

Economic Impact Statement

LSA Document #19-84

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

[IC 4-22-2.1-5](#)(a) provides that an agency that intends to adopt a rule under [IC 4-22-2](#) that will impose requirements or costs on small businesses must prepare a statement that describes the annual economic impact of the rule on small businesses after the rule is fully implemented as described in [IC 4-22-2.1-5](#)(b). That statement must be submitted to the Small Business Ombudsman at the Indiana Economic Development Corporation. The Small Business Ombudsman is required to review the rule and submit written comments to the agency not later than seven (7) days before the public hearing.

The proposed rule repeals [760 IAC 1-15.1-3.1](#) regarding exemptions for insurers subject to registration under [IC 27-1-23-3](#). [760 IAC 1-15.1-3.1](#)(c) generally provides that the ultimate controlling person of an insurer that is a member of an insurance holding company system which members write total direct and assumed annual premiums of less than three hundred million dollars (\$300,000,000), on a combined basis, is not required to file Form F concerning enterprise risk report under [IC 27-1-23-3](#)(l). [760 IAC 1-15.1-3.1](#)(d) states that the ultimate controlling person of an insurer that is a member of an insurance holding company system which members write total direct and assumed annual premiums of more than three hundred million dollars (\$300,000,000) but less than five hundred million dollars (\$500,000,000), on a combined basis, may request an exemption from the reporting requirements of [IC 27-1-23-3](#)(l) by filing with the commissioner a written statement describing the undue financial or organizational hardship the insurer would suffer as a result of complying with [IC 27-1-23-3](#)(l). The proposed rule removes these exemptions and is intended to make [760 IAC 1-15.1](#) substantially similar to a model regulation developed by the National Association of Insurance Commissioners (NAIC). This model regulation must be adopted by each state in a substantially similar manner in order for that state to maintain its accreditation with the NAIC.

Estimated Number of Small Businesses Affected:

The proposed rule will impact insurers which are members of insurance holding company systems which members write total direct and assumed annual premiums of less than five hundred million dollars (\$500,000,000), on a combined basis. There are thirteen (13) life insurance companies that will be affected by the proposed rule, but only five (5) which are not currently filing Form F concerning enterprise risk reports. There are nineteen (19) property and casualty insurance companies that will be affected by the proposed rule, but only twelve (12) which are not currently filing Form F concerning enterprise risk reports. It is unknown how many of these insurers meet the definition of "small business" under [IC 5-28-2-6](#).

Estimated Administrative Costs Imposed on Small Businesses:

There may be compliance costs and administrative expenses for those insurers which are not already filing Form F concerning enterprise risk reports in Indiana or other states, including legal and consulting fees. These expenses are estimated to be ten thousand dollars (\$10,000) annually to file Form F concerning enterprise risk reports.

Estimated Total Annual Economic Impact on Small Businesses:

As there are seventeen (17) insurance companies which are not currently filing Form F concerning enterprise risk reports, the estimated total annual economic impact on small businesses is one hundred seventy thousand dollars (\$170,000).

Justification of Requirements or Costs:

The NAIC Enterprise Risk Report (Form F) Implementation Guide states that due to the importance of assessing enterprise risk for all insurers that are part of insurance holding company systems, the NAIC Insurance Holding Company System Regulatory Act contains no blanket exemptions or waivers for company size or structure. The Implementation Guide indicates that insurance holding company systems are expected to provide Form F concerning enterprise risk report filings to the appropriate regulator on an annual basis, unless granted an individual exemption from the reporting provisions in accordance with applicable state law.

Likewise, the NAIC Insurance Holding Company System Model Regulation With Reporting Forms and Instructions does not contain blanket exemptions or waivers for company size or structure. [760 IAC 1-15.1](#) must be adopted and maintained in a substantially similar manner to this model regulation. Indiana risks losing NAIC accreditation if [760 IAC 1-15.1-3.1](#) is not repealed. If Indiana is not accredited by the NAIC, Indiana domestic insurance companies writing in other states could face extreme financial burden. Insurance departments in other states are permitted to rely on financial examinations conducted by the insurance company's domiciliary state rather than perform an independent examination, if the company's domiciliary state is accredited by the NAIC. If

Indiana fails to maintain NAIC accreditation, Indiana domestic insurers will be subjected to costly financial examinations from each of the other NAIC accredited states in which the company is authorized to write business.

Regulatory Flexibility Analysis:

The Indiana Department of Insurance determined that adoption of the model standards issued by the NAIC to maintain accreditation would be most beneficial for the marketplace. There are no less intrusive or less costly alternative methods for achieving the purposes of the proposed rule.

Posted: 05/08/2019 by Legislative Services Agency

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