

IC 27-5.1-2

Chapter 2. Farm Mutual Insurance Companies

IC 27-5.1-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 8 of this chapter by P.L.137-2006 and P.L.162-2006 apply only to taxable years beginning after December 31, 2005.

As added by P.L.220-2011, SEC.431.

IC 27-5.1-2-1

Applicability

Sec. 1. This chapter applies to a farm mutual insurance company regulated under this article.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-2

Farm mutual insurance companies existing on June 30, 2003

Sec. 2. (a) A farm mutual insurance company that holds a certificate of authority to do business in Indiana on June 30, 2003, is a standard company under this article unless the farm mutual insurance company:

(1) elects to become an extended company under IC 27-5.1-4; and

(2) is authorized by the commissioner to do business as an extended company.

(b) A standard company described in subsection (a) may elect to become an extended company at any time by:

(1) complying with IC 27-5.1-4-2(b); and

(2) submitting to an examination that may be conducted at the discretion of the commissioner.

(c) An election made under this section is effective upon the date the commissioner issues a new certificate of authority.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-3

Proposed farm mutual insurance companies; application for certificate of authority

Sec. 3. (a) If a proposed farm mutual insurance company does not hold a certificate of authority to do business in Indiana on June 30, 2003, an application may be made to the commissioner on a form prescribed by the commissioner for a certificate of authority for the proposed farm mutual insurance company to do business in Indiana as a standard company.

(b) An application described in subsection (a) must include the following concerning the proposed farm mutual insurance company:

(1) The name.

(2) The location and address of the principal office.

(3) The names and addresses of the officers and directors.

(4) Three (3) copies of the articles of incorporation.

(5) A copy of the bylaws.

(c) A standard company described in subsection (a), not earlier than three (3) years after it is granted a certificate of authority to do business as a standard company, may elect to obtain a certificate of authority to do business as an extended company if the standard company:

(1) has an annual direct written premium of more than one million dollars (\$1,000,000); and

(2) complies with IC 27-5.1-4-2.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-4

Proposed farm mutual insurance company requirements for certificate of authority

Sec. 4. A farm mutual insurance company that is established after June 30, 2003, must have at least:

(1) two hundred fifty (250) applications for insurance policies; and

(2) one hundred thousand dollars (\$100,000) in annual direct written premiums;

before issuing an insurance policy.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-5

Powers and duties

Sec. 5. (a) A farm mutual insurance company has all the powers, rights, privileges, duties, and obligations of a company organized under IC 27-1-6 except where IC 27-1-6 is inconsistent with this article.

(b) A farm mutual insurance company has the following:

(1) The power to borrow money.

(2) The ability to sue or be sued.

(3) The power to make contracts of insurance or indemnity with:

(A) a person;

(B) a firm;

(C) a public corporation;

(D) a private corporation;

(E) a board;

(F) an association;

(G) an estate; or

(H) a trustee or legal representative of an estate.

(4) The power to cede or obtain reinsurance from an insurance company legally operating in Indiana.

(5) The power to participate with a financially stable insurance company in:

(A) a plan for reinsurance; or

(B) catastrophe protection.

(6) The power to determine the qualifications and the manner by which to admit or withdraw policyholders.

(7) The power to use a common seal, which the farm mutual insurance company may change or alter.

(8) The power to purchase, lease, hold, and dispose of:

(A) real property; and

(B) personal property;

in the farm mutual insurance company's name for use in carrying out the purposes of the farm mutual insurance company.

(9) The power to classify risks according to the hazards involved.

(10) The power to establish rates according to the classification of risk.

(11) The power to determine the acceptability of risk and hazards insured.

(12) The power to determine the cost of insurance issued by the farm mutual insurance company and the adjustment and payment of losses.

(13) The power to determine the compensation of directors and officers of the farm mutual insurance company.

(14) The power to require that directors and officers of the farm mutual insurance company be bonded in the performance of the duties of the directors and officers.

(15) The power to adopt or amend bylaws and articles of incorporation of the farm mutual insurance company.

(16) The power to adopt or amend policy forms and application forms used by the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-6

Exclusion of companies

Sec. 6. A farm mutual insurance company with an annual direct written premium of more than ten million dollars (\$10,000,000) may not function as a farm mutual insurance company and shall be regulated as a domestic mutual insurance company described in IC 27-1-6-15.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-7

Exemption from Indiana insurance laws

Sec. 7. Except as provided in section 8 of this chapter, a farm mutual insurance company that operates under this article is exempt from any other Indiana insurance law unless the law expressly states that the law is applicable to a farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-8

Application of Indiana insurance laws

Sec. 8. The following provisions apply to standard companies and extended companies:

(1) IC 27-1-3.

- (2) IC 27-1-3.1.
- (3) IC 27-1-5-3.
- (4) IC 27-1-7-14 through IC 27-1-7-16.
- (5) IC 27-1-7-21 through IC 27-1-7-23.
- (6) IC 27-1-9.
- (7) IC 27-1-10.
- (8) IC 27-1-13-3 through IC 27-1-13-4.
- (9) IC 27-1-13-6 through IC 27-1-13-9.
- (10) IC 27-1-15.6.
- (11) IC 27-1-18-2.
- (12) IC 27-1-20-1.
- (13) IC 27-1-20-4.
- (14) IC 27-1-20-6.
- (15) IC 27-1-20-9 through IC 27-1-20-11.
- (16) IC 27-1-20-14.
- (17) IC 27-1-20-19 through IC 27-1-20-21.3.
- (18) IC 27-1-20-23.
- (19) IC 27-1-20-30.
- (20) IC 27-1-22.
- (21) IC 27-4-1.
- (22) Except as provided in IC 27-6-1.1-6, IC 27-6-1.1-2.
- (23) IC 27-6-2.
- (24) IC 27-7-2.
- (25) IC 27-9.
- (26) IC 34-30-17.

As added by P.L.129-2003, SEC.8. Amended by P.L.137-2006, SEC.14 and P.L.162-2006, SEC.47.

IC 27-5.1-2-9

Location of insurance business

Sec. 9. A farm mutual insurance company may engage in the business of insurance in any location in Indiana other than a first class city. However, a farm mutual insurance company may continue to insure property in a first class city in Indiana if the insurance policy under which the property is insured was originally issued before July 1, 2003, or if the insurance policy was originally issued before the city became a first class city.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-10

Annual policyholder meeting

Sec. 10. (a) A farm mutual insurance company shall hold an annual meeting of the policyholders of the farm mutual insurance company on the date, time, and location set forth in the articles of incorporation of the farm mutual insurance company. If the articles of incorporation do not specify the date, time, and location of the annual meeting, the meeting shall be held on the first Monday in April at the registered principal office of the farm mutual insurance company.

(b) A quorum for purposes of an annual policyholder meeting

must be defined in a farm mutual insurance company's articles of incorporation.

(c) Each policyholder of a farm mutual insurance company is entitled to one (1) vote on any issue voted upon at a policyholder meeting.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-11

Board of directors

Sec. 11. (a) A farm mutual insurance company shall elect a board of directors consisting of at least five (5) policyholders.

(b) To be elected to the board of directors of a farm mutual insurance company, an individual must be the owner of an insurance policy issued by the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-12

Election of director; term of office; election of officers; annual board meeting

Sec. 12. (a) Unless a farm mutual insurance company's articles of incorporation specify otherwise, a director of a farm mutual insurance company must be elected at the farm mutual insurance company's annual policyholder meeting by the affirmative vote of a majority of:

- (1) the policyholders present and voting; and
- (2) the policyholders voting by proxy, if voting by proxy is allowed by the farm mutual insurance company's articles of incorporation.

(b) The term of office of a director must be at least one (1) year but not more than five (5) years. A farm mutual insurance company's articles of incorporation may provide for the classification of directors into three (3) groups, and the terms of the directors may be staggered. A vacancy on the board of directors may be filled for the unexpired term through an appointment made by the remaining directors.

(c) The board of directors of a farm mutual insurance company shall, by vote of a majority of the directors, elect the officers designated in the farm mutual insurance company's bylaws. The directors may also elect any additional officers that the directors determine are necessary. An officer elected under this subsection is not required to be a director.

(d) The term of an officer elected under subsection (c) may not be less than one (1) year or more than three (3) years. An outgoing officer shall hold office until the officer's successor is either elected or selected and qualified.

(e) The board of directors of a farm mutual insurance company shall hold a separate meeting of the board of directors immediately after the farm mutual insurance company's annual meeting.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-13

Articles of incorporation; amendment

Sec. 13. (a) Unless a farm mutual insurance company's articles of incorporation specify otherwise, the articles of incorporation of a farm mutual insurance company may be amended by an affirmative vote of two-thirds (2/3) of the farm mutual insurance company's policyholders who are voting in person or by proxy at any policyholder meeting if the policyholders are given at least thirty (30) days notice of:

- (1) the meeting; and
- (2) the subject matter of the proposed amendments.

(b) After a farm mutual insurance company has adopted an amendment to the farm mutual insurance company's articles of incorporation, three (3) copies of the amendment must be filed with the commissioner.

(c) The commissioner shall determine whether to approve an amendment specified under subsection (b) and, if the amendment is approved, shall return a copy of the filed amendment and a certificate of approval to the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-14

Bylaws; amendment

Sec. 14. (a) Bylaws of a farm mutual insurance company may be amended by the farm mutual insurance company in accordance with the farm mutual insurance company's articles of incorporation. All amendments to the bylaws must be filed with the commissioner.

(b) Bylaws of a farm mutual insurance company may not be inconsistent with this article, other applicable laws, or the farm mutual insurance company's articles of incorporation.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-15

Commissioner filing fee

Sec. 15. The commissioner may charge a farm mutual insurance company a reasonable fee, as provided in IC 27-1-3-15, for a filing under this article.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-16

Form and rate filing file and use; commissioner disapproval; judicial review

Sec. 16. (a) A farm mutual insurance company may not deliver or issue for delivery an insurance policy or an endorsement or a rider to an insurance policy until a copy of the form and the rates charged for the insurance policy are filed with the commissioner.

(b) A farm mutual insurance company may use any form or rate filed with the commissioner unless the commissioner notifies the farm mutual insurance company in writing that the form is disapproved not more than thirty (30) days after the commissioner's

receipt of the rate or form filing. The commissioner may disapprove a rate or form for the following reasons:

- (1) An inconsistency with this article or another applicable state law.
- (2) A provision that is:
 - (A) deceptive;
 - (B) ambiguous; or
 - (C) misleading.

(c) If the commissioner disapproves a rate or form under this section, the commissioner shall notify the farm mutual insurance company of the reason that the rate or form was disapproved. The farm mutual insurance company may request a hearing before the commissioner under IC 4-21.5 concerning the disapproval.

(d) A farm mutual insurance company may seek judicial review under IC 4-21.5-5 of the commissioner's final disapproval of a rate or form under this section.

(e) The commissioner may charge a farm mutual insurance company a reasonable fee as provided in IC 27-1-3-15 for the filing of a rate or form.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-17

Commissioner examination

Sec. 17. (a) The commissioner may examine the affairs of a farm mutual insurance company under IC 27-1-3.1.

(b) The commissioner may take an action that may protect a policyholder's interest if the commissioner determines that a farm mutual insurance company conducts business in a manner that is:

- (1) contrary to law applying to a farm mutual insurance company; or
- (2) detrimental to policyholder interests.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-18

Unsafe business practice; insufficient assets; commissioner notice; remedies; court proceedings; injunction; liquidation

Sec. 18. (a) If the commissioner determines from:

- (1) a statement filed by a farm mutual insurance company;
- (2) an examination under section 17 of this chapter; or
- (3) other information obtained by the commissioner;

that a farm mutual insurance company is conducting business in an unsafe manner or that a farm mutual insurance company's assets are insufficient to justify continuing the business, the commissioner shall send written notice of the commissioner's concerns regarding the farm mutual insurance company to the officers and directors of the farm mutual insurance company.

(b) Not more than thirty (30) days after receiving a notice under subsection (a), the farm mutual insurance company's officers and directors shall:

- (1) remedy; or

(2) establish a plan to remedy;
the commissioner's concerns.

(c) If:

(1) a farm mutual insurance company does not remedy or establish a plan to remedy the commissioner's concerns under subsection (b); or

(2) the commissioner determines that the continuation of a farm mutual insurance company is not in the best interests of the farm mutual insurance company's policyholders;

the commissioner shall institute proceedings in the Marion County circuit court to enjoin the farm mutual insurance company from conducting any further business transactions.

(d) If the commissioner seeks a permanent injunction against a farm mutual insurance company under subsection (c), the commissioner shall also institute proceedings to settle and wind up the affairs of the farm mutual insurance company and liquidate and dissolve the farm mutual insurance company, as provided in IC 27-9. *As added by P.L.129-2003, SEC.8.*

IC 27-5.1-2-19

Application for coverage; policyholder status

Sec. 19. (a) A person, including a person described in subsection (b), that has a risk that is insurable under this article in a territory in which a farm mutual insurance company operates may apply for insurance coverage with the farm mutual insurance company. If the farm mutual insurance company accepts the person as a policyholder, the person becomes a policyholder of the farm mutual insurance company and is entitled to all the rights and privileges of a policyholder.

(b) Any of the following that own property within the territory of a farm mutual insurance company may apply for insurance, enter into an agreement for an insurance policy, and hold an insurance policy issued by a farm mutual insurance company:

(1) A corporation.

(2) An estate.

(3) An association.

(c) An officer, a trustee, a board member, or a legal representative of an entity described in subsection (b) may be recognized as acting for or on behalf of the entity for the purpose of membership.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-20

Insurance producers

Sec. 20. A person that solicits or negotiates insurance on behalf of a farm mutual insurance company must be licensed as an insurance producer under IC 27-1-15.6.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-21

Merger; plan; policyholder notice

Sec. 21. (a) Two (2) or more farm mutual insurance companies may merge into one (1) farm mutual insurance company upon approval of a merger plan by the policyholders of each farm mutual insurance company as provided in subsection (b).

(b) Before a merger described in subsection (a) may take place:

- (1) the board of directors of each farm mutual insurance company must approve a merger plan; and
- (2) the merger plan must be approved by the affirmative vote of two-thirds (2/3) of the policyholders of each farm mutual insurance company who vote in person or by proxy.

(c) Before a meeting at which a proposed merger under this section may be considered:

(1) the policyholders of a farm mutual insurance company for which the merger is proposed must be provided, by first class mail:

- (A) written notice of the date, time, and location of the meeting;
- (B) written notice that a proposed merger will be discussed and voted on at the meeting; and
- (C) a copy or summary of the merger plan; and

(2) a general notice stating:

- (A) the date, time, and location of the meeting; and
- (B) that a proposed merger or transfer will be discussed and voted on at the meeting;

must be published in a newspaper of general circulation in the county in which the principal office of the farm mutual insurance company is located.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-22

Merger files; commissioner review; notice and hearing; approval; modification; experts; costs

Sec. 22. (a) Each farm mutual insurance company that decides to merge under section 21 of this chapter shall file the following documents with the commissioner:

- (1) A petition for merger.
- (2) The farm mutual insurance company's merger plan.
- (3) Articles of merger.
- (4) A copy of the minutes of a meeting at which the merger plan was approved.
- (5) Proof of compliance with section 21 of this chapter.

(b) The commissioner shall:

- (1) review a filing submitted under subsection (a); and
- (2) schedule a hearing under IC 4-21.5 if the commissioner considers a hearing necessary.

The commissioner may waive a hearing under this subsection if the commissioner determines that a proposed merger does not prejudice the interests of policyholders of the farm mutual insurance company.

(c) If the commissioner determines under subsection (b) that a hearing is necessary, the commissioner shall provide written notice

of the hearing to the farm mutual insurance company that filed the petition for merger. The commissioner may require the farm mutual insurance company to provide the farm mutual insurance company's policyholders with written notice of the hearing, including the date, time, and place of the hearing.

(d) If the commissioner requires a farm mutual insurance company to provide the farm mutual insurance company's policyholders with notice of a hearing under subsection (c), the notice must meet the following requirements:

(1) Be published in at least two (2) daily newspapers that the commissioner may designate.

(2) Be published in the newspapers designated under subdivision (1):

(A) not less than one (1) time per week;

(B) for two (2) successive weeks; and

(C) on the same day of the week.

(3) The last publication of notice must appear not more than five (5) calendar days before the date of the hearing.

(e) The commissioner may require a farm mutual insurance company to provide more notice than is required by subsection (d) if the commissioner determines that more notice is required under the circumstances concerning the farm mutual insurance company.

(f) In a hearing conducted under this section, the commissioner may examine a farm mutual insurance company's business affairs by:

(1) requiring and compelling the production of documents, records, books, papers, contracts, or other evidence; and

(2) compelling the attendance of, and examining under oath, a director, an officer, an agent, an employee, a solicitor, or an attorney of the farm mutual insurance company, or another person.

(g) A person who has an interest in a hearing conducted under this section may appear and testify at the hearing.

(h) The commissioner shall approve and authorize a proposed merger if the commissioner determines the following:

(1) That the interests of policyholders of the merging farm mutual insurance companies are properly protected.

(2) That a reasonable objection to the proposed merger does not exist.

(i) The commissioner may order a modification of the merger plan or articles of merger for a proposed merger if the commissioner determines that the modification is in the best interest of policyholders.

(j) The commissioner may hire experts the commissioner considers necessary to review a merger plan filed under this section.

(k) A farm mutual insurance company that files a petition for merger shall pay the costs of a hearing under this section.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-23

Merger plan performance; surviving company

Sec. 23. (a) The commissioner may establish the time frame in which a farm mutual insurance company must perform the terms of a merger plan approved under section 22 of this chapter.

(b) After a farm mutual insurance company that is a party to a merger under sections 21 and 22 of this chapter performs the terms of the merger plan, the surviving farm mutual insurance company shall file with the commissioner written notice of the surviving farm mutual insurance company's compliance with the merger plan.

(c) The commissioner shall determine whether the terms of a merger plan are performed adequately by a farm mutual insurance company that is a party to a merger under sections 21 and 22 of this chapter. If the commissioner determines that the terms of the merger plan are met, the commissioner shall issue a certificate of merger to the surviving farm mutual insurance company.

(d) The commissioner may charge a farm mutual insurance company the fee set forth in IC 27-1-3-15 for a filing made under this section.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-24

Certificate of merger

Sec. 24. Upon the commissioner's issuance of a certificate of merger under section 23 of this chapter, the farm mutual insurance companies that are parties to the merger plan become a single surviving farm mutual insurance company. The separate existence of each farm mutual insurance company that is a party to the merger plan ceases upon the issuance of the certificate of merger.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-25

Notice of contract to manage or control; commissioner determination; managing general agent

Sec. 25. (a) A person that intends to enter into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company shall file notice of the contract with the commissioner at least thirty (30) days before entering into the contract.

(b) The commissioner may approve a contract or proposed contract described in subsection (a) only if the contract is not detrimental to:

- (1) the policyholders of the farm mutual insurance company; or
- (2) the public.

(c) If the commissioner disapproves a contract or proposed contract described in subsection (a), the commissioner shall provide written notice of the disapproval to the parties to the contract. A person that entered into a contract described in subsection (a) may not manage or control the farm mutual insurance company under the contract after receiving notice of the commissioner's disapproval of the contract.

(d) A person that enters into a contract for the exclusive or

dominant right to manage or control a farm mutual insurance company is the managing general agent (as defined in IC 27-1-33-4) of the farm mutual insurance company and shall comply with the requirements that apply to a managing general agent under IC 27.
As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-26

Violations of law; commissioner orders

Sec. 26. If the commissioner determines, after notice and a hearing under IC 4-21.5, that a farm mutual insurance company has violated a provision of this article or a rule or order issued under this article, the commissioner may issue an order requiring the farm mutual insurance company to refrain from the unlawful practice or to take an affirmative action that the commissioner considers necessary to carry out the purposes of this article.
As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-27

Judicial review

Sec. 27. (a) A decision, a determination, or an order of the commissioner under section 26 of this chapter is subject to judicial review under IC 4-21.5-5.

(b) If a farm mutual insurance company does not seek judicial review of the commissioner's determination to issue an order under section 26 of this chapter less than thirty (30) days after the commissioner notifies the farm mutual insurance company of the commissioner's determination, the order is final.

(c) If a farm mutual insurance company seeks judicial review of the commissioner's determination under section 26 of this chapter and the commissioner's determination is upheld, the order is final.
As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-28

Willful violation; penalties

Sec. 28. If a farm mutual insurance company willfully violates a provision of an order under section 26 of this chapter, the commissioner may do the following:

- (1) Impose a civil penalty on the farm mutual insurance company of not more than ten thousand dollars (\$10,000).
- (2) Suspend or revoke the farm mutual insurance company's certificate of authority.
- (3) Institute proceedings to enjoin the farm mutual insurance company from conducting further business.
- (4) Institute proceedings to wind up the affairs of the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-29

Notice of intent to waive term of policy, right, or defense

Sec. 29. (a) A farm mutual insurance company may not waive:

(1) a term of an insurance policy; or
(2) a right or defense of the farm mutual insurance company;
unless the farm mutual insurance company states in a letter or other written or printed document to a policyholder that the farm mutual insurance company intends to specifically waive the term, right, or defense.

(b) A letter or other written or printed document required under subsection (a) must include the signature of an officer or other representative of the farm mutual insurance company who is authorized to execute the particular type of waiver.

(c) A letter or other written or printed document under this section is the only admissible evidence of a waiver by the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-30

Premium plus assessment basis; policyholder liability

Sec. 30. (a) A policyholder of a farm mutual insurance company operating on a premium plus assessment basis under this article is liable for the policyholder's share of the amount necessary to:

(1) pay the losses and necessary expenses incurred by the farm mutual insurance company; and

(2) maintain an adequate reserve or safety fund as determined by the farm mutual insurance company's directors;

while the policyholder's insurance policy is in effect.

(b) Notwithstanding subsection (a), a farm mutual insurance company shall limit a policyholder's contingent liability during any one (1) year to an amount not to exceed the limitation set forth in the farm mutual insurance company's bylaws. The limitation set forth in the farm mutual insurance company's bylaws under this subsection must be an amount equal to not less than three percent (3%) of the insurance carried by the policyholder.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-31

Assessment collection; verification of loss

Sec. 31. (a) A farm mutual insurance company shall collect an assessment from a policyholder in the manner prescribed by the farm mutual insurance company's bylaws.

(b) After a farm mutual insurance company that operates on a premium plus assessment basis receives:

(1) notice of a loss or damage to a policyholder's property; or

(2) a judgment against the farm mutual insurance company;

the directors of the farm mutual insurance company shall verify the loss, damage, or judgment and shall, subject to the limitation set forth in the farm mutual insurance company's bylaws under section 30 of this chapter, assess each policyholder an amount proportionate to the amount of risk the policyholder has with the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-32

Policyholder failure to pay assessment

Sec. 32. (a) If a policyholder is assessed and fails to pay the assessment, the farm mutual insurance company may, upon providing written notice of failure to pay:

- (1) suspend the farm mutual insurance company's liability for loss under the policyholder's insurance policy for the time during which the assessment is not paid; or
- (2) cancel the policyholder's insurance policy if the assessment is not paid less than thirty (30) days after notice of the assessment is sent to the policyholder.

The farm mutual insurance company may deduct the assessment from the policyholder's deposit before returning the remainder of a deposit, if any, to the policyholder.

(b) If an assessment is paid by a policyholder after a farm mutual insurance company takes an action under subsection (a), the farm mutual insurance company may reinstate the policyholder's insurance policy effective beginning on the date on which the payment is received, but a deduction or credit may not be made to an assessment because of the suspension of the insurance policy.

(c) A farm mutual insurance company may file an action to compel a policyholder to pay an assessment.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-33

Policyholder liability after policy termination

Sec. 33. (a) A policyholder is not liable for an assessment of losses or expenses that are incurred by a farm mutual insurance company after the policyholder has terminated the policyholder's insurance policy.

(b) A former policyholder is not liable for an assessment for obligations incurred by a farm mutual insurance company before the policyholder terminated the insurance policy on which the assessment is made unless the farm mutual insurance company gives the former policyholder notice of the assessment less than one (1) year after the date of termination of the insurance policy.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-34

Notice of premium plus assessment policy; civil actions; limitation

Sec. 34. (a) A premium plus assessment insurance policy must expressly and prominently state on the face page of the insurance policy that the insurance policy is a premium plus assessment insurance policy.

(b) A suit or action for a loss under a premium plus assessment insurance policy may not be commenced until:

- (1) the loss is due in accordance with the premium plus assessment insurance policy; or
- (2) not less than sixty (60) days after proof of loss was given to the farm mutual insurance company that issued the premium

plus assessment insurance policy.

(c) Requirements that a policyholder must meet to sustain a legal cause of action under this section must be disclosed clearly and prominently on the face page of the premium plus assessment insurance policy.

(d) Notwithstanding IC 34-11-2-11, the statute of limitations for a claim on a premium plus assessment insurance policy under this section is two (2) years after the date of the loss.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-35

Payment of losses and judgments; insufficient funds; assessments

Sec. 35. (a) A farm mutual insurance company that operates on a premium plus assessment basis must pay losses and judgments of the farm mutual insurance company from premiums received or amounts collected on promissory notes. The amount:

(1) deducted from a policyholder's premium paid; or

(2) demanded from a policyholder's promissory note;

must bear the same relationship to the total loss as the policyholder's total premium bears to the total premiums collected in the calendar year that the loss is incurred.

(b) If funds collected under subsection (a) are insufficient to cover a loss or judgment, the directors of the farm mutual insurance company may, subject to the limitation set forth in the farm mutual insurance company's bylaws under section 30 of this chapter, assess each policyholder in the same manner. However, a farm mutual insurance company may not assess policyholders more than one (1) time in a calendar year for losses incurred by the farm mutual insurance company.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-36

Borrowing funds; assessment

Sec. 36. (a) A farm mutual insurance company may borrow money for the payment of accrued losses and expenses.

(b) A farm mutual insurance company that borrows money under subsection (a) shall assess policyholders the full amount necessary to fully repay the loan in the assessment immediately following the date the money is borrowed. Unless the commissioner authorizes a longer period, the assessment must be levied not more than twelve (12) months after the losses or expenses paid by the farm mutual insurance company through the loan are incurred.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-37

Policy cancellation; notice

Sec. 37. (a) A farm mutual insurance company may cancel, in whole or in part, a policyholder's insurance policy after giving the policyholder written notice of the cancellation as follows:

(1) The written notice must be delivered or mailed to the

policyholder at the last known address of the policyholder.

(2) The written notice must specify the effective date of the cancellation.

(3) Upon request of the policyholder, the written notice must be accompanied by a written explanation of the specific reasons for the cancellation.

(b) A farm mutual insurance company shall provide the written notice specified in subsection (a) at least:

(1) ten (10) days before canceling the insurance policy, if the cancellation is for nonpayment of premium;

(2) twenty (20) days before canceling the insurance policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the policy; and

(3) ten (10) days before canceling the insurance policy, if the cancellation occurs less than sixty-one (61) days after the date of issuance of the policy.

(c) If the insurance policy was procured by an independent insurance producer licensed in Indiana, the farm mutual insurance company shall deliver or mail notice of cancellation to the insurance producer not less than ten (10) days before the farm mutual insurance company delivers or mails the notice to the policyholder, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-38

Discontinuation of company

Sec. 38. A farm mutual insurance company may vote to discontinue operations and settle its affairs under IC 27-1-10.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-39

Misconduct; Class C felony

Sec. 39. A director, an officer, a member, an insurance producer, or an employee of a farm mutual insurance company who knowingly or intentionally, directly or indirectly, uses or employs, or allows another person to use or employ, money, funds, securities, or assets of the farm mutual insurance company for private profit or gain commits a Class C felony.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-40

Investment gain; policyholder surplus

Sec. 40. This article does not prohibit a farm mutual insurance company from doing the following:

(1) Distributing underwriting or investment gain to policyholders of a farm mutual insurance company.

(2) Accumulating a reasonable policyholder surplus for the payment of losses or other expenses.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-41

Election to be subject to Indiana insurance law

Sec. 41. (a) A farm mutual insurance company may elect to be subject to the provisions of IC 27-1, as provided by IC 27-1-11-1, with the rights, privileges, and franchises provided under IC 27-1.

(b) An election under subsection (a) becomes effective on the date of issuance of a new certificate of authority under IC 27-1-11-7.

(c) An insurance policy that is:

(1) issued or bound by a farm mutual insurance company that makes an election under subsection (a); and

(2) in effect on the date the election becomes effective;

is not invalidated by IC 27-1, but remains in full force and effect until expiration or termination of the insurance policy. However, IC 27-1 applies to an insurance policy described in this subsection beginning three (3) years after the date the election becomes effective.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-42

Exemption from regulation

Sec. 42. A company or association organized before January 1, 1870, that provides the kind of insurance described in this article and has not made an election under IC 27-5-1-14 (before its repeal) is not subject to this article unless the company or association elects to conduct the company's or association's business under this article by a resolution:

(1) adopted by the company's or association's board of directors or policyholders;

(2) filed with the commissioner; and

(3) approved by the commissioner.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-43

Administrative rules

Sec. 43. The commissioner may adopt rules under IC 4-22-2 to implement this article.

As added by P.L.129-2003, SEC.8.

IC 27-5.1-2-44

Validity of rate or form filed under prior law

Sec. 44. A rate or form filed by a farm mutual insurance company before July 1, 2003, is valid and remains in effect notwithstanding the repeal of IC 27-5 and the addition of this article.

As added by P.L.16-2009, SEC.28.