarantee agreement, or similar security agreement; or

(3) an arrangement or credit enhancement relating to a netting agreement or qualified financial contract;

made before the commencement of a formal delinquency proceeding under IC 27-9-3. However, a receiver may avoid a transfer made with actual intent to hinder, delay, or defraud the insurer, the insurer's receiver, or creditors.

Sec. 18. In exercising a receiver's right of disaffirmance or repudiation with respect to a netting agreement or qualified financial contract to which an insurer is a party, the receiver for the insurer shall either:

(1) disaffirm or repudiate all netting agreements and qualified financial contracts between a counterparty or an affiliate of a counterparty and the insurer that is the subject of the proceeding; or

(2) disaffirm or repudiate none of the netting agreements and qualified financial contracts referred to in subdivision (1) with respect to a counterparty or an affiliate of a counterparty.

Sec. 19. (a) Notwithstanding IC 27-9-3 and this chapter, a claim of a counterparty against an estate arising from an insurer's receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or immediately preceding conservation or rehabilitation case must be determined and allowed or disallowed:

(1) as if the claim had arisen before the date of the filing of the petition for liquidation; or

(2) if a conservation or rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of the filing of the petition for conservation or rehabilitation.

(b) The amount of a claim described in subsection (a) is the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract.

Sec. 20. All rights of counterparties under this chapter apply to

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netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are:

(1) available only to counterparties to netting agreements and qualified financial contracts; and

(2) entered into on behalf of the separate account.

SECTION 37. IC 27-13-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 10. (a) A domestic health maintenance organization that is admitted to transact business in Indiana shall do the following:**

(1) If the health maintenance organization is a domestic health maintenance organization admitted to transact business in Indiana after June 30, 2011, comply with IC 27-1-6-21.

(2) If the health maintenance organization changes the physical location of its home office, provide written notice to the department and all subscribers at least thirty (30) days before the location is changed, including the address and telephone number of the new location.

(b) A domestic health maintenance organization operating under this article is subject to IC 27-1-7-11.

SECTION 38. IC 27-13-34-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. A limited service health maintenance organization operated under this chapter is subject to the following:

(1) IC 27-1-36 concerning risk based capital, unless exempted by the commissioner under IC 27-1-36-1.

(2) IC 27-13-2-10, concerning physical presence in Indiana.

~~(2)~~ **(3)** IC 27-13-8, except for IC 27-13-8-2(a)(6) concerning reports.

~~(3)~~ **(4)** IC 27-13-9-3 concerning termination of providers.

~~(4)~~ **(5)** IC 27-13-10-1 through IC 27-13-10-3 concerning grievance procedures.

~~(5)~~ **(6)** IC 27-13-11 concerning investments.

~~(6)~~ **(7)** IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3) concerning gag clauses in contracts.

~~(7)~~ **(8)** IC 27-13-21 concerning producers.

~~(8)~~ **(9)** IC 27-13-29 concerning statutory construction and relationship to other laws.

~~(9)~~ **(10)** IC 27-13-30 concerning public records.

~~(10)~~ **(11)** IC 27-13-31 concerning confidentiality of medical information and limitation of liability.

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~~(11)~~ **(12)** IC 27-13-36-5 and IC 27-13-36-6 concerning referrals to out of network providers and continuation of care.

~~(12)~~ **(13)** IC 27-13-40 concerning comparison sheets of services provided by the limited service health maintenance organization.

SECTION 39. IC 27-14-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. An MIHC may convert to a stock company under ~~IC 27-1-8-13~~ **IC 27-15** as though the MIHC were an MIC.

SECTION 40. IC 27-16-2-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 16. "Working capital" means the difference between a person's:**

(1) current assets; and

(2) current liabilities;

determined in accordance with generally accepted accounting principles.

SECTION 41. IC 27-16-4-2, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. **(a) This section does not apply to an applicant for limited registration under section 6 of this chapter.**

(b) An applicant for registration under this article shall file with the department the following information:

(1) The name or names under which the applicant conducts business.

(2) The address of the principal place of business of the applicant and the address of each office the applicant maintains in Indiana.

(3) The applicant's taxpayer or employer identification number.

(4) A list by jurisdiction of each name under which the applicant has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities.

(5) A statement of ownership that includes the name and evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the applicant.

(6) A statement of management that includes the name and evidence of the business experience of any individual who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the applicant.

(7) **Except as provided in subsections (c) and (d),** a financial statement:

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(A) setting forth the financial condition of the applicant as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the department;
(B) prepared in accordance with generally accepted accounting principles; and
(C) ~~reviewed~~ **audited** by an:
(i) independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located; **or**
(ii) individual who is certified under IC 25-2.1-3 or IC 25-2.1-4;
with a resulting audit report that is issued without qualification as to the status of the applicant as a going concern.

(c) If a PEO has less than twelve (12) months of operating history on which to base an audited financial statement, the PEO shall file a financial statement that has been reviewed by an:
(1) independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located; or
(2) individual who is certified under IC 25-2.1-3 or IC 25-2.1-4.

(d) An applicant may apply to the department for an extension of time in which to file the audited financial statement and audit report required by subsection (b). An application under this subsection must be accompanied by a letter from the auditor described in subsection (b) specifying the reason for the requested extension and the anticipated date by which the audit will be completed.

SECTION 42. IC 27-16-4-6, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for a limited registration under this article if the PEO:
(1) submits a properly executed request for limited registration on a form prescribed by the department;
(2) is licensed or registered as a professional employer organization in another state that has licensure or registration requirements that are:
(A) substantially the same as; or
(B) more restrictive than;
the requirements of this article;
(3) does not:

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(A) maintain an office; or

(B) directly solicit clients located or domiciled;

in Indiana; and

(4) does not have more than fifty (50) covered employees who are employed or domiciled in Indiana on any day.

(b) A limited registration is valid for one (1) year and may be renewed.

(c) A PEO that seeks limited registration under this section shall provide to the department information and documentation necessary to show that the PEO ~~qualifies for a limited registration.~~ **meets the requirements of this section.**

(d) ~~IC 27-16-6-1(a)(1)~~ **IC 27-16-6** does not apply to a PEO that applies for limited registration under this section.

SECTION 43. IC 27-16-4-8, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. The department shall:

(1) maintain; **and**

(2) publish on the department's Internet site;

a list of PEOs that are registered under this article.

SECTION 44. IC 27-16-6-1, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A PEO **or PEO group** shall ~~maintain either:~~ **do one (1) of the following:**

~~(1) subject to section 2 of this chapter, a minimum net worth of fifty thousand dollars ($50,000); or~~

~~(2) subject to subsection (b), a bond with a market value of at least fifty thousand dollars ($50,000).~~

(1) Maintain positive working capital, as reflected in the financial statement submitted to the department by the PEO or PEO group under IC 27-16-4.

(2) If the PEO or PEO group does not meet the requirement of subdivision (1), maintain any of the following with a minimum aggregate value in an amount that is at least sufficient to eliminate the PEO's or PEO group's negative working capital plus one hundred thousand dollars ($100,000):

(A) A surety bond.

(B) An irrevocable letter of credit.

(C) Cash.

(D) A combination of items listed in clauses (A) through (C).

(b) ~~A bond~~ **An instrument or cash** described in subsection (a)(2)

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must be held by ~~a depository~~ **an institution** designated by the department, securing payment by the PEO **or PEO group** of all taxes, wages, benefits, or other entitlement due to or with respect to covered employees in the event that the PEO **or PEO group** does not make the payments when due.

SECTION 45. IC 27-16-6-2, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. ~~A bond~~ **An instrument or cash** described in section 1(a)(2) of this chapter must not be included in the calculation of the ~~minimum net worth~~ **positive working capital** described in section 1(a)(1) of this chapter.

SECTION 46. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 27-1-25-7.5; IC 27-8-15-2.

SECTION 47. [EFFECTIVE JULY 1, 2011] **(a) IC 27-1-15.7-2(a) and IC 27-1-15.7-2(e), both as amended by this act, apply to an insurance producer license renewal occurring after December 31, 2011.**

(b) IC 27-1-15.7-5, as amended by this act, applies to insurance producer prelicensing self-study or instruction provided after December 31, 2011.

(c) This SECTION expires on December 31, 2013.

SECTION 48. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1486, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, line 24, delete "(a)".

Page 11, line 25, delete ":" and insert "**do all of the following:**".

Page 11, delete lines 26 through 31, begin a new line block indented and insert:

"**(1) Comply with IC 27-1-6.**

(2) File with the commissioner an affidavit, signed by the limited purpose subsidiary's president, vice president, treasurer, or chief financial officer, including all of the following to the best of the individual's knowledge after reasonable inquiry:

(A) That the proposed organization and operation of the limited purpose subsidiary complies with this chapter.

(B) That the limited purpose subsidiary's investment policy reflects and considers the liquidity of assets and the reasonable preservation, administration, and management of the assets with respect to the risks associated with reinsurance contracts issued by the limited purpose subsidiary.

(C) That the reinsurance contract and any arrangement intended to secure the limited purpose subsidiary's obligations under the reinsurance contract (including an agreement to implement the arrangement) comply with this chapter.

(3) File with the commissioner the opinion of a qualified independent actuary approved by the commissioner that the methodology and assumptions (including significant stress tests of key assumptions) used to establish and discount reserves held by the limited purpose subsidiary are sufficient to provide for the risk assumed by the limited purpose subsidiary.

(4) File with the commissioner the limited purpose subsidiary's plan of operation, including the following:

(A) A statement that the limited purpose subsidiary will, before each offer and sale of securities of or by the limited purpose subsidiary, file with the commissioner, in a form acceptable to the commissioner, a legal opinion that the offering and sale of securities:

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(i) of the limited purpose subsidiary complies with all federal securities laws; and

(ii) by the limited purpose subsidiary complies with all Indiana securities laws.

(B) A complete description of all reinsurance transactions, reinsurance security arrangements, securitizations, and any other material transactions or arrangements of the limited purpose subsidiary.

(C) The source and form of the limited purpose subsidiary's capital and surplus.

(D) The investment policy of the limited purpose subsidiary.

(E) Pro forma balance sheets and income statements that illustrate at least one (1) adverse case scenario, as determined using criteria required by the commissioner, for the performance of the limited purpose subsidiary under all reinsurance contracts.

(F) Risk-based capital requirements, including a requirement that the limited purpose subsidiary must maintain risk-based capital equal to the product of two and one half (2 1/2) and the number determined under the life risk-based capital formula in accordance with the National Association of Insurance Commissioners' risk-based capital instructions.

(G) Notice and reporting of material transactions.

(H) Policies for payment of dividends and other distributions to the organizing domestic life insurance company.

(I) Copies of all contracts between the limited purpose subsidiary and affiliates.

(J) Other documentation or information required by the commissioner.

(5) Obtain from the commissioner a certificate of authority to engage in the business of reinsurance in Indiana.

Sec. 8. (a) The commissioner may issue a certificate of authority to a limited purpose subsidiary upon a finding by the commissioner of all of the following:

(1) That the proposed plan of operation provides for a viable operation of the limited purpose subsidiary.

(2) That the terms of all proposed reinsurance contracts and related transactions of the limited purpose subsidiary comply with this chapter and any other applicable insurance laws.

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(3) That the proposed plan of operation is not hazardous to any ceding insurer.

(b) The commissioner may, in conjunction with the issuance of a certificate of authority to a limited purpose subsidiary, issue an order containing any terms or conditions applying to the limited purpose subsidiary's authority to engage in the business of reinsurance, including terms or conditions concerning the organization, licensing, or operation of the limited purpose subsidiary, consistent with this chapter and determined necessary by the commissioner.".

Page 11, line 32, delete "(b)" and insert "**(c)**".

Page 11, line 37, delete "14" and insert "**15**".

Page 11, line 39, delete "(c)" and insert "**(d)**".

Page 11, line 41, delete "8." and insert "**9.**".

Page 12, line 15, delete "9." and insert "**10.**".

Page 12, line 19, delete "10." and insert "**11.**".

Page 12, line 23, delete "11." and insert "**12.**".

Page 12, line 26, delete "12." and insert "**13.**".

Page 12, delete lines 32 through 37, begin a new paragraph and insert:

"**Sec. 14. (a) A limited purpose subsidiary shall do the following:**

(1) Provide to the commissioner, not later than forty-five (45) days after the closing date of the transactions of an insurance securitization, a copy of a complete set of executed documentation of the insurance securitization.

(2) Notify the commissioner, not later than two (2) business days after any material change in the financial condition or management of the limited purpose subsidiary, written notice of the material change.

(3) Annually file with the commissioner the actuarial opinion of the limited purpose subsidiary's internal actuary concerning reserves held by the limited purpose subsidiary for all risks assumed by the limited purpose subsidiary under the limited purpose subsidiary's reinsurance contracts.

(4) Biennially file with the commissioner the actuarial opinion:

(A) of a qualified independent actuary approved by the commissioner; and

(B) concerning the methodology and assumptions used by the limited purpose subsidiary in establishing the reserves held by the limited purpose subsidiary.

(5) Annually file with the commissioner a report of the limited

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purpose subsidiary's risk-based capital level as of the end of the immediately preceding calendar year, including the information required by the risk-based capital instructions of the National Association of Insurance Commissioners.

(6) Immediately notify the commissioner concerning any action by a ceding insurer or other person to foreclose on or otherwise take possession of collateral provided by the limited purpose subsidiary to secure an obligation of the limited purpose subsidiary.

(b) A limited purpose subsidiary may, after approval of the commissioner, discount the reserves held by the limited purpose subsidiary in accordance with an actuarial opinion filed under subsection (a)(3).

(c) Unless otherwise required by the commissioner, a limited purpose subsidiary is not required to file a report, notice, or other document with the National Association of Insurance Commissioners.".

Page 12, line 38, delete "14." and insert "**15.**".

Page 13, delete lines 1 through 5.

Page 13, line 6, delete "(5)" and insert "**(1)**".

Page 13, line 8, delete "(6)" and insert "**(2)**".

Page 13, line 9, delete "(7)" and insert "**(3)**".

Page 13, line 10, delete "(8)" and insert "**(4)**".

Page 13, delete line 12.

Page 13, line 13, delete "(10)" and insert "**(5)**".

Page 13, line 14, delete "(11)" and insert "**(6)**".

Page 13, line 15, delete "(12)" and insert "**(7)**".

Page 44, line 20, after "6(b)(2)" insert "**or 6(b)(3)**".

Page 46, delete lines 35 through 40, begin a new line block indented and insert:

"**(14) An individual who:**

(A) does not adjust losses or determine claim payments; and

(B) is employed to use a specialized skill possessed by the individual to make a determination:

(i) concerning an element of a claim; and

(ii) that is used by an independent adjuster, or an adjuster who is directly employed by an insurer, in adjusting a loss or determining a claim payment.".

Page 47, delete lines 1 through 23.

Page 62, line 14, delete "JULY 1, 2011]:" and insert "UPON PASSAGE]:".

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Page 63, line 7, delete "JULY 1, 2011]:" and insert "UPON PASSAGE]:".

Page 63, line 8, delete "a determination under subsection (b)," and insert "**the considerations required by subsection (b) and ensuring compliance as required by subsection (c),**".

Page 63, line 15, delete "in making a" and insert "**before allowing credit for reinsurance under**".

Page 63, line 16, delete "determination described in".

Page 64, line 5, after "(c)" insert "**The commissioner shall ensure that an assuming insurer or group of assuming insurers has complied with the following before allowing credit for reinsurance under subsection (a):**

(1) The assuming insurer has submitted to the commissioner, in a form prescribed by the commissioner, a stipulation that the assuming insurer:

(A) submits to the jurisdiction of the courts of the United States;

(B) appoints an agent for service of process in the United States; and

(C) agrees to post one hundred percent (100%) collateral for the assuming insurer's United States liabilities if the assuming insurer resists enforcement of a final judgment of a court of the United States.

(2) The assuming insurer has filed with the commissioner, upon application and annually, copies of the following:

(A) Audited financial statements, regulatory filings, and actuarial opinions filed with the assuming insurer's domiciliary regulator.

(B) A report in a form substantially similar to the applicable National Association of Insurance Commissioners Annual Filing Blank.

(C) A report of recoverables that are:

(i) in dispute; or

(ii) more than ninety (90) days past due.

(D) Financial statements of the assuming insurer, the assuming insurer's parent, and affiliated reinsurers.

(d) The commissioner shall do the following:

(1) On an ongoing basis:

(A) evaluate the:

(i) regulatory systems of alien jurisdictions; and

(ii) rights, benefits, and extent of reciprocal recognition afforded by alien jurisdictions to reinsurers that are

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domiciled and licensed in the United States;

(B) determine the appropriate approach to recognizing the regulatory systems of alien jurisdictions described in clause (A); and

(C) publish a list of alien jurisdictions whose reinsurers may be approved by the commissioner as assuming insurers for which credit for reinsurance may be allowed under this chapter.

(2) In determining the alien jurisdictions to be included on the list published under subdivision (1)(C), the commissioner shall consider the following:

(A) Reciprocal treatment by the alien jurisdiction of reinsurers that are domiciled and licensed in the United States.

(B) Solvency procedures involving ceding insurers that are domiciled and licensed in the United States.

(C) Whether the alien jurisdiction adequately and promptly enforces final United States judgments or arbitration awards.

(D) Whether the alien jurisdiction agrees to share information and cooperate with the commissioner with respect to reinsurers that are domiciled and licensed in the alien jurisdiction.

(E) Relevant international standards for mutual recognition of reinsurance regulation.

(3) Consider adoption of recommendations by the National Association of Insurance Commissioners for inclusion on the list published under subdivision (1)(C).

(e) If an assuming insurer or a group of assuming insurers for which credit for reinsurance is allowed under subsection (a) continues throughout the year to pay claims in a timely manner, the assuming insurer or group of assuming insurers is not required to post collateral for the following catastrophe recoverables for one (1) year after the date of the first liability reserve entry by a ceding company resulting from a loss from a defined catastrophe recognized by the commissioner:

(1) Fire.

(2) Allied lines.

(3) Farmowners multiple peril.

(4) Homeowners multiple peril.

(5) Commercial multiple peril.

(6) Inland marine.

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(7) Earthquake.

(8) Motor vehicle physical damage.

(f)".

Page 64, line 6, delete "," and insert "**and subject to subsection (g),**".

Page 64, between lines 10 and 11, begin a new paragraph and insert:

"**(g) The commissioner may, under subsection (f), reduce the amount of required collateral only if the amount of required collateral remaining is not less than the amount specified in the required collateral column in the following table, based on the financial strength rating that is lowest in the table and applies to the assuming insurer or group of assuming insurers:**

Required Collateral	Financial Strength Ratings			
	A.M. Best	Standard and Poor's	Moody's	Fitch Ratings
0%	A++	AAA	Aaa	AAA
10%	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
20%	A, A-	A+, A, A-	A1, A2, A3	A+, A, A-
75%	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
100%	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-,CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD".

Page 71, delete lines 33 through 41, begin a new paragraph and insert:

"**Sec. 6. (a) As used in this chapter, "netting agreement" means a new agreement that:**

(1) allows the parties to a previous agreement to aggregate the amounts owing by each party under all transactions that are outstanding under the previous agreement; and

(2) replaces the amounts owing under the previous agreement with a single net amount:

(A) resulting from the aggregation under subdivision (1); and

(B) owing:

(i) by one (1) party; and

(ii) to the other party;

to the previous agreement.

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(b) The single net amount described in subsection (a)(2) may be determined as follows:

(1) In the event of a relevant default (including counterparty bankruptcy) as specified in the previous agreement, all transactions of a certain type are netted at:

(A) market value; or

(B) if:

(i) otherwise specified in the contract; or

(ii) market value is impossible to obtain;

an amount equal to the loss suffered by the nondefaulting party as a result of the default.

(2) Under the new agreement, the parties agree that legal obligations of the parties to make required payments under at least one (1) series of related transactions under the previous agreement are:

(A) canceled; and

(B) replaced by a new legal obligation to make payments on only the single net amount under the new agreement.

(3) In the event of a cash settled trade, the parties agree that legal obligations of:

(A) the parties; or

(B) a party and parents or affiliates of a party;

under related or unrelated transactions are canceled and replaced by the cash settled trade.".

Page 72, delete lines 1 through 5.

Page 73, delete lines 36 through 40.

and when so amended that said bill do pass.

(Reference is to HB 1486 as introduced.)

LEHMAN, Chair

Committee Vote: yeas 10, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1486 be amended to read as follows:

Page 84, line 18, after "(b)" insert "**IC 27-1-15.7-5, as amended by this act, applies to insurance producer prelicensing self-study or instruction provided after December 31, 2011.**

(c)".

(Reference is to HB 1486 as printed February 11, 2011.)

LEHMAN

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