

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	2

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:*

- 1 Page 11, line 24, delete "(a)".
- 2 Page 11, line 25, delete ":" and insert "**do all of the following:**".
- 3 Page 11, delete lines 26 through 31, begin a new line block indented
- 4 and insert:
- 5 "**(1) Comply with IC 27-1-6.**
- 6 **(2) File with the commissioner an affidavit, signed by the**
- 7 **limited purpose subsidiary's president, vice president,**
- 8 **treasurer, or chief financial officer, including all of the**
- 9 **following to the best of the individual's knowledge after**
- 10 **reasonable inquiry:**
- 11 **(A) That the proposed organization and operation of the**
- 12 **limited purpose subsidiary complies with this chapter.**
- 13 **(B) That the limited purpose subsidiary's investment policy**
- 14 **reflects and considers the liquidity of assets and the**
- 15 **reasonable preservation, administration, and management**
- 16 **of the assets with respect to the risks associated with**

- 1 reinsurance contracts issued by the limited purpose
2 subsidiary.
- 3 (C) That the reinsurance contract and any arrangement
4 intended to secure the limited purpose subsidiary's
5 obligations under the reinsurance contract (including an
6 agreement to implement the arrangement) comply with
7 this chapter.
- 8 (3) File with the commissioner the opinion of a qualified
9 independent actuary approved by the commissioner that the
10 methodology and assumptions (including significant stress
11 tests of key assumptions) used to establish and discount
12 reserves held by the limited purpose subsidiary are sufficient
13 to provide for the risk assumed by the limited purpose
14 subsidiary.
- 15 (4) File with the commissioner the limited purpose
16 subsidiary's plan of operation, including the following:
- 17 (A) A statement that the limited purpose subsidiary will,
18 before each offer and sale of securities of or by the limited
19 purpose subsidiary, file with the commissioner, in a form
20 acceptable to the commissioner, a legal opinion that the
21 offering and sale of securities:
- 22 (i) of the limited purpose subsidiary complies with all
23 federal securities laws; and
- 24 (ii) by the limited purpose subsidiary complies with all
25 Indiana securities laws.
- 26 (B) A complete description of all reinsurance transactions,
27 reinsurance security arrangements, securitizations, and
28 any other material transactions or arrangements of the
29 limited purpose subsidiary.
- 30 (C) The source and form of the limited purpose
31 subsidiary's capital and surplus.
- 32 (D) The investment policy of the limited purpose
33 subsidiary.
- 34 (E) Pro forma balance sheets and income statements that
35 illustrate at least one (1) adverse case scenario, as
36 determined using criteria required by the commissioner,
37 for the performance of the limited purpose subsidiary
38 under all reinsurance contracts.

- 1 **(F) Risk-based capital requirements, including a**
 2 **requirement that the limited purpose subsidiary must**
 3 **maintain risk-based capital equal to the product of two and**
 4 **one half (2 1/2) and the number determined under the life**
 5 **risk-based capital formula in accordance with the National**
 6 **Association of Insurance Commissioners' risk-based**
 7 **capital instructions.**
- 8 **(G) Notice and reporting of material transactions.**
- 9 **(H) Policies for payment of dividends and other**
 10 **distributions to the organizing domestic life insurance**
 11 **company.**
- 12 **(I) Copies of all contracts between the limited purpose**
 13 **subsidiary and affiliates.**
- 14 **(J) Other documentation or information required by the**
 15 **commissioner.**
- 16 **(5) Obtain from the commissioner a certificate of authority to**
 17 **engage in the business of reinsurance in Indiana.**

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

- 21 **(1) That the proposed plan of operation provides for a viable**
 22 **operation of the limited purpose subsidiary.**
- 23 **(2) That the terms of all proposed reinsurance contracts and**
 24 **related transactions of the limited purpose subsidiary comply**
 25 **with this chapter and any other applicable insurance laws.**
- 26 **(3) That the proposed plan of operation is not hazardous to**
 27 **any ceding insurer.**

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

36 Page 11, line 32, delete "(b)" and insert "(c)".

37 Page 11, line 37, delete "14" and insert "15".

38 Page 11, line 39, delete "(c)" and insert "(d)".

- 1 Page 11, line 41, delete "8." and insert "9."
 2 Page 12, line 15, delete "9." and insert "10."
 3 Page 12, line 19, delete "10." and insert "11."
 4 Page 12, line 23, delete "11." and insert "12."
 5 Page 12, line 26, delete "12." and insert "13."
 6 Page 12, delete lines 32 through 37, begin a new paragraph and
 7 insert:

- 8 **"Sec. 14. (a) A limited purpose subsidiary shall do the following:**
 9 **(1) Provide to the commissioner, not later than forty-five (45)**
 10 **days after the closing date of the transactions of an insurance**
 11 **securitization, a copy of a complete set of executed**
 12 **documentation of the insurance securitization.**
 13 **(2) Notify the commissioner, not later than two (2) business**
 14 **days after any material change in the financial condition or**
 15 **management of the limited purpose subsidiary, written notice**
 16 **of the material change.**
 17 **(3) Annually file with the commissioner the actuarial opinion**
 18 **of the limited purpose subsidiary's internal actuary**
 19 **concerning reserves held by the limited purpose subsidiary**
 20 **for all risks assumed by the limited purpose subsidiary under**
 21 **the limited purpose subsidiary's reinsurance contracts.**
 22 **(4) Biennially file with the commissioner the actuarial**
 23 **opinion:**
 24 **(A) of a qualified independent actuary approved by the**
 25 **commissioner; and**
 26 **(B) concerning the methodology and assumptions used by**
 27 **the limited purpose subsidiary in establishing the reserves**
 28 **held by the limited purpose subsidiary.**
 29 **(5) Annually file with the commissioner a report of the limited**
 30 **purpose subsidiary's risk-based capital level as of the end of**
 31 **the immediately preceding calendar year, including the**
 32 **information required by the risk-based capital instructions of**
 33 **the National Association of Insurance Commissioners.**
 34 **(6) Immediately notify the commissioner concerning any**
 35 **action by a ceding insurer or other person to foreclose on or**
 36 **otherwise take possession of collateral provided by the limited**
 37 **purpose subsidiary to secure an obligation of the limited**
 38 **purpose subsidiary.**

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

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

9 Page 12, line 38, delete "14." and insert "**15**."

10 Page 13, delete lines 1 through 5.

11 Page 13, line 6, delete "(5)" and insert "**(1)**".

12 Page 13, line 8, delete "(6)" and insert "**(2)**".

13 Page 13, line 9, delete "(7)" and insert "**(3)**".

14 Page 13, line 10, delete "(8)" and insert "**(4)**".

15 Page 13, delete line 12.

16 Page 13, line 13, delete "(10)" and insert "**(5)**".

17 Page 13, line 14, delete "(11)" and insert "**(6)**".

18 Page 13, line 15, delete "(12)" and insert "**(7)**".

19 Page 44, line 20, after "6(b)(2)" insert "**or 6(b)(3)**".

20 Page 46, delete lines 35 through 40, begin a new line block indented
 21 and insert:

22 **"(14) An individual who:**

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

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

27 **(i) concerning an element of a claim; and**

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

31 Page 47, delete lines 1 through 23.

32 Page 62, line 14, delete "JULY 1, 2011]:" and insert "UPON
 33 PASSAGE]:".

34 Page 63, line 7, delete "JULY 1, 2011]:" and insert "UPON
 35 PASSAGE]:".

36 Page 63, line 8, delete "a determination under subsection (b)," and
 37 insert "**the considerations required by subsection (b) and ensuring**
 38 **compliance as required by subsection (c),"**

1 Page 63, line 15, delete "in making a" and insert "**before allowing**
2 **credit for reinsurance under**".

3 Page 63, line 16, delete "determination described in".

4 Page 64, line 5, after "(c)" insert "**The commissioner shall ensure**
5 **that an assuming insurer or group of assuming insurers has**
6 **complied with the following before allowing credit for reinsurance**
7 **under subsection (a):**

8 (1) **The assuming insurer has submitted to the commissioner,**
9 **in a form prescribed by the commissioner, a stipulation that**
10 **the assuming insurer:**

11 (A) **submits to the jurisdiction of the courts of the United**
12 **States;**

13 (B) **appoints an agent for service of process in the United**
14 **States; and**

15 (C) **agrees to post one hundred percent (100%) collateral**
16 **for the assuming insurer's United States liabilities if the**
17 **assuming insurer resists enforcement of a final judgment**
18 **of a court of the United States.**

19 (2) **The assuming insurer has filed with the commissioner,**
20 **upon application and annually, copies of the following:**

21 (A) **Audited financial statements, regulatory filings, and**
22 **actuarial opinions filed with the assuming insurer's**
23 **domiciliary regulator.**

24 (B) **A report in a form substantially similar to the**
25 **applicable National Association of Insurance**
26 **Commissioners Annual Filing Blank.**

27 (C) **A report of recoverables that are:**

28 (i) **in dispute; or**

29 (ii) **more than ninety (90) days past due.**

30 (D) **Financial statements of the assuming insurer, the**
31 **assuming insurer's parent, and affiliated reinsurers.**

32 (d) **The commissioner shall do the following:**

33 (1) **On an ongoing basis:**

34 (A) **evaluate the:**

35 (i) **regulatory systems of alien jurisdictions; and**

36 (ii) **rights, benefits, and extent of reciprocal recognition**
37 **afforded by alien jurisdictions to reinsurers that are**
38 **domiciled and licensed in the United States;**

- 1 **(B) determine the appropriate approach to recognizing the**
2 **regulatory systems of alien jurisdictions described in**
3 **clause (A); and**
- 4 **(C) publish a list of alien jurisdictions whose reinsurers**
5 **may be approved by the commissioner as assuming**
6 **insurers for which credit for reinsurance may be allowed**
7 **under this chapter.**
- 8 **(2) In determining the alien jurisdictions to be included on the**
9 **list published under subdivision (1)(C), the commissioner shall**
10 **consider the following:**
- 11 **(A) Reciprocal treatment by the alien jurisdiction of**
12 **reinsurers that are domiciled and licensed in the United**
13 **States.**
- 14 **(B) Solvency procedures involving ceding insurers that are**
15 **domiciled and licensed in the United States.**
- 16 **(C) Whether the alien jurisdiction adequately and**
17 **promptly enforces final United States judgments or**
18 **arbitration awards.**
- 19 **(D) Whether the alien jurisdiction agrees to share**
20 **information and cooperate with the commissioner with**
21 **respect to reinsurers that are domiciled and licensed in the**
22 **alien jurisdiction.**
- 23 **(E) Relevant international standards for mutual**
24 **recognition of reinsurance regulation.**
- 25 **(3) Consider adoption of recommendations by the National**
26 **Association of Insurance Commissioners for inclusion on the**
27 **list published under subdivision (1)(C) .**
- 28 **(e) If an assuming insurer or a group of assuming insurers for**
29 **which credit for reinsurance is allowed under subsection (a)**
30 **continues throughout the year to pay claims in a timely manner,**
31 **the assuming insurer or group of assuming insurers is not required**
32 **to post collateral for the following catastrophe recoverables for one**
33 **(1) year after the date of the first liability reserve entry by a ceding**
34 **company resulting from a loss from a defined catastrophe**
35 **recognized by the commissioner:**
- 36 **(1) Fire.**
37 **(2) Allied lines.**
38 **(3) Farmowners multiple peril.**

- 1 **(4) Homeowners multiple peril.**
 2 **(5) Commercial multiple peril.**
 3 **(6) Inland marine.**
 4 **(7) Earthquake.**
 5 **(8) Motor vehicle physical damage.**

6 **(f)".**

7 Page 64, line 6, delete "," and insert "**and subject to subsection**
 8 **(g)".**

9 Page 64, between lines 10 and 11, begin a new paragraph and insert:

10 **"(g) The commissioner may, under subsection (f), reduce the**
 11 **amount of required collateral only if the amount of required**
 12 **collateral remaining is not less than the amount specified in the**
 13 **required collateral column in the following table, based on the**
 14 **financial strength rating that is lowest in the table and applies to**
 15 **the assuming insurer or group of assuming insurers:**

	Financial Strength Ratings			
Required	A.M. Best	Standard	Moody's	Fitch
Collateral		and Poor's		Ratings
0%	A++	AAA	Aaa	AAA
10%	A+	AA+, AA,	Aa1, Aa2,	AA+, AA,
		AA-	Aa3	AA-
20%	A, A-	A+, A, A-	A1, A2, A3	A+, A, A-
75%	B++, B+	BBB+, BBB,	Baa1, Baa2,	BBB+, BBB,
		BBB-	Baa3	BBB-
100%	B, B-, C++,	BB+, BB,	Ba1, Ba2,	BB+, BB,
	C+, C, C-,	BB-, B+, B,	Ba3, B1, B2,	BB-, B+, B,
	D, E, F	B-, CCC,	B3, Caa, Ca,	B-, CCC+,
		CC, C, D, R	C	CC, CCC-,
				DD".

31 Page 71, delete lines 33 through 41, begin a new paragraph and
 32 insert:

33 **"Sec. 6. (a) As used in this chapter, "netting agreement" means**
 34 **a new agreement that:**

- 35 **(1) allows the parties to a previous agreement to aggregate the**
 36 **amounts owing by each party under all transactions that are**
 37 **outstanding under the previous agreement; and**
 38 **(2) replaces the amounts owing under the previous agreement**

- 1 **with a single net amount:**
- 2 **(A) resulting from the aggregation under subdivision (1);**
- 3 **and**
- 4 **(B) owing:**
- 5 **(i) by one (1) party; and**
- 6 **(ii) to the other party;**
- 7 **to the previous agreement.**
- 8 **(b) The single net amount described in subsection (a)(2) may be**
- 9 **determined as follows:**
- 10 **(1) In the event of a relevant default (including counterparty**
- 11 **bankruptcy) as specified in the previous agreement, all**
- 12 **transactions of a certain type are netted at:**
- 13 **(A) market value; or**
- 14 **(B) if:**
- 15 **(i) otherwise specified in the contract; or**
- 16 **(ii) market value is impossible to obtain;**
- 17 **an amount equal to the loss suffered by the nondefaulting**
- 18 **party as a result of the default.**
- 19 **(2) Under the new agreement, the parties agree that legal**
- 20 **obligations of the parties to make required payments under at**
- 21 **least one (1) series of related transactions under the previous**
- 22 **agreement are:**
- 23 **(A) canceled; and**
- 24 **(B) replaced by a new legal obligation to make payments**
- 25 **on only the single net amount under the new agreement.**
- 26 **(3) In the event of a cash settled trade, the parties agree that**
- 27 **legal obligations of:**
- 28 **(A) the parties; or**
- 29 **(B) a party and parents or affiliates of a party;**
- 30 **under related or unrelated transactions are canceled and**

- 1 **replaced by the cash settled trade."**
- 2 Page 72, delete lines 1 through 5.
- 3 Page 73, delete lines 36 through 40.
(Reference is to HB 1486 as introduced.)

and when so amended that said bill do pass.

Representative Lehman