



February 16, 2023

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## HOUSE BILL No. 1329

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DIGEST OF HB 1329 (Updated February 15, 2023 4:24 pm - DI 141)

**Citations Affected:** IC 27-1; IC 27-2; IC 27-4; IC 27-8; IC 27-9; IC 27-13; IC 27-14; IC 27-14.5; IC 34-51; IC 35-40.

**Synopsis:** Insurance matters. Provides that if an insurance producer actively participates in a state or national professional insurance organization, the insurance commissioner may apply the insurance producer's participation in the professional insurance organization toward satisfaction of not more than two hours of the insurance producer's requirement of 24 hours of continuing education in every two year licensing period. Establishes conditions and limitations. Requires a public adjuster, before entering into a contract with an insured, to provide a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party that is or will be involved in any aspect of the insured's claim. Requires a public adjuster to provide to an insured a disclosure document containing certain information before the insured enters into a contract with the public adjuster. Provides that a contract between a  
(Continued next page)

**Effective:** May 1, 2023; July 1, 2023.

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### Lehman, Carbaugh

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January 12, 2023, read first time and referred to Committee on Insurance.  
February 16, 2023, amended, reported — Do Pass.

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public adjuster and an insured must be in writing, must contain certain information, and must be prepared on a form filed with and approved by the insurance commissioner. Prohibits the inclusion of certain terms in the contract. Provides that if the insurer, not more than five business days after the date on which the insured's loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster may not be compensated by receiving a percentage of the total amount paid by the insurer and is entitled only to reasonable compensation for services provided on behalf of the insured. Authorizes the insurance commissioner to suspend, revoke, or refuse to issue or renew a public adjuster's certificate of authority or to place a public adjuster on probation for violating any of these requirements or prohibitions. Allows an insured to void or rescind a contract with a public adjuster. Requires the Indiana Public Employers' Plan, Inc., to apply to the insurance commissioner for a certificate of authority to transact the business of insurance in Indiana as a domestic tax exempt reciprocal insurance company before December 31, 2026. Requires an insurer that makes a material change to an insured's personal automobile or homeowner's policy to provide a written notice explaining the principal factors for the material change or stating that the insured, upon request, has a right to obtain a written notice explaining the principal factors for the material change. Establishes certain requirements for the notice of material change. Requires the insurance commissioner to adopt rules to implement the provisions requiring a notice of material change. Requires an individual who makes a Medicare product solicitation to comply with certain federal marketing and communications requirements for Medicare products. Provides that a violation of this prohibition constitutes an unfair and deceptive act or practice in the business of insurance. Requires an insurer or health maintenance organization that provides coverage under an Affordable Care Act Marketplace (Marketplace) plan to provide to each individual covered under the Marketplace plan, not earlier than six months and not later than two months before the birthday on which the individual will become 65 years of age, a written message that includes: (1) a statement that the individual will be eligible to enroll in Medicare during the individual's initial enrollment period, which begins three months before the individual becomes 65 years of age; (2) a statement advising the individual that, in most cases, someone covered by a Marketplace plan will want to end their Marketplace coverage upon becoming eligible for Medicare; and (3) detailed instructions that the individual may follow to cancel the individual's Marketplace plan. Provides that an examination of the quality management program of a health maintenance organization must be conducted at least once every five years. Repeals the current article concerning the mutual insurance holding company law and replaces it with a new article. Limits the reasons for diminishing the amount of an insurer's subrogation claim or lien in a personal injury or death action to instances in which the claimant's recovery is diminished by comparative fault or liability policy limitations. Makes corresponding changes.



February 16, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1329

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

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

1           SECTION 1. IC 27-1-15.7-2, AS AMENDED BY P.L.165-2022,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 2. (a) Except as provided in subsection (b) **and**  
4 **section 2.4 of this chapter**, to renew a license issued under  
5 IC 27-1-15.6, a resident insurance producer must complete at least  
6 twenty-four (24) hours of credit in continuing education courses, not  
7 more than four (4) hours of which may be in courses concerning one  
8 (1) or a combination of the following:  
9           (1) Sales promotion.  
10          (2) Sales technique.  
11          (3) Motivation.  
12          (4) Psychology.  
13          (5) Time management.  
14 If the insurance producer has a qualification described in  
15 IC 27-1-15.6-7(a)(1), IC 27-1-15.6-7(a)(2), or IC 27-1-15.6-7(a)(5), for

**HB 1329—LS 7406/DI 55**



1 a license renewal that occurs after June 30, 2014, at least three (3) of  
 2 the hours of credit required by this subsection must be related to ethical  
 3 practices in the marketing and sale of life, health, or annuity insurance  
 4 products. An attorney in good standing who is admitted to the practice  
 5 of law in Indiana and holds a license issued under IC 27-1-15.6 may  
 6 complete all or any number of hours of continuing education required  
 7 by this subsection by completing an equivalent number of hours in  
 8 continuing legal education courses that are related to the business of  
 9 insurance.

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

- 16 (1) Ethical practices in the marketing and selling of title
- 17 insurance, including provisions of the Dodd-Frank Wall Street
- 18 Reform and Consumer Protection Act set forth in 12 U.S.C. 2608.
- 19 (2) Title insurance underwriting.
- 20 (3) Escrow matters.
- 21 (4) Matters concerning regulation by the department.
- 22 (5) Any other topic related to the marketing and selling of title
- 23 insurance.

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

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

- 33 (1) A limited lines producer who is licensed without examination
- 34 under IC 27-1-15.6-18(1).
- 35 (2) A limited line credit insurance producer.
- 36 (3) A nonresident limited lines producer with a title qualification:
  - 37 (A) whose home state requires continuing education for a title
  - 38 qualification; and
  - 39 (B) who has met the continuing education requirements
  - 40 described in clause (A).

41 (d) Except as provided in section 2.2 of this chapter, to satisfy the  
 42 requirements of subsection (a) or (b), a licensee may use only those



1 credit hours earned in continuing education courses completed by the  
2 licensee:

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

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

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

13 (f) Except as provided in subsection (g), a licensee may receive  
14 credit only for completing the following continuing education courses:

15 (1) Continuing education courses that have been approved by the  
16 commissioner under section 4 of this chapter.

17 (2) Continuing education courses that are required for the licensee  
18 under IC 27-19-4-14.

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

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

24 (1) a continuing education statement that:

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

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

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

30 (2) any other information required by the commissioner.

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

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

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

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

39 (2) is held in a classroom setting; and

40 (3) concerns ethics;

41 shall receive continuing education credit not to exceed four (4) hours  
42 in a renewal period.



1 SECTION 2. IC 27-1-15.7-2.4 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2023]: **Sec. 2.4. (a) This section applies to an**  
4 **insurance producer licensed under IC 27-1-15.6 who is subject to**  
5 **the continuing education requirement set forth in section 2(a) of**  
6 **this chapter.**

7 **(b) If an insurance producer actively participates in a state or**  
8 **national professional insurance organization, the insurance**  
9 **commissioner may:**

10 **(1) recognize the insurance producer's participation in the**  
11 **professional insurance organization; and**

12 **(2) apply the insurance producer's participation toward**  
13 **partial satisfaction of the continuing education requirement**  
14 **set forth in section 2(a) of this chapter.**

15 **(c) To be recognized and applied under subsection (b), an**  
16 **insurance producer's participation in a professional insurance**  
17 **organization must be one of the following:**

18 **(1) Service on the board of directors of:**

19 **(A) a state professional insurance organization;**

20 **(B) a state chapter of a national professional insurance**  
21 **organization; or**

22 **(C) a national professional insurance organization.**

23 **(2) Service on a formal committee of:**

24 **(A) a state professional insurance organization;**

25 **(B) a state chapter of a national professional insurance**  
26 **organization; or**

27 **(C) a national professional insurance organization.**

28 **(3) Service on a formal subcommittee or task force of:**

29 **(A) a state professional insurance organization;**

30 **(B) a state chapter of a national professional insurance**  
31 **organization; or**

32 **(C) a national professional insurance organization.**

33 **(d) Not more than two (2) of the twenty-four (24) total hours of**  
34 **credit in continuing education courses required of an insurance**  
35 **producer by section 2(a) of this chapter may be satisfied under this**  
36 **section in each two (2) year licensing period.**

37 **(e) If an insurance producer's participation in a professional**  
38 **insurance organization is recognized and applied under subsection**  
39 **(b), one (1) hour of the insurance producer's participation in the**  
40 **professional insurance organization shall count toward satisfaction**  
41 **of one (1) hour of the twenty-four (24) total hours of credit in**  
42 **continuing education courses required by section 2(a) of this**



1 chapter, subject to the limit set forth in subsection (d).

2 (f) An insurance producer's participation in a professional  
3 insurance organization may not be applied under this section  
4 toward the satisfaction of the requirement under section 2(a) of  
5 this chapter, if applicable, that an insurance producer complete at  
6 least three (3) hours of credit in continuing education courses  
7 related to ethical practices in the marketing and sale of life, health,  
8 or annuity insurance products in each two (2) year licensing  
9 period.

10 (g) To be recognized and applied under subsection (b) toward  
11 satisfaction of an insurance producer's continuing education  
12 requirements under section 2(a) of this chapter for a two (2) year  
13 licensing period, the insurance producer's participation in a  
14 professional insurance organization must:

15 (1) occur during that two (2) year licensing period; and

16 (2) be verified by the professional insurance organization in  
17 a communication submitted to the insurance commissioner  
18 before the deadline (if any) established by the rules adopted  
19 under subsection (h).

20 (h) The insurance commissioner may adopt rules under  
21 IC 4-22-2 to administer this section.

22 SECTION 3. IC 27-1-27-1 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The definitions  
24 set forth in this section apply throughout this chapter.

25 (b) "Contract" refers to a contract between a public adjuster  
26 and an insured under which:

27 (1) the public adjuster agrees to provide services for the  
28 insured in the adjustment of an insurance claim; and

29 (2) the insured agrees to compensate the public adjuster for  
30 those services.

31 (c) "Firm" includes any corporation, partnership, association,  
32 joint stock company, or individual.

33 (d) "Independent adjuster" has the meaning set forth in  
34 IC 27-1-28-6.

35 (e) "Insured" means a person covered by an insurance policy.

36 (f) "Person" means an individual, a corporation, a limited  
37 liability company, a partnership, or any other legal entity.

38 (g) The term "Public adjuster" shall include includes the  
39 following:

40 (1) every individual or corporation who, or which, A person that,  
41 for compensation or reward, renders advice or assistance to the an  
42 insured in the adjustment of a claim or claims for loss or damages



- 1 under any policy of insurance covering real or personal property.  
 2 and  
 3 **(2) any A person or corporation who, or which, that** advertises,  
 4 solicits business, or holds itself out to the public as an adjuster of  
 5 **such claims described in subdivision (1).**  
 6 However, no public adjuster shall:  
 7 (1) act in any manner in relation to claims for personal injury or  
 8 automobile property damage; or  
 9 (2) bind the insured in the settlement of claims.  
 10 **(b) (h) This chapter does not apply to, and the following are not**  
 11 **included in The term "public adjuster" does not include the following:**  
 12 (1) An attorney at law admitted to practice in the state of Indiana  
 13 who adjusts insurance losses in the course of the practice of the  
 14 attorney's profession.  
 15 (2) An officer, regular salaried employee, or other representative  
 16 of:  
 17 (A) an insurer; or of  
 18 (B) an attorney in fact of any reciprocal insurer of or Lloyd's  
 19 underwriter licensed to do business in Indiana;  
 20 who adjusts losses arising under an employer's or principal's own  
 21 policies.  
 22 (3) An adjustment bureau or association owned and maintained  
 23 by insurers to adjust or investigate losses of ~~such the~~ insurers, or  
 24 any regular salaried employee who devotes substantially all the  
 25 employee's time to the business of ~~such an adjustment~~ bureau or  
 26 association **described in this subdivision.**  
 27 (4) Any of the following:  
 28 (A) A licensed insurance producer. or  
 29 (B) An authorized insurer. or  
 30 (C) An officer or employee of the same an authorized  
 31 insurer who adjusts losses for ~~such the~~ insurer. and any  
 32 (D) An insurance producer or representative of a farm mutual  
 33 insurance company operating under the farm mutual insurance  
 34 laws of this state ~~IC 27-5.1. on behalf of an insurer.~~  
 35 (5) Any independent adjuster representing an insurer.  
 36 SECTION 4. IC 27-1-27-1.5 IS ADDED TO THE INDIANA CODE  
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 38 1, 2023]: **Sec. 1.5. A public adjuster shall not:**  
 39 (1) act in any manner in relation to claims for personal injury  
 40 or automobile liability; or  
 41 (2) bind the insured in the settlement of claims.  
 42 SECTION 5. IC 27-1-27-2 IS AMENDED TO READ AS





1 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) No individual or  
 2 corporation shall act within Indiana as a public adjuster, or receive,  
 3 directly or indirectly, compensation or reward for services rendered in  
 4 the adjustment of any claim or claims under the types of insurance  
 5 policies set forth in section ~~1(a)~~ **1(g)** of this chapter, unless ~~he, the~~  
 6 **individual**, or it, is the holder of a certificate of authority to act as such  
 7 public adjuster issued by the commissioner of insurance of the state of  
 8 Indiana pursuant to this chapter.

9 (b) Any individual or corporation who, or which, shall have received  
 10 from the commissioner of insurance a public adjuster's certificate of  
 11 authority shall be styled and be known as a "Certified Public Adjuster".

12 SECTION 6. IC 27-1-27-7.1, AS ADDED BY P.L.146-2015,  
 13 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2023]: Sec. 7.1. (a) The **insurance** commissioner:

15 (1) may:

16 (A) suspend;

17 (B) revoke; or

18 (C) refuse to issue or renew;

19 a public adjuster's certificate of authority; ~~to act as a public~~  
 20 ~~adjuster in Indiana~~; or

21 (2) **may** place a public adjuster on probation;

22 for a cause set forth in subsection (b).

23 (b) A public adjuster is subject to the penalties set forth in  
 24 subsection (a) for any of the following:

25 (1) Providing incorrect, misleading, incomplete, or materially  
 26 untrue information in an application for a certificate of authority.

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

29 (3) Obtaining or attempting to obtain a certificate of authority  
 30 through misrepresentation or fraud.

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

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

36 (6) Having been convicted of a felony.

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

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

42 (9) Having an insurance license, or the equivalent of an insurance



- 1 license, probated, suspended, revoked, or refused in another state,  
 2 province, district, or territory.  
 3 (10) Forging another person's name to a document related to an  
 4 insurance transaction.  
 5 (11) Cheating, including improperly using notes or any other  
 6 reference material, to complete an examination for an insurance  
 7 license.  
 8 (12) Failing to comply with an administrative or court order  
 9 imposing a child support obligation.  
 10 (13) Failing to pay state income tax or failing to comply with an  
 11 administrative or court order directing payment of state income  
 12 tax.

13 **(14) Committing a violation of section 1.5, sections 12 through**  
 14 **17, section 19, or section 20 of this chapter.**

15 (c) If the commissioner refuses an application for a certificate of  
 16 authority to act as a public adjuster or for the renewal of an existing  
 17 certificate of authority under this chapter, the commissioner shall notify  
 18 the applicant or certificate holder in writing, advising of the reason for  
 19 the refusal. The applicant or certificate holder may, not more than thirty  
 20 (30) days after receiving the commissioner's notice of refusal, make  
 21 written demand upon the commissioner for a hearing to determine the  
 22 reasonableness of the refusal. The hearing must be held under  
 23 IC 4-21.5 not more than twenty (20) days after the commissioner  
 24 receives the applicant's or certificate holder's written demand.

25 SECTION 7. IC 27-1-27-12 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2023]: **Sec. 12. (a) Before entering into a contract with an**  
 28 **insured, a public adjuster shall provide to the insured a written**  
 29 **disclosure concerning any direct or indirect financial interest that**  
 30 **the public adjuster has with any other party that is or will be**  
 31 **involved in any aspect of the insured's claim, other than by**  
 32 **receiving a salary, fee, commission, or other consideration that will**  
 33 **be established in the written contract with the insured.**

34 **(b) The direct or indirect financial interests that a public**  
 35 **adjuster must disclose to an insured under subsection (a) includes**  
 36 **any ownership by the public adjuster of, or any compensation that**  
 37 **the public adjuster can expect to be received from, any:**

- 38 (1) construction firm;  
 39 (2) salvage firm;  
 40 (3) lawyer or law firm;  
 41 (4) building appraisal firm; or  
 42 (5) board up company;



1 or any other firm that provides estimates for work, or performs  
 2 any work in conjunction with the insured loss to which the contract  
 3 between the public adjuster and the insured applies.

4 SECTION 8. IC 27-1-27-13 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2023]: Sec. 13. (a) A public adjuster shall not provide services,  
 7 other than emergency services, to an insured until:

8 (1) a written contract between the public adjuster and the  
 9 insured has been executed; and

10 (2) an exact copy of the contract has been provided to:

11 (A) the insurer with which the insured has filed or intends  
 12 to file a claim; or

13 (B) a representative of the insurer described in clause (A)  
 14 who is authorized to receive a notice of loss or damage on  
 15 the insurer's behalf.

16 (b) A contract between a public adjuster and an insured:

17 (1) must be in writing; and

18 (2) must be prepared on a form filed with and approved by  
 19 the insurance commissioner; and

20 (3) must be executed in duplicate.

21 (c) One (1) original form of a contract executed under  
 22 subsection (b)(3) must be provided to the insured and one (1)  
 23 original form of the contract may retained by the public adjuster.

24 (d) A public adjuster may use electronic mail to provide the  
 25 exact copy of a contract to an insurer under subsection (a)(2).

26 (e) The original contract retained by the public adjuster under  
 27 subsection (c) must be available at all times, without prior notice,  
 28 for inspection by the insurance commissioner.

29 SECTION 9. IC 27-1-27-14 IS ADDED TO THE INDIANA CODE  
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 31 1, 2023]: Sec. 14. (a) Before an insured enters into a contract with  
 32 a public adjuster, the public adjuster shall provide to the insured  
 33 a separate signed and dated disclosure document that states the  
 34 following:

35 "Property insurance policies obligate the insured to  
 36 present a claim to his or her insurer for the insurer's  
 37 consideration. There are three (3) types of adjusters that  
 38 could be involved in that process. Here are definitions of  
 39 the three (3) types of adjusters:

40 "Company adjuster" means an insurance adjuster who is  
 41 an employee of an insurer, who represents the interests of  
 42 the insurer, and who is paid by the insurer. A company



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**adjuster will not charge the insured a fee.  
"Independent adjuster" means an insurance adjuster who is hired on a contract basis by an insurer to represent the insurer's interest in the settlement of a claim and who is paid by the insurer. An independent adjuster will not charge the insured a fee.**

**"Public adjuster" means an insurance adjuster who does not work for any insurer. A public adjuster represents the insured to assist in the preparation, presentation, and settlement of the insured's claim. The insured hires a public adjuster by signing a contract under which the insured agrees to pay the public adjuster a fee or commission based on a percentage of the amount paid by the insurer in settlement of the insured's claim or based on some other method of compensation."**

**SECTION 10. IC 27-1-27-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) A contract between a public adjuster and an insured may not contain any of the following:**

- (1) If the public adjuster is to receive as compensation a percentage of the total amount paid by the insurer to resolve the insured's claim, a contract term that would:**
  - (A) allow the public adjuster to collect a fee when the insurer has not yet paid any of the money that is due from the insurer; or**
  - (B) allow the public adjuster to collect the public adjuster's entire compensation from the first payment by the insurer if the insurer will pay the total amount to resolve the insured's claim in two (2) or more payments.**
- (2) A contract term that would require the insured to authorize an insurer to issue a check only in the name of the public adjuster.**
- (3) A contract term that would preclude the public adjuster or the insured from pursuing civil remedies.**
- (4) A contract term that would preclude the public adjuster's liability to the insured for the public adjuster's negligence.**
- (5) A contract term that would allow the public adjuster to perform the role of roofing contractor, appraiser, or any role other than that of rendering advice or assistance to the insured in the adjustment of a claim.**
- (6) A contract term that would give the public adjuster power**



1           **of attorney to act in the place of and instead of the insured.**  
2           SECTION 11. IC 27-1-27-16 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2023]: **Sec. 16. (a) A public adjuster shall**  
5 **ensure that a contract between the public adjuster and an insured**  
6 **is in writing and contains the following:**  
7           **(1) The legible full name of the public adjuster entering into**  
8           **the contract, as specified in the records of the department.**  
9           **(2) The permanent home state business address, electronic**  
10           **mail address, and phone number of the public adjuster.**  
11           **(3) The number of the certificate of authority issued to the**  
12           **public adjuster under section 3 of this chapter.**  
13           **(4) The title "Public Adjuster Contract" printed prominently**  
14           **at the top of the first page of the contract.**  
15           **(5) The:**  
16               **(A) full name and street address of the insured; and**  
17               **(B) the name of the insurance company by which the**  
18               **insured is covered and the policy number of the policy**  
19               **under which the insured is covered, if known.**  
20           **(6) A description of the loss and the location of the loss, if**  
21           **applicable.**  
22           **(7) A description of services to be provided by the public**  
23           **adjuster to the insured under the contract.**  
24           **(8) The signatures of:**  
25               **(A) the public adjuster or the public adjuster's authorized**  
26               **representative; and**  
27               **(B) the insured.**  
28           **(9) The date and time when the contract was signed by the**  
29           **public adjuster and the date and time when the contract was**  
30           **signed by the insured.**  
31           **(10) Attestation language stating that the public adjuster is**  
32           **fully bonded under Indiana law.**  
33           **(11) A statement of the full salary, fee, commission,**  
34           **compensation, or other consideration the public adjuster is to**  
35           **receive for services to be provided under the contract.**  
36           **(b) A contract between the public adjuster and an insured may**  
37           **specify that the public adjuster is to be named as a co-payee on an**  
38           **insurer's payment of a claim.**  
39           **(c) If a public adjuster's compensation under a contract between**  
40           **the public adjuster and an insured is to be based on a share of the**  
41           **total amount paid by the insurer to resolve the insured's claim, the**  
42           **contract must specify the exact percentage of the total amount paid**



1 by the insurer that is the public adjuster's share.

2 (d) If, under a contract between a public adjuster and an  
3 insured, the public adjuster's expenses are to be reimbursed to the  
4 public adjuster from the proceeds of the claim payment, the  
5 contract:

6 (1) must specify the public adjuster's expenses that are to be  
7 reimbursed, setting forth:

8 (A) each type of expense to be reimbursed; and

9 (B) dollar estimates of the amount to be reimbursed; and

10 (2) must provide that the public adjuster will not be  
11 reimbursed for any expenses other than those specified under  
12 subdivision (1) unless those expenses are first approved by the  
13 insured.

14 (e) The provisions of a contract between a public adjuster and  
15 an insured pertaining to the compensation of the public adjuster  
16 shall not be redacted in any copy of the contract that is provided to  
17 the insurance commissioner.

18 SECTION 12. IC 27-1-27-17 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2023]: Sec. 17. The following apply to a  
21 contract between an insured and a public adjuster:

22 (1) An insured is not required to hire a public adjuster to help  
23 the insured meet the insured's obligations under a policy, but  
24 has a right to do so.

25 (2) The public adjuster is not a representative or employee of  
26 the insurer.

27 (3) The salary, fee, commission, or other consideration to be  
28 paid to the public adjuster is the obligation of the insured, not  
29 of the insurer, except when the insured has assigned the  
30 insured's rights to the public adjuster.

31 SECTION 13. IC 27-1-27-18 IS ADDED TO THE INDIANA  
32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
33 [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) This section applies  
34 notwithstanding the terms of a written contract between an insured  
35 and a public adjuster.

36 (b) If the insurer, not more than five (5) business days after the  
37 date on which the insured's loss is reported to the insurer, either  
38 pays or commits in writing to pay to the insured the policy limit of  
39 the insurance policy covering the insured:

40 (1) the public adjuster shall not receive a commission  
41 consisting of or based on a percentage of the total amount  
42 paid by the insurer to resolve the claim of the insured;



- 1           **(2) the public adjuster shall inform the insured that the loss**
- 2           **recovery amount might not be increased by the insurer; and**
- 3           **(3) the public adjuster is entitled only to reasonable**
- 4           **compensation from the insured for services provided by the**
- 5           **public adjuster on behalf of the insured, based on:**
- 6               **(A) the time spent by the public adjuster on the claim; and**
- 7               **(B) the expenses incurred by the public adjuster before the**
- 8               **claim is paid or the insured receives a written commitment**
- 9               **from the insurer to pay the claim.**

10           SECTION 14. IC 27-1-27-19 IS ADDED TO THE INDIANA  
 11           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 12           [EFFECTIVE JULY 1, 2023]: **Sec. 19. (a) A contract between a**  
 13           **public adjuster and an insured is voidable at the option of the**  
 14           **insured at any time not more than five (5) business days after the**  
 15           **day on which the insurer is provided a copy of the contract under**  
 16           **section 13(a)(2) of this chapter.**

17           **(b) An insured may void a contract with a public adjuster by**  
 18           **notifying the public adjuster in writing of the insured's decision to**  
 19           **void the contract. The written notification must be transmitted to**  
 20           **the public adjuster by:**

- 21               **(1) registered or certified mail, return receipt requested, sent**
- 22               **to the address of the public adjuster shown on the contract;**
- 23               **(2) personally serving the notice on the public adjuster; or**
- 24               **(3) sending an electronic mail to the public adjuster at the**
- 25               **electronic mail address shown on the contract.**

26           **(c) If the insured exercises the right to void the contract under**  
 27           **this section, the public adjuster shall return to the insured anything**  
 28           **of value that the insured gave to the public adjuster under the**  
 29           **contract before the voiding of the contract. The public adjuster**  
 30           **shall return things of value to the insured under this section not**  
 31           **more than fifteen (15) business days after the day on which the**  
 32           **public adjuster receives notice under subsection (b) of the insured's**  
 33           **decision to void the contract.**

34           SECTION 15. IC 27-1-27-20 IS ADDED TO THE INDIANA  
 35           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36           [EFFECTIVE JULY 1, 2023]: **Sec. 20. (a) An insured may rescind a**  
 37           **contract between the insured and a public adjuster at any time not**  
 38           **more than three (3) business days after the day on which the**  
 39           **insured submits to the insurer the claim to which the contract**  
 40           **relates.**

41           **(b) An insured may rescind a contract with a public adjuster by**  
 42           **notifying the public adjuster in writing of the insured's decision to**



1 rescind the contract. The written notification must be transmitted  
2 to the adjuster by:

- 3 (1) registered or certified mail, return receipt requested, sent
- 4 to the address of the public adjuster shown on the contract;
- 5 (2) personally serving the notice on the public adjuster; or
- 6 (3) sending an electronic mail to the public adjuster at the
- 7 electronic mail address shown on the contract.

8 (c) If the insured exercises the right to rescind a contract under  
9 this section, the public adjuster shall return to the insured anything  
10 of value that the insured gave to the public adjuster under the  
11 contract before the rescission of the contract. The public adjuster  
12 shall return things of value to the insured under this section not  
13 more than fifteen (15) business days after the day on which the  
14 public adjuster receives notice under subsection (b) of the insured's  
15 decision to rescind the contract.

16 SECTION 16. IC 27-1-45.5-3, AS ADDED BY P.L.117-2021,  
17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2023]: Sec. 3. (a) **Before December 31, 2026**, IPEP shall  
19 apply to the insurance commissioner for a certificate of authority to  
20 transact the business of insurance in Indiana as a domestic tax exempt  
21 reciprocal insurance company.

22 (b) The bylaws or articles of incorporation prepared by IPEP for  
23 purposes of IPEP's conversion to a domestic tax exempt reciprocal  
24 insurance company must require that the board of the domestic tax  
25 exempt reciprocal insurance company be made up of at least seven (7)  
26 individuals.

27 (c) IPEP, in converting to a domestic tax exempt reciprocal  
28 insurance company, must meet the requirements and conditions for the  
29 formation of a domestic tax exempt reciprocal insurance company set  
30 forth in IC 27-1-6, including an examination under IC 27-1-6-17.

31 SECTION 17. IC 27-2-28 IS ADDED TO THE INDIANA CODE  
32 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2023]:

34 **Chapter 28. Notice of Material Change**

35 **Sec. 1. (a) This chapter applies to a personal automobile or**  
36 **homeowner's policy that is issued, delivered, amended, or renewed**  
37 **after June 30, 2024.**

38 **(b) This chapter does not apply to notices required by the**  
39 **federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).**

40 **Sec. 2. As used in this chapter, "automobile policy" means a**  
41 **policy providing one (1) or more of the types of insurance**  
42 **described in Class 2(f) of IC 27-1-5-1.**





1       **Sec. 3. As used in this chapter, "homeowner's policy" means a**  
2 **policy that provides:**

3       **(1) coverage for:**

4       **(A) damage to or the destruction of:**

5       **(i) a structure; or**

6       **(ii) a unit within a structure;**

7       **that is used as a residence by one (1) or more individuals;**

8       **and**

9       **(B) damage to or the loss of personal property that is**  
10 **present in the structure or unit described in clause (A);**

11 **caused by perils such as fire, hail, and lightning; and**

12 **(2) coverage against the civil liability of the policyholder**  
13 **arising from bodily injury or property damage incurred by**  
14 **others.**

15       **Sec. 4. As used in this chapter, "insured" means an individual**  
16 **entitled to coverage under a personal automobile or homeowner's**  
17 **policy.**

18       **Sec. 5. As used in this chapter, "insurer" refers to an insurer (as**  
19 **defined in IC 27-1-2-3) that issues a personal automobile or**  
20 **homeowner's policy.**

21       **Sec. 6. (a) As used in this chapter, "material change" means:**

22       **(1) a nonrenewal or cancellation of;**

23       **(2) an increase of more than ten percent (10%) over the**  
24 **expiring premium for;**

25       **(3) a reduction in coverage of; or**

26       **(4) another adverse or unfavorable change in the terms of**  
27 **coverage or amount of;**

28 **insurance in connection with a personal automobile or**  
29 **homeowner's policy.**

30       **(b) The term does not include the following:**

31       **(1) An increase in the insurer's filed rate plan and automatic**  
32 **inflationary increases.**

33       **(2) An additional premium due to a change initiated by the**  
34 **insured, such as:**

35       **(A) adding or removing vehicles or drivers;**

36       **(B) adding an endorsement;**

37       **(C) adding additional coverages;**

38       **(D) adding covered premises; or**

39       **(E) increasing coverage limits or deductibles.**

40       **(3) An additional premium due to a change in risk exposure**  
41 **as a result of the insured's participation in a usage based or**  
42 **telematics insurance program.**



1        **Sec. 7. As used in this chapter, "personal automobile or**  
 2 **homeowner's policy" means:**

- 3        (1) an automobile policy; or  
 4        (2) a homeowner's policy;

5 **that is underwritten on an individual basis for an individual,**  
 6 **family, or household.**

7        **Sec. 8. (a) An insurer that makes a material change to an**  
 8 **insured's personal automobile or homeowner's policy shall provide**  
 9 **a written notice to the insured that:**

- 10        (1) explains the principal factors for the material change; or  
 11        (2) states that the insured has a right to request and obtain an  
 12        explanation of the principal factors for the material change.

13        (b) An insured who receives a notice of a material change  
 14        described in subsection (a)(2) may submit to the insurer a written  
 15        request for an explanation of the principal factors for the material  
 16        change.

17        (c) Upon receiving a request for an explanation under  
 18        subsection (b), the insurer shall provide written notice to the  
 19        insured explaining the principal factors for the material change.

20        (d) An insurer shall provide a copy of a written notice provided  
 21        under subsection (a)(1) or (c) to the insurance producer, if any,  
 22        who:

- 23        (1) represented:  
 24        (A) the insured in obtaining coverage from the insurer; or  
 25        (B) the insurer in regard to the providing of coverage to  
 26        the insured; and  
 27        (2) is not an employee, an exclusive agent, or a captive agent  
 28        of the insurer.

29        (e) A written notice provided under subsection (a) or (c), or a  
 30        written request submitted under subsection (b), must be provided  
 31        by:

- 32        (1) first class mail; or  
 33        (2) electronic delivery as set forth in IC 27-1-43.

34        **Sec. 9. (a) A written notice provided under section 8(a)(1) or 8(c)**  
 35 **of this chapter:**

- 36        (1) must:  
 37        (A) be sufficiently clear; and  
 38        (B) use language sufficiently specific;  
 39        to enable the insured to identify the basis for the insurer's  
 40        decision to make the material change;  
 41        (2) must include a description of the principal factors most  
 42        heavily weighed by an insurer in making a material change,



1 listed in no particular order; and

2 (3) may provide a point of contact through which the insured  
3 may discuss the reasons for the material change.

4 (b) A statement that:

5 (1) the material change is based on the insurer's internal  
6 standards, policies, or models;

7 (2) the insured failed to achieve a particular score on the  
8 insurer's scoring system; or

9 (3) contains generalized terms, such as "poor credit history",  
10 "poor credit rating", or "poor insurance score";

11 does not meet the requirements set forth in subsection (a).

12 (c) This section does not require the disclosure of factors that  
13 are otherwise disclosed to the insured.

14 Sec. 10. The requirements set forth in this chapter:

15 (1) do not replace; and

16 (2) are in addition to;

17 the requirements under IC 27-7-6 and IC 27-7-12.

18 Sec. 11. This chapter does not prohibit an insurer from  
19 voluntarily providing the disclosures required by this chapter.

20 Sec. 12. (a) The commissioner shall adopt rules under IC 4-22-2  
21 to implement this chapter.

22 (b) The rules adopted under subsection (a) must include  
23 monetary penalties for a violation of this chapter that are  
24 consistent with other penalties assessed for similar violations under  
25 this title.

26 (c) The commissioner is solely responsible for the enforcement  
27 of this chapter.

28 Sec. 13. A violation of this chapter does not create a private  
29 cause of action.

30 SECTION 18. IC 27-4-1-4, AS AMENDED BY P.L.19-2022,  
31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2023]: Sec. 4. (a) The following are hereby defined as unfair  
33 methods of competition and unfair and deceptive acts and practices in  
34 the business of insurance:

35 (1) Making, issuing, circulating, or causing to be made, issued, or  
36 circulated, any estimate, illustration, circular, or statement:

37 (A) misrepresenting the terms of any policy issued or to be  
38 issued or the benefits or advantages promised thereby or the  
39 dividends or share of the surplus to be received thereon;

40 (B) making any false or misleading statement as to the  
41 dividends or share of surplus previously paid on similar  
42 policies;



- 1 (C) making any misleading representation or any  
2 misrepresentation as to the financial condition of any insurer,  
3 or as to the legal reserve system upon which any life insurer  
4 operates;
- 5 (D) using any name or title of any policy or class of policies  
6 misrepresenting the true nature thereof; or
- 7 (E) making any misrepresentation to any policyholder insured  
8 in any company for the purpose of inducing or tending to  
9 induce such policyholder to lapse, forfeit, or surrender the  
10 policyholder's insurance.
- 11 (2) Making, publishing, disseminating, circulating, or placing  
12 before the public, or causing, directly or indirectly, to be made,  
13 published, disseminated, circulated, or placed before the public,  
14 in a newspaper, magazine, or other publication, or in the form of  
15 a notice, circular, pamphlet, letter, or poster, or over any radio or  
16 television station, or in any other way, an advertisement,  
17 announcement, or statement containing any assertion,  
18 representation, or statement with respect to any person in the  
19 conduct of the person's insurance business, which is untrue,  
20 deceptive, or misleading.
- 21 (3) Making, publishing, disseminating, or circulating, directly or  
22 indirectly, or aiding, abetting, or encouraging the making,  
23 publishing, disseminating, or circulating of any oral or written  
24 statement or any pamphlet, circular, article, or literature which is  
25 false, or maliciously critical of or derogatory to the financial  
26 condition of an insurer, and which is calculated to injure any  
27 person engaged in the business of insurance.
- 28 (4) Entering into any agreement to commit, or individually or by  
29 a concerted action committing any act of boycott, coercion, or  
30 intimidation resulting or tending to result in unreasonable  
31 restraint of, or a monopoly in, the business of insurance.
- 32 (5) Filing with any supervisory or other public official, or making,  
33 publishing, disseminating, circulating, or delivering to any person,  
34 or placing before the public, or causing directly or indirectly, to  
35 be made, published, disseminated, circulated, delivered to any  
36 person, or placed before the public, any false statement of  
37 financial condition of an insurer with intent to deceive. Making  
38 any false entry in any book, report, or statement of any insurer  
39 with intent to deceive any agent or examiner lawfully appointed  
40 to examine into its condition or into any of its affairs, or any  
41 public official to which such insurer is required by law to report,  
42 or which has authority by law to examine into its condition or into



1 any of its affairs, or, with like intent, willfully omitting to make a  
2 true entry of any material fact pertaining to the business of such  
3 insurer in any book, report, or statement of such insurer.

4 (6) Issuing or delivering or permitting agents, officers, or  
5 employees to issue or deliver, agency company stock or other  
6 capital stock, or benefit certificates or shares in any common law  
7 corporation, or securities or any special or advisory board  
8 contracts or other contracts of any kind promising returns and  
9 profits as an inducement to insurance.

10 (7) Making or permitting any of the following:

11 (A) Unfair discrimination between individuals of the same  
12 class and equal expectation of life in the rates or assessments  
13 charged for any contract of life insurance or of life annuity or  
14 in the dividends or other benefits payable thereon, or in any  
15 other of the terms and conditions of such contract. However,  
16 in determining the class, consideration may be given to the  
17 nature of the risk, plan of insurance, the actual or expected  
18 expense of conducting the business, or any other relevant  
19 factor.

20 (B) Unfair discrimination between individuals of the same  
21 class involving essentially the same hazards in the amount of  
22 premium, policy fees, assessments, or rates charged or made  
23 for any policy or contract of accident or health insurance or in  
24 the benefits payable thereunder, or in any of the terms or  
25 conditions of such contract, or in any other manner whatever.  
26 However, in determining the class, consideration may be given  
27 to the nature of the risk, the plan of insurance, the actual or  
28 expected expense of conducting the business, or any other  
29 relevant factor.

30 (C) Excessive or inadequate charges for premiums, policy  
31 fees, assessments, or rates, or making or permitting any unfair  
32 discrimination between persons of the same class involving  
33 essentially the same hazards, in the amount of premiums,  
34 policy fees, assessments, or rates charged or made for:

35 (i) policies or contracts of reinsurance or joint reinsurance,  
36 or abstract and title insurance;

37 (ii) policies or contracts of insurance against loss or damage  
38 to aircraft, or against liability arising out of the ownership,  
39 maintenance, or use of any aircraft, or of vessels or craft,  
40 their cargoes, marine builders' risks, marine protection and  
41 indemnity, or other risks commonly insured under marine,  
42 as distinguished from inland marine, insurance; or



1 (iii) policies or contracts of any other kind or kinds of  
 2 insurance whatsoever.

3 However, nothing contained in clause (C) shall be construed to  
 4 apply to any of the kinds of insurance referred to in clauses (A)  
 5 and (B) nor to reinsurance in relation to such kinds of insurance.  
 6 Nothing in clause (A), (B), or (C) shall be construed as making or  
 7 permitting any excessive, inadequate, or unfairly discriminatory  
 8 charge or rate or any charge or rate determined by the department  
 9 or commissioner to meet the requirements of any other insurance  
 10 rate regulatory law of this state.

11 (8) Except as otherwise expressly provided by IC 27-1-47 or  
 12 another law, knowingly permitting or offering to make or making  
 13 any contract or policy of insurance of any kind or kinds  
 14 whatsoever, including but not in limitation, life annuities, or  
 15 agreement as to such contract or policy other than as plainly  
 16 expressed in such contract or policy issued thereon, or paying or  
 17 allowing, or giving or offering to pay, allow, or give, directly or  
 18 indirectly, as inducement to such insurance, or annuity, any rebate  
 19 of premiums payable on the contract, or any special favor or  
 20 advantage in the dividends, savings, or other benefits thereon, or  
 21 any valuable consideration or inducement whatever not specified  
 22 in the contract or policy; or giving, or selling, or purchasing or  
 23 offering to give, sell, or purchase as inducement to such insurance  
 24 or annuity or in connection therewith, any stocks, bonds, or other  
 25 securities of any insurance company or other corporation,  
 26 association, limited liability company, or partnership, or any  
 27 dividends, savings, or profits accrued thereon, or anything of  
 28 value whatsoever not specified in the contract. Nothing in this  
 29 subdivision and subdivision (7) shall be construed as including  
 30 within the definition of discrimination or rebates any of the  
 31 following practices:

32 (A) Paying bonuses to policyholders or otherwise abating their  
 33 premiums in whole or in part out of surplus accumulated from  
 34 nonparticipating insurance, so long as any such bonuses or  
 35 abatement of premiums are fair and equitable to policyholders  
 36 and for the best interests of the company and its policyholders.

37 (B) In the case of life insurance policies issued on the  
 38 industrial debit plan, making allowance to policyholders who  
 39 have continuously for a specified period made premium  
 40 payments directly to an office of the insurer in an amount  
 41 which fairly represents the saving in collection expense.

42 (C) Readjustment of the rate of premium for a group insurance



- 1 policy based on the loss or expense experience thereunder, at  
 2 the end of the first year or of any subsequent year of insurance  
 3 thereunder, which may be made retroactive only for such  
 4 policy year.
- 5 (D) Paying by an insurer or insurance producer thereof duly  
 6 licensed as such under the laws of this state of money,  
 7 commission, or brokerage, or giving or allowing by an insurer  
 8 or such licensed insurance producer thereof anything of value,  
 9 for or on account of the solicitation or negotiation of policies  
 10 or other contracts of any kind or kinds, to a broker, an  
 11 insurance producer, or a solicitor duly licensed under the laws  
 12 of this state, but such broker, insurance producer, or solicitor  
 13 receiving such consideration shall not pay, give, or allow  
 14 credit for such consideration as received in whole or in part,  
 15 directly or indirectly, to the insured by way of rebate.
- 16 (9) Requiring, as a condition precedent to loaning money upon the  
 17 security of a mortgage upon real property, that the owner of the  
 18 property to whom the money is to be loaned negotiate any policy  
 19 of insurance covering such real property through a particular  
 20 insurance producer or broker or brokers. However, this  
 21 subdivision shall not prevent the exercise by any lender of the  
 22 lender's right to approve or disapprove of the insurance company  
 23 selected by the borrower to underwrite the insurance.
- 24 (10) Entering into any contract, combination in the form of a trust  
 25 or otherwise, or conspiracy in restraint of commerce in the  
 26 business of insurance.
- 27 (11) Monopolizing or attempting to monopolize or combining or  
 28 conspiring with any other person or persons to monopolize any  
 29 part of commerce in the business of insurance. However,  
 30 participation as a member, director, or officer in the activities of  
 31 any nonprofit organization of insurance producers or other  
 32 workers in the insurance business shall not be interpreted, in  
 33 itself, to constitute a combination in restraint of trade or as  
 34 combining to create a monopoly as provided in this subdivision  
 35 and subdivision (10). The enumeration in this chapter of specific  
 36 unfair methods of competition and unfair or deceptive acts and  
 37 practices in the business of insurance is not exclusive or  
 38 restrictive or intended to limit the powers of the commissioner or  
 39 department or of any court of review under section 8 of this  
 40 chapter.
- 41 (12) Requiring as a condition precedent to the sale of real or  
 42 personal property under any contract of sale, conditional sales



1 contract, or other similar instrument or upon the security of a  
 2 chattel mortgage, that the buyer of such property negotiate any  
 3 policy of insurance covering such property through a particular  
 4 insurance company, insurance producer, or broker or brokers.  
 5 However, this subdivision shall not prevent the exercise by any  
 6 seller of such property or the one making a loan thereon of the  
 7 right to approve or disapprove of the insurance company selected  
 8 by the buyer to underwrite the insurance.

9 (13) Issuing, offering, or participating in a plan to issue or offer,  
 10 any policy or certificate of insurance of any kind or character as  
 11 an inducement to the purchase of any property, real, personal, or  
 12 mixed, or services of any kind, where a charge to the insured is  
 13 not made for and on account of such policy or certificate of  
 14 insurance. However, this subdivision shall not apply to any of the  
 15 following:

16 (A) Insurance issued to credit unions or members of credit  
 17 unions in connection with the purchase of shares in such credit  
 18 unions.

19 (B) Insurance employed as a means of guaranteeing the  
 20 performance of goods and designed to benefit the purchasers  
 21 or users of such goods.

22 (C) Title insurance.

23 (D) Insurance written in connection with an indebtedness and  
 24 intended as a means of repaying such indebtedness in the  
 25 event of the death or disability of the insured.

26 (E) Insurance provided by or through motorists service clubs  
 27 or associations.

28 (F) Insurance that is provided to the purchaser or holder of an  
 29 air transportation ticket and that:

30 (i) insures against death or nonfatal injury that occurs during  
 31 the flight to which the ticket relates;

32 (ii) insures against personal injury or property damage that  
 33 occurs during travel to or from the airport in a common  
 34 carrier immediately before or after the flight;

35 (iii) insures against baggage loss during the flight to which  
 36 the ticket relates; or

37 (iv) insures against a flight cancellation to which the ticket  
 38 relates.

39 (14) Refusing, because of the for-profit status of a hospital or  
 40 medical facility, to make payments otherwise required to be made  
 41 under a contract or policy of insurance for charges incurred by an  
 42 insured in such a for-profit hospital or other for-profit medical





- 1 facility licensed by the ~~state~~ **Indiana** department of health.
- 2 (15) Refusing to insure an individual, refusing to continue to issue
- 3 insurance to an individual, limiting the amount, extent, or kind of
- 4 coverage available to an individual, or charging an individual a
- 5 different rate for the same coverage, solely because of that
- 6 individual's blindness or partial blindness, except where the
- 7 refusal, limitation, or rate differential is based on sound actuarial
- 8 principles or is related to actual or reasonably anticipated
- 9 experience.
- 10 (16) Committing or performing, with such frequency as to
- 11 indicate a general practice, unfair claim settlement practices (as
- 12 defined in section 4.5 of this chapter).
- 13 (17) Between policy renewal dates, unilaterally canceling an
- 14 individual's coverage under an individual or group health
- 15 insurance policy solely because of the individual's medical or
- 16 physical condition.
- 17 (18) Using a policy form or rider that would permit a cancellation
- 18 of coverage as described in subdivision (17).
- 19 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 20 concerning motor vehicle insurance rates.
- 21 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 22 to interest rate guarantees.
- 23 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 24 coverage for victims of abuse.
- 25 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 26 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 27 insurance producers.
- 28 (24) Violating IC 27-1-38 concerning depository institutions.
- 29 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 30 the resolution of an appealed grievance decision.
- 31 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
- 32 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
- 33 2007, and repealed).
- 34 (27) Violating IC 27-2-21 concerning use of credit information.
- 35 (28) Violating IC 27-4-9-3 concerning recommendations to
- 36 consumers.
- 37 (29) Engaging in dishonest or predatory insurance practices in
- 38 marketing or sales of insurance to members of the United States
- 39 Armed Forces as:
- 40 (A) described in the federal Military Personnel Financial
- 41 Services Protection Act, P.L.109-290; or
- 42 (B) defined in rules adopted under subsection (b).



- 1 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated  
 2 life insurance.  
 3 (31) Violating IC 27-2-22 concerning retained asset accounts.  
 4 (32) Violating IC 27-8-5-29 concerning health plans offered  
 5 through a health benefit exchange (as defined in IC 27-19-2-8).  
 6 (33) Violating a requirement of the federal Patient Protection and  
 7 Affordable Care Act (P.L. 111-148), as amended by the federal  
 8 Health Care and Education Reconciliation Act of 2010 (P.L.  
 9 111-152), that is enforceable by the state.  
 10 (34) After June 30, 2015, violating IC 27-2-23 concerning  
 11 unclaimed life insurance, annuity, or retained asset account  
 12 benefits.  
 13 (35) Willfully violating IC 27-1-12-46 concerning a life insurance  
 14 policy or certificate described in IC 27-1-12-46(a).  
 15 (36) Violating IC 27-1-37-7 concerning prohibiting the disclosure  
 16 of health care service claims data.  
 17 (37) Violating IC 27-4-10-10 concerning virtual claims payments.  
 18 (38) Violating IC 27-1-24.5 concerning pharmacy benefit  
 19 managers.  
 20 (39) Violating IC 27-7-17-16 or IC 27-7-17-17 concerning the  
 21 marketing of travel insurance policies.  
 22 **(40) Violating IC 27-8-13-18.1 concerning a Medicare product**  
 23 **solicitation.**  
 24 (b) Except with respect to federal insurance programs under  
 25 Subchapter III of Chapter 19 of Title 38 of the United States Code, the  
 26 commissioner may, consistent with the federal Military Personnel  
 27 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules  
 28 under IC 4-22-2 to:  
 29 (1) define; and  
 30 (2) while the members are on a United States military installation  
 31 or elsewhere in Indiana, protect members of the United States  
 32 Armed Forces from;  
 33 dishonest or predatory insurance practices.  
 34 SECTION 19. IC 27-8-13-10 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) The  
 36 commissioner shall adopt rules under IC 4-22-2 to establish minimum  
 37 standards for:  
 38 (1) claims payment;  
 39 (2) marketing practices, **subject to section 18.1 of this chapter;**  
 40 (3) compensation arrangements; and  
 41 (4) reporting practices;  
 42 for Medicare supplement policies and certificates.



1 (b) The commissioner may adopt rules under IC 4-22-2 that are  
 2 necessary to conform Medicare supplement policies and certificates to  
 3 the requirements of federal law and federal regulations. A rule adopted  
 4 under this subsection may do the following:

- 5 (1) Require refunds or credits if the policies or certificates do not  
 6 meet loss ratio requirements.  
 7 (2) Establish a uniform methodology for calculating and reporting  
 8 loss ratios.  
 9 (3) Assure public access to policies, premiums, and loss ratio  
 10 information of issuers of Medicare supplement insurance.  
 11 (4) Establish a process for approving or disapproving policy forms  
 12 and certificate forms and proposed premium increases.  
 13 (5) Establish a policy for holding public hearings before approval  
 14 of premium increases.  
 15 (6) Establish standards for Medicare Select policies and  
 16 certificates.

17 SECTION 20. IC 27-8-13-18.1 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2023]: **Sec. 18.1. (a) As used in this section,**  
 20 **"Medicare product" means any of the following:**

- 21 (1) A Medicare supplement policy.  
 22 (2) A Medicare Advantage plan.  
 23 (3) A Medicare prescription drug plan.  
 24 (4) A similar policy, plan, or contract based on an individual's  
 25 eligibility for Medicare.

26 (b) As used in this section, "Medicare product solicitation"  
 27 means a communication that:

- 28 (1) is initiated by:  
 29 (A) an individual who is licensed or required to be licensed  
 30 as an insurance producer under this title; or  
 31 (B) an insurance solicitor (as defined in IC 27-1-2-3);  
 32 and made to another individual without the other individual's  
 33 advance consent; and  
 34 (2) discusses the possible issuance or delivery of a Medicare  
 35 product to the other individual.

36 The term does not include a face-to-face meeting.

37 (c) Except as provided in subsection (d), if an individual  
 38 described in subsection (b)(1)(A) or (b)(1)(B) makes a Medicare  
 39 product solicitation, the individual shall comply with applicable  
 40 federal marketing and communications requirements for Medicare  
 41 products under:

- 42 (1) 42 CFR 422, Subpart V; and



1           **(2) 42 CFR 423, Subpart V;**  
 2 **when making the Medicare product solicitation.**

3           **(d) Subsection (c) does not apply to telephone call recording**  
 4 **requirements under 42 CFR 422, Subpart V, and 42 CFR 423,**  
 5 **Subpart V.**

6           **(e) An individual described in subsection (b)(1)(A) or (b)(1)(B)**  
 7 **who violates this section commits an unfair and deceptive act or**  
 8 **practice in the business of insurance under IC 27-4-1-4.**

9           SECTION 21. IC 27-2-29 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2023]:

12           **Chapter 29. Transition from Affordable Care Act to Medicare**

13           **Sec. 1. As used in this chapter, "Affordable Care Act" refers to**  
 14 **the federal Patient Protection and Affordable Care Act (P.L.**  
 15 **111-148), as amended by the federal Health Care and Education**  
 16 **Reconciliation Act of 2010 (P.L. 111-152).**

17           **Sec. 2. As used in this chapter, "health maintenance**  
 18 **organization" has the meaning set forth in IC 27-13-1-19.**

19           **Sec. 3. As used in this chapter, "insurer" has the meaning set**  
 20 **forth in IC 27-1-2-3(x).**

21           **Sec. 4. As used in this chapter, "Marketplace plan" means:**

- 22           **(1) a policy of accident and sickness insurance;**  
 23           **(2) a health maintenance organization contract; or**  
 24           **(3) an exclusive provider organization plan, point of service**  
 25 **plan, preferred provider organization plan, or any other plan**  
 26 **or program;**

27 **that is a qualified health plan available from a marketplace under**  
 28 **the Affordable Care Act.**

29           **Sec. 5. As used in this chapter, "policy of accident and sickness**  
 30 **insurance" means a policy or contract providing one (1) or more**  
 31 **of the kinds of insurance described in Class 1(b) or 2(a) of**  
 32 **IC 27-1-5-1.**

33           **Sec. 6. As used in this chapter, "qualified health plan" has the**  
 34 **meaning set forth in Section 1301 of the Affordable Care Act, 42**  
 35 **U.S.C. 18021.**

36           **Sec. 7. (a) An insurer or health maintenance organization that**  
 37 **provides coverage under a Marketplace plan shall provide to each**  
 38 **individual covered under the Marketplace plan, not earlier than six**  
 39 **(6) months and not later than two (2) months before the birthday**  
 40 **on which the individual will become sixty-five (65) years of age, a**  
 41 **written message that includes the following:**

- 42           **(1) A statement that the individual will be eligible to enroll in**



1 Medicare during the individual's initial enrollment period,  
 2 which begins three (3) months before the individual becomes  
 3 sixty-five (65) years of age.

4 (2) This statement: "According to the health insurance  
 5 exchange website operated by the federal government under  
 6 the Affordable Care Act, in most cases, if you have a  
 7 Marketplace plan when you become eligible for Medicare, you  
 8 will want to end your Marketplace coverage."

9 (3) Detailed instructions that the individual may follow to  
 10 cancel the individual's Marketplace plan before the individual  
 11 becomes covered under Medicare, so that there is no overlap  
 12 between the individual's Marketplace plan coverage and the  
 13 individual's Medicare coverage.

14 (b) A written message required by subsection (a):

15 (1) shall be sent by first class mail in the form of a letter  
 16 addressed to the individual at the address of the individual's  
 17 residence; and

18 (2) shall also be sent to the individual as an electronic mail  
 19 message if the insurer or health maintenance organization  
 20 knows the individual's electronic mail address.

21 SECTION 22. IC 27-9-1-1 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 1. Proceedings under  
 23 this article apply to the following:

24 (1) All insurers who are doing, or who have done, insurance  
 25 business in Indiana, and against whom claims arising from that  
 26 business may exist.

27 (2) All insurers who purport to do insurance business in Indiana.

28 (3) All insurers who have insureds resident in Indiana.

29 (4) All other persons organized or in the process of organizing  
 30 with the intent to do an insurance business in Indiana.

31 (5) All nonprofit service plans, fraternal benefit societies, and  
 32 beneficial societies.

33 (6) All title insurance companies.

34 (7) All health maintenance organizations under IC 27-13.

35 (8) All multiple employer welfare arrangements under  
 36 IC 27-1-34.

37 (9) All limited service health maintenance organizations under  
 38 IC 27-13-34.

39 (10) All mutual insurance holding companies under IC 27-14  
 40 (before its repeal) or IC 27-14.5.

41 SECTION 23. IC 27-9-2-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 1. (a) Whenever the



1 commissioner has reasonable cause to believe, and determines, after a  
 2 hearing held under IC 4-21.5-3, that any domestic insurer has  
 3 committed or engaged in, or is about to commit or engage in, any act,  
 4 practice, or transaction that would subject it to a delinquency  
 5 proceeding under IC 27-9-3-1 or IC 27-9-3-6, the commissioner may  
 6 make and serve upon the insurer and any other persons involved, any  
 7 orders reasonably necessary to correct, eliminate, or remedy that  
 8 conduct, condition, or ground.

9 (b) If the commissioner has reasonable cause to believe that any  
 10 domestic insurer is in such condition as to render the continuance of its  
 11 business hazardous to the public or to holders of its policies or  
 12 certificates of insurance, or if that domestic insurer gives its consent,  
 13 the commissioner shall upon his determination issue an order:

- 14 (1) notifying the insurer of his determination; and
- 15 (2) providing the insurer with a written list of the commissioner's  
 16 requirements to correct its business practices.

17 (c) If the commissioner makes a determination to supervise an  
 18 insurer subject to an order under subsection (a) or (b), the  
 19 commissioner shall notify the insurer that it is under the supervision of  
 20 the commissioner. If the insurer is a reorganized insurer under IC 27-14  
 21 **(before its repeal) or IC 27-14.5**, the commissioner may also  
 22 determine to supervise the mutual insurance holding company that is  
 23 affiliated with the reorganized insurer, regardless of whether another  
 24 basis exists for supervising the mutual insurance holding company. If  
 25 the commissioner makes a determination to supervise a mutual  
 26 insurance holding company, the commissioner shall notify the mutual  
 27 insurance holding company that it is under the supervision of the  
 28 commissioner.

29 (d) During the period of supervision, the commissioner may appoint  
 30 a supervisor to supervise the insurer. The order appointing a supervisor  
 31 must direct the supervisor to enforce orders issued under subsection (a)  
 32 or (b). The order may also provide that the insurer may not do any of  
 33 the following things, during the period of supervision, without the prior  
 34 approval of the commissioner or his supervisor:

- 35 (1) Dispose of, convey, or encumber any of its assets or its  
 36 business in force.
- 37 (2) Withdraw funds from any of its bank accounts.
- 38 (3) Lend any of its funds.
- 39 (4) Invest any of its funds.
- 40 (5) Transfer any of its property.
- 41 (6) Incur any debt, obligation, or liability.
- 42 (7) Merge or consolidate with another company.



- 1           (8) Enter into any new reinsurance contract or agreement.
- 2           (9) Restrict the writing of new business on the renewal of existing
- 3           business.
- 4           (e) Any insurer subject to an order under this section must comply
- 5           with the lawful requirements of the commissioner and, if placed under
- 6           supervision, has sixty (60) days from the date the supervision order is
- 7           served within which to comply with the requirements of the
- 8           commissioner. In the event of the insurer's failure to comply within
- 9           those time requirements, the commissioner may institute proceedings
- 10          under IC 27-9-3-1 or IC 27-9-3-6 to have a rehabilitator or liquidator
- 11          appointed, or extend the period of supervision.
- 12          (f) During the period of supervision, the insurer may request the
- 13          commissioner to review any action taken or proposed to be taken by the
- 14          supervisor, specifying the reason the action complained of is believed
- 15          not to be in the best interest of the insurer.
- 16          (g) If a person violates a supervision order issued under this section,
- 17          he is civilly liable up to ten thousand dollars (\$10,000).
- 18          (h) The commissioner may apply for and the Marion County circuit
- 19          court may grant, under IC 4-21.5-6, orders as are necessary and proper
- 20          to enforce a supervision order.
- 21          (i) In the event that a person subject to this article knowingly
- 22          violates any valid order of the commissioner issued under this section
- 23          and, as a result of that violation, the net worth of the insurer is reduced
- 24          or the insurer suffers loss it would not otherwise have suffered, that
- 25          person is personally liable to the insurer for the amount of that
- 26          reduction or loss. The commissioner or supervisor is authorized to
- 27          bring an action on behalf of the insurer in the Marion County circuit
- 28          court to recover the amount of the reduction or loss together with any
- 29          costs.
- 30          SECTION 24. IC 27-9-3-1 IS AMENDED TO READ AS
- 31          FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 1. The commissioner
- 32          may apply by petition to the Marion County circuit court for an order
- 33          authorizing him to rehabilitate a domestic insurer or an alien insurer
- 34          domiciled in Indiana on any one (1) of the following grounds:
- 35               (1) The insurer is in a condition that the further transaction of
- 36               business would be hazardous, financially, to its policyholders,
- 37               creditors, or the public.
- 38               (2) There is reasonable cause to believe that there has been
- 39               embezzlement from the insurer, wrongful sequestration or
- 40               diversion of the insurer's assets, forgery or fraud affecting the
- 41               insurer, or other illegal conduct in, by, or with respect to the
- 42               insurer that if established would endanger assets in an amount



- 1 threatening the solvency of the insurer.
- 2 (3) The insurer has failed to remove any person who in fact has  
3 executive authority in the insurer, whether an officer, manager,  
4 general agent, employee, or other person, if the person has been  
5 found after notice and hearing by the commissioner under  
6 IC 4-21.5-3 to be dishonest or untrustworthy in a way affecting  
7 the insurer's business.
- 8 (4) Control of the insurer, whether by stock ownership or  
9 otherwise, and whether direct or indirect, is in a person found  
10 after notice and hearing under IC 4-21.5-3 to be untrustworthy.
- 11 (5) Any person who in fact has executive authority in the insurer,  
12 whether an officer, manager, general agent, director or trustee,  
13 employee, or other person, has refused to be examined under oath  
14 by the commissioner concerning its affairs, whether in Indiana or  
15 elsewhere, and after reasonable notice of the fact the insurer has  
16 failed promptly and effectively to terminate the employment and  
17 status of the person and all his influence on management.
- 18 (6) After demand by the commissioner under this article or  
19 IC 27-1-3, the insurer has failed to promptly make available for  
20 examination any of its own property, books, accounts, documents,  
21 or other records, or those of any subsidiary or related company  
22 within the control of the insurer, or those of any person having  
23 executive authority in the insurer so far as they concern the  
24 insurer.
- 25 (7) Without first obtaining the written consent of the  
26 commissioner, the insurer has transferred, or attempted to  
27 transfer, in a manner contrary to IC 27-1-23 or IC 27-6,  
28 substantially all of its entire property or business, or has entered  
29 into any transaction the effect of which is to merge, consolidate,  
30 or reinsure substantially its entire property or business in or with  
31 the property or business of any other person.
- 32 (8) The insurer or its property has been or is the subject of an  
33 application for the appointment of a receiver, trustee, custodian,  
34 conservator, or sequestrator or similar fiduciary of the insurer or  
35 its property otherwise than as authorized under this title, and the  
36 appointment has been made or is imminent, and the appointment  
37 might:
- 38 (A) remove the insurer from the jurisdiction of the Indiana  
39 courts; or
- 40 (B) prejudice orderly delinquency proceedings under this  
41 article.
- 42 (9) Within the previous four (4) years the insurer has willfully





1 violated its charter or articles of incorporation, its bylaws, this  
2 title, or any valid order of the commissioner under IC 27-9-2-1.

3 (10) The insurer has failed to pay within sixty (60) days after the  
4 due date any obligation to any state or any political subdivision of  
5 any state or any judgment entered in any state, if the court in  
6 which the judgment was entered had jurisdiction over the subject  
7 matter. However, nonpayment shall not be a ground until sixty  
8 (60) days after any good faith effort by the insurer to contest the  
9 obligation has been terminated, whether it is before the  
10 commissioner or in the courts, or the insurer has systematically  
11 attempted to compromise or renegotiate previously agreed  
12 settlements with its creditors on the ground that it is financially  
13 unable to pay its obligations in full.

14 (11) The insurer has failed to file its annual report or other  
15 financial report required by law and, after written demand by the  
16 commissioner, has failed to immediately give an adequate  
17 explanation.

18 (12) The board of directors or the holders of a majority of the  
19 shares entitled to vote, or a majority of those individuals entitled  
20 to the control of those entities, request or consent to rehabilitation  
21 under this article.

22 (13) The insurer is a mutual insurance holding company under  
23 IC 27-14 (**before its repeal**) or IC 27-14.5 and a reorganized  
24 insurance company that is affiliated with the mutual insurance  
25 holding company and is or has been the subject of a petition for  
26 an order authorizing the commissioner to rehabilitate the  
27 reorganized insurance company under this section or to liquidate  
28 the reorganized insurance company under section 6 of this  
29 chapter, regardless of whether another basis exists for petitioning  
30 for rehabilitation of the mutual insurance holding company.

31 SECTION 25. IC 27-13-23-2 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The commissioner  
33 may make an examination concerning the quality management program  
34 of a health maintenance organization whenever necessary for the  
35 protection of the citizens of Indiana. However, an examination of the  
36 quality management program of a health maintenance organization  
37 domiciled in Indiana must be conducted at least once every ~~three (3)~~  
38 **five (5)** years.

39 SECTION 26. IC 27-14 IS REPEALED [EFFECTIVE MAY 1,  
40 2023]. (Mutual Insurance Holding Company Law).

41 SECTION 27. IC 27-14.5 IS ADDED TO THE INDIANA CODE  
42 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE MAY



1, 2023]:

2       **ARTICLE 14.5. MUTUAL INSURANCE HOLDING**  
 3       **COMPANY LAW**

4       **Chapter 1. General Provisions and Definitions**

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

7       **Sec. 2. (a) This article replaces IC 27-14, as repealed by this**  
 8       **House Enrolled Act 1329-2023.**

9       **(b) The repeal of IC 27-14 does not affect the validity of any**  
 10       **mutual insurance company reorganization that was approved**  
 11       **under IC 27-14. Any existing mutual insurance holding company**  
 12       **and any related intermediate stock holding company or**  
 13       **reorganized insurer created or reorganized under IC 27-14 (before**  
 14       **its repeal) are:**

15           **(1) governed by this article after April 30, 2023; and**

16           **(2) considered created or reorganized as of the date the**  
 17           **mutual insurance holding company, related intermediate**  
 18           **stock holding company, or reorganized insurer was created or**  
 19           **reorganized, as applicable, under IC 27-14.**

20       **Sec. 3. (a) This article is intended to enable mutual insurance**  
 21       **companies to seek additional capital more effectively to:**

22           **(1) enhance their financial strength and flexibility;**

23           **(2) support long term growth internally and through mergers**  
 24           **and acquisitions; and**

25           **(3) expand and enhance the domestic insurance companies of**  
 26           **this state.**

27       **(b) This article provides an alternative organizational structure**  
 28       **to help strengthen the Indiana mutual insurance industry by**  
 29       **permitting mutual insurance companies to:**

30           **(1) reorganize into a mutual insurance holding company**  
 31           **structure; and**

32           **(2) raise capital through the sale of capital stock.**

33       **Sec. 4. The definitions set forth in this chapter apply throughout**  
 34       **this article.**

35       **Sec. 5. (a) Subject to subsection (b), "acting in concert" means:**

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

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

40           **(3) a combination or pooling of voting interests or other**  
 41           **interests in the securities of any person for a common purpose**  
 42           **under any contract, understanding, relationship, agreement,**



1 or other arrangement, written or otherwise.

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

3 (1) its trustee; or

4 (2) a person who serves in a capacity similar to a trustee;  
5 solely for the purpose of determining whether capital stock held by  
6 the trustee or the person in a similar capacity and capital stock  
7 held by the plan will be aggregated.

8 Sec. 6. "Adoption date" means, with respect to a plan, the date  
9 on which the board of directors approves a plan of reorganization  
10 or a plan to issue stock.

11 Sec. 7. "Affiliate" means a person who, directly or indirectly:

12 (1) controls;

13 (2) is controlled by; or

14 (3) is under common control with;

15 another person.

16 Sec. 8. "Applicant" means, with respect to a plan, a person that  
17 has submitted a plan to the commissioner under this article.

18 Sec. 9. (a) Subject to subsection (b), "associate" means any of  
19 the following:

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

23 (A) an officer;

24 (B) a partner; or

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

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

30 (A) spouse; or

31 (B) member of the immediate family sharing the same  
32 household.

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

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

38 (1) has a beneficial interest in; or

39 (2) serves as a trustee or in a similar fiduciary capacity for;  
40 an employee benefit plan.

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



1           **Sec. 11. "Company" means any of the following:**

- 2           (1) A mutual insurance company.  
 3           (2) A mutual insurance holding company.  
 4           (3) An intermediate stock holding company.  
 5           (4) A reorganized insurer.

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

8           **Sec. 13. "Eligible member" means, with respect to a plan, a**  
 9 **person who is a member of a mutual insurance company or mutual**  
 10 **insurance holding company, as applicable, on the adoption date of**  
 11 **a plan and:**

- 12           (1) solely for purposes of receipt of notice of and voting at a  
 13           meeting of members on a plan of reorganization, continues to  
 14           be a member of the mutual insurance company on the record  
 15           date for the meeting of members; or  
 16           (2) solely for purposes of eligibility to receive stock  
 17           subscription rights, if any, under a plan to issue stock,  
 18           continues to be a member of the mutual insurance company  
 19           or mutual insurance holding company, as applicable, on the  
 20           date the commissioner approves the plan to issue stock.

21           **Sec. 14. "Employee benefit plan" means an employee benefit**  
 22 **plan established by a mutual insurance holding company or by one**  
 23 **(1) or more of the subsidiaries of a mutual insurance holding**  
 24 **company for the sole benefit of its:**

- 25           (1) employees; or  
 26           (2) sales agents.

27           **Sec. 15. "Entity" has the meaning set forth in IC 23-0.5-1.5-8.**

28           **Sec. 16. "Immediate family" means any child, stepchild,**  
 29 **grandchild, parent, stepparent, grandparent, sibling,**  
 30 **mother-in-law, father-in-law, daughter-in-law, son-in-law,**  
 31 **brother-in-law, or sister-in-law. The term includes adoptive**  
 32 **relationships.**

33           **Sec. 17. "Intermediate stock holding company" means an entity,**  
 34 **other than a reorganized insurer and its subsidiaries, that:**

- 35           (1) is owned entirely or in part, directly or indirectly, by a  
 36           mutual insurance holding company; and  
 37           (2) directly or indirectly owns all or part of the capital stock  
 38           of a reorganized insurer.

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

- 40           (1) records; and  
 41           (2) articles of incorporation and bylaws;  
 42 **of a mutual insurance company or mutual insurance holding**



1 company, as applicable, is a member or policyholder of the mutual  
 2 insurance company or mutual insurance holding company, as  
 3 applicable, with voting rights.

4 **Sec. 19. "Member's interest" means:**

5 (1) the voting rights of a member provided by the mutual  
 6 insurance company's or the mutual insurance holding  
 7 company's articles of incorporation or bylaws; and

8 (2) the right to receive cash, stock, or other consideration in  
 9 the event of a liquidation or dissolution under IC 27-1-10,  
 10 conversion to a stock company under IC 27-15, or as provided  
 11 by the mutual insurance company's or mutual insurance  
 12 holding company's articles of incorporation or bylaws.

13 **Sec. 20. "Mutual insurance company" means a mutual insurer**  
 14 **that is:**

15 (1) submitting; or

16 (2) subject to;

17 a plan of reorganization or plan to issue stock under this article.

18 **Sec. 21. "Mutual insurance holding company" means a mutual**  
 19 **insurance holding company established under IC 27-14.5-2.**

20 **Sec. 22. "Participating policy" means a policy providing for the**  
 21 **distribution of policy dividends.**

22 **Sec. 23. "Person" means any of the following:**

23 (1) An individual.

24 (2) A group of individuals acting in concert.

25 (3) A trust.

26 (4) An association.

27 (5) A partnership.

28 (6) A limited liability company.

29 (7) A corporation.

30 (8) A joint venture.

31 (9) A government or governmental subdivision, agency, or  
 32 instrumentality.

33 (10) Any entity.

34 **Sec. 24. "Plan" means a plan:**

35 (1) of reorganization; or

36 (2) to issue stock.

37 **Sec. 25. "Plan of reorganization" means a plan adopted under**  
 38 **IC 27-14.5-2.**

39 **Sec. 26. "Plan to issue stock" means a plan to issue shares of**  
 40 **stock of an intermediate stock holding company or a reorganized**  
 41 **insurer adopted under IC 27-14.5-3.**

42 **Sec. 27. "Policy" means a contract providing one (1) or more of**



1 the kinds of insurance described in IC 27-1-5-1.

2 **Sec. 28. "Reorganized insurer" means an entity:**

3 (1) that is a domestic stock insurance company that is owned  
4 entirely or in part by a mutual insurance holding company or  
5 an intermediate stock holding company; and

6 (2) the members of which:

7 (A) may be; or

8 (B) are entitled to become;

9 members of the mutual insurance holding company.

10 **Sec. 29. "Subsidiary" means, with respect to a particular**  
11 **person, an affiliate of the person that is controlled by the person,**  
12 **either:**

13 (1) directly; or

14 (2) indirectly through one (1) or more intermediaries.

15 **Sec. 30. "Voting capital stock" means capital stock whose holder**  
16 **has the right to vote in the election of directors of the entity issuing**  
17 **the stock.**

18 **Chapter 2. Mutual Insurance Company Reorganization**

19 **Sec. 1. (a) A mutual insurance company may reorganize under**  
20 **this chapter as a mutual insurance holding company with one (1)**  
21 **or more subsidiaries if the following occur:**

22 (1) The adoption of a plan of reorganization by the mutual  
23 insurance company's board of directors in accordance with  
24 section 4 of this chapter.

25 (2) The approval by the commissioner of the mutual insurance  
26 company's application for reorganization.

27 (3) The favorable vote of the mutual insurance company's  
28 members under sections 8 through 12 of this chapter.

29 (b) The subsidiaries of a mutual insurance holding company  
30 that result from a reorganization of a mutual insurance company  
31 under this chapter:

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

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

36 **Sec. 2. The reorganization of a mutual insurance company or**  
37 **two (2) or more mutual insurance companies into a mutual**  
38 **insurance holding company structure under this chapter may be**  
39 **accomplished by any means approved by the commissioner,**  
40 **including the following:**

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

42 (2) The amendment or restatement of the articles and bylaws



- 1 of any company.
- 2 (3) The transfer or acquisition of any or all of the assets and
- 3 liabilities of any company.
- 4 (4) The transfer or acquisition of any or all of the capital stock
- 5 of any company.
- 6 (5) The merger of two (2) or more companies.
- 7 (6) The merger of a mutual insurance company's members
- 8 into any existing mutual insurance holding company with
- 9 continued corporate existence of the reorganized mutual
- 10 insurance company as a reorganized insurer.
- 11 **Sec. 3. After the effective date of the reorganization of a mutual**
- 12 **insurance company as a mutual insurance holding company under**
- 13 **this chapter, the mutual insurance holding company must at all**
- 14 **times have the direct or indirect power to cast at least a majority**
- 15 **of the votes for the election of the members of the board of**
- 16 **directors of:**
- 17 (1) each stock insurance company subsidiary; and
- 18 (2) any intermediate stock holding company.
- 19 **Sec. 4. A plan of reorganization under this chapter must be**
- 20 **adopted by:**
- 21 (1) a vote of not less than two-thirds (2/3) of the members of
- 22 the board of directors of the mutual insurance company; or
- 23 (2) in the case of the formation of any intermediate stock
- 24 insurance holding company that is not concurrent with the
- 25 formation of the mutual insurance holding company, by a vote
- 26 of not less than two-thirds (2/3) of the members of the board
- 27 of directors of the mutual insurance holding company.
- 28 **Sec. 5. Not later than ninety (90) days after the adoption of a**
- 29 **plan of reorganization and before a vote on the plan by the**
- 30 **members, the company adopting the plan of reorganization must**
- 31 **file with the commissioner an application containing the following:**
- 32 (1) A plan of reorganization.
- 33 (2) The form of the notice, proxy statement, and the proxy
- 34 form to be used in providing notice of the plan of
- 35 reorganization and soliciting the votes of members under
- 36 section 11 of this chapter.
- 37 (3) A list of the officers and directors of each company that is
- 38 affected by the plan of reorganization.
- 39 **Sec. 6. (a) A plan of reorganization filed with the commissioner**
- 40 **under this chapter must include the following:**
- 41 (1) A description of all significant terms of the proposed
- 42 reorganization.



- 1           **(2) Any plan to issue stock that may be proposed in connection**  
2           **with the plan of reorganization.**
- 3           **(3) A statement describing how the reorganization is fair and**  
4           **equitable to the members.**
- 5           **(4) With respect to participating policies and contracts of the**  
6           **reorganized insurer, a description of the current dividend**  
7           **practices of the mutual insurance company and the dividend**  
8           **practices to be followed by the reorganized insurer on and**  
9           **after the effective date of the plan of reorganization.**
- 10          **(5) Information sufficient to demonstrate that the financial**  
11          **condition of the mutual insurance company will not be**  
12          **diminished upon reorganization.**
- 13          **(6) Provisions that provide the following:**
- 14               **(A) Immediate membership in the mutual insurance**  
15               **holding company for all existing members of the mutual**  
16               **insurance company.**
- 17               **(B) A member's interest in a mutual insurance holding**  
18               **company may not be transferred, assigned, pledged, or**  
19               **alienated in any manner except in connection with a**  
20               **transfer, assignment, pledge, or alienation of the policy**  
21               **from which the member's interest is derived.**
- 22               **(C) A member's interest in a mutual insurance holding**  
23               **company will automatically terminate upon the lapse or**  
24               **other termination of the policy from which the member's**  
25               **interest is derived.**
- 26          **(7) Provisions for the discretionary granting of membership**  
27          **interests for existing or future policyholders of the**  
28          **reorganized insurer and any other existing or future direct or**  
29          **indirect stock insurance company subsidiary.**
- 30          **(8) Provisions to ensure that, in the event of proceedings for**  
31          **rehabilitation or liquidation involving a stock insurance**  
32          **company subsidiary of the mutual insurance holding**  
33          **company, the assets of the mutual insurance holding company**  
34          **will be available to satisfy the policyholder obligations of the**  
35          **stock insurance company subsidiary.**
- 36          **(9) The proposed articles of incorporation and bylaws of the**  
37          **mutual insurance holding company, intermediate stock**  
38          **holding company, and reorganized insurer or proposed**  
39          **amendments thereto as necessary to effectuate the**  
40          **reorganization.**
- 41          **(10) A certification that the plan of reorganization has been**  
42          **duly adopted by a vote of not less than two-thirds (2/3) of the**





- 1 members of the board of directors of the mutual insurance  
2 company.
- 3 (11) The names, addresses, and occupational information of  
4 all corporate officers and all members of the board of  
5 directors of the proposed mutual insurance holding company.
- 6 (12) A description of any plans for the initial sale of stock of  
7 the intermediate stock holding company or reorganized  
8 insurer.
- 9 (13) With regard to a policy of the mutual insurance company  
10 in force on the effective date of a plan of reorganization, a  
11 provision that provides the policy continues to remain in force  
12 under the policy's terms as the policy of the reorganized  
13 insurer.
- 14 (14) Any other information requested by the commissioner.
- 15 (b) A plan of reorganization that is filed with the commissioner  
16 under this chapter may also include any other provision acceptable  
17 to the commissioner.
- 18 **Sec. 7. A plan of reorganization that is adopted by the board of**  
19 **directors of the applicant may be amended or terminated by a vote**  
20 **of not less than two-thirds (2/3) of the members of the board of**  
21 **directors of the applicant:**
- 22 (1) in response to the comments or recommendations of the  
23 commissioner, or any other state or federal agency or entity,  
24 before any solicitation of proxies from the members to vote on  
25 the plan of reorganization;
- 26 (2) at any time before the members vote on the plan of  
27 reorganization; or
- 28 (3) otherwise, at any time, with the consent of the  
29 commissioner.
- 30 **Sec. 8. (a) A plan of reorganization must be submitted for**  
31 **approval by the members at a special or annual meeting of**  
32 **members held in accordance with IC 27-1-7-7.**
- 33 (b) The meeting of members under subsection (a) must be held  
34 after the commissioner has approved the plan under IC 27-14.5-4.
- 35 **Sec. 9. In accordance with IC 27-1-7-9, a member:**
- 36 (1) may vote in person or by proxy; and
- 37 (2) is entitled to cast only one (1) vote on the proposed plan of  
38 reorganization, regardless of the number of policies or the  
39 amount of insurance that the member may have with the  
40 applicant or any affiliate of the applicant.
- 41 **Sec. 10. All members, in accordance with IC 27-1-7-7, must be**  
42 **provided with notice of the meeting at which the plan of**



1 reorganization will be submitted for approval by the members in  
 2 the manner outlined in the plan of reorganization approved by the  
 3 commissioner.

4 **Sec. 11. A person soliciting a proxy from a member shall**  
 5 **provide all members with a proxy statement that:**

- 6 (1) identifies the person soliciting the proxy;  
 7 (2) informs the member of the right to vote upon the plan of  
 8 reorganization and the vote required for approval;  
 9 (3) briefly describes the proposed plan of reorganization and  
 10 any voting capital stock to be offered;  
 11 (4) explains the use of any new capital to be raised; and  
 12 (5) describes any employee benefit plan or stock option plan.

13 **Sec. 12. A plan of reorganization is approved under this chapter**  
 14 **upon the affirmative vote of at least a majority of the votes cast by**  
 15 **eligible members either in person or by proxy.**

16 **Sec. 13. Not later than thirty (30) days after the members have**  
 17 **approved a plan of reorganization under this chapter, the applicant**  
 18 **must file with the commissioner the minutes of the meeting at**  
 19 **which the plan of reorganization was approved.**

20 **Sec. 14. The reorganized insurer to which insurance policies,**  
 21 **contracts, and other assets and obligations are transferred in**  
 22 **connection with a plan of reorganization under this chapter has,**  
 23 **with respect to the insurance policies, contracts, and other assets**  
 24 **and obligations, all rights, liabilities, and authority of the mutual**  
 25 **insurance company that is subject to the plan of reorganization.**

26 **Sec. 15. If a proceeding is pending against a mutual insurance**  
 27 **company that is the subject of a plan of reorganization under this**  
 28 **chapter:**

- 29 (1) the proceeding may be continued against the reorganized  
 30 insurer under its former name after the effective date of the  
 31 reorganization, as if the reorganization had not occurred; or  
 32 (2) the reorganized insurer that succeeds to the mutual  
 33 insurance company's business may be substituted in the  
 34 proceeding for the mutual insurance company.

35 **Sec. 16. The reorganized insurer, at its discretion, may retain**  
 36 **the name the reorganized insurer had prior to its reorganization**  
 37 **into a mutual insurance holding company structure.**

38 **Chapter 3. Issuance of Capital Stock**

39 **Sec. 1. (a) Subject to subsection (c), a reorganized insurer may**  
 40 **issue shares of any class or type of stock permitted under this title.**

41 **(b) Subject to subsection (c), an intermediate stock holding**  
 42 **company may issue any class or type of stock permitted by the law**



1 under which the intermediate stock holding company is organized.

2 (c) A reorganized insurer and an intermediate stock holding  
3 company may issue shares of stock to a person or entity other than:

4 (1) the mutual insurance holding company of which it is a  
5 subsidiary; or

6 (2) an intermediate stock holding company that is a subsidiary  
7 of the mutual insurance holding company referred to in  
8 subdivision (1);

9 only in compliance with this chapter.

10 Sec. 2. A plan to issue stock under this chapter must be adopted:

11 (1) by a vote of not less than two-thirds (2/3) of the members  
12 of the board of directors of the mutual insurance company; or

13 (2) in the case of a plan to issue shares of stock that is not  
14 concurrent with the formation of the mutual insurance  
15 holding company, by a vote of not less than two-thirds (2/3) of  
16 the members of the board of directors of the mutual insurance  
17 holding company and the reorganized insurer or intermediate  
18 stock holding company proposing to issue the stock.

19 Sec. 3. A board of directors that adopts a plan to issue stock  
20 under this chapter may amend or withdraw the plan at any time  
21 before the effective date by a vote of not less than two-thirds (2/3)  
22 of the members of the board of directors. However, after the  
23 commissioner has approved a plan to issue stock, the plan may not  
24 be amended unless the commissioner approves the amendment.

25 Sec. 4. Not later than ninety (90) days after the adoption of a  
26 plan to issue stock, the reorganized insurer or intermediate stock  
27 holding company adopting the plan must file with the  
28 commissioner an application that contains the following:

29 (1) A proposed plan to issue stock.

30 (2) The form of notice to be sent to members informing  
31 members of the member's right to vote on the plan.

32 (3) The form of the proxy statement to be used to solicit the  
33 votes of members, which must include a description of the  
34 plan.

35 (4) The form of proxy to be solicited from members.

36 (5) If it is necessary to amend the current articles of  
37 incorporation or bylaws of a company that is affected by the  
38 plan, a copy of the proposed articles of amendment and  
39 amended bylaws of the company, which must comply with the  
40 requirements of IC 27-1-8.

41 (6) A list of the officers and directors of each company that is  
42 affected by the plan.



- 1           **(7) A description of the following:**  
 2           **(A) The stock intended to be offered by the applicant.**  
 3           **(B) All shareholder rights applicable to the stock intended**  
 4           **to be offered by the applicant.**  
 5           **(C) The total number of shares authorized to be issued.**  
 6           **(D) The estimated number of shares the applicant intends**  
 7           **to offer.**  
 8           **(E) The intended date or range of dates for the offering.**  
 9           **(8) A list of the following:**  
 10           **(A) The name or names of any underwriter, syndicate**  
 11           **member, or placement agent involved.**  
 12           **(B) If known by the applicant, the name or names of each**  
 13           **person or group of persons who will control five percent**  
 14           **(5%) or more of the total outstanding shares of the class of**  
 15           **stock to be offered.**  
 16           **(C) If any of the persons listed under clause (A) or (B) is a**  
 17           **corporation or other business entity, the name of each**  
 18           **member of its board of directors or equivalent**  
 19           **management body.**  
 20           **(9) Copies of any filings that have been made, if applicable,**  
 21           **with the United States Securities and Exchange Commission.**  
 22           **(10) A description of all expenses expected to be incurred in**  
 23           **connection with the plan to issue stock.**  
 24           **(11) Any other information requested by the commissioner.**  
 25           **Sec. 5. A plan to issue stock that is filed with the commissioner**  
 26           **under this chapter must do the following:**  
 27           **(1) Describe the reasons for and the purposes of the proposed**  
 28           **issuance of shares of stock.**  
 29           **(2) Require that, after the effective date, the mutual insurance**  
 30           **holding company must at all times have the direct or indirect**  
 31           **power to cast at least a majority of the votes for the election**  
 32           **of the members of the board of directors of the reorganized**  
 33           **insurer and any intermediate stock holding company.**  
 34           **(3) Provide that the aggregate total number of shares of stock**  
 35           **that may be purchased by the directors and officers of the**  
 36           **mutual insurance holding company and its subsidiaries and**  
 37           **associates may not exceed thirty percent (30%) of the total**  
 38           **number of shares of stock to be issued, not including any**  
 39           **shares attributed to the officers and directors and their**  
 40           **associates but held by one (1) or more tax-qualified employee**  
 41           **benefit plans.**  
 42           **(4) Provide that the aggregate total number of shares of stock**



- 1 that may be purchased by:
- 2 (A) a single director or officer of the mutual insurance
- 3 holding company or the subsidiaries of the mutual
- 4 insurance holding company;
- 5 (B) associates of a person referred to in clause (A); and
- 6 (C) persons acting in concert with a person referred to in
- 7 clause (A) or (B);
- 8 may not exceed five percent (5%) of the total number of
- 9 shares to be issued under the plan, not including any shares
- 10 attributed to the officers and directors and their associates
- 11 but held by one (1) or more tax-qualified employee benefit
- 12 plans.
- 13 (5) Provide that a director, officer, agent, or employee of the
- 14 mutual insurance holding company or its subsidiaries, or an
- 15 associate of a director, officer, agent, or employee may not
- 16 receive any fee, commission, or other valuable consideration
- 17 for aiding, promoting, or assisting in the issuance of stock
- 18 under this section, except for:
- 19 (A) compensation as provided for in the plan and approved
- 20 by the commissioner;
- 21 (B) the person's usual, regular salary or compensation;
- 22 and
- 23 (C) reasonable fees and compensation paid to an individual
- 24 who is an attorney, accountant, or actuary for services
- 25 performed in the individual's independent practice, even
- 26 if the individual is also a director, officer, agent, or
- 27 employee of the mutual insurance holding company or its
- 28 subsidiaries.
- 29 (6) Describe:
- 30 (A) how the offering price of the stock to be sold was
- 31 established; or
- 32 (B) the method by which the offering price will be
- 33 determined.
- 34 Sec. 6. A plan to issue stock in a public offering (other than an
- 35 offering in a private placement or solely in connection with a
- 36 consolidation, merger, share exchange, or other business
- 37 combination or an offering of stock in connection with an employee
- 38 benefit plan or under a stock option plan) must do the following:
- 39 (1) Provide for each eligible member to receive, without
- 40 payment, nontransferable subscription rights to purchase a
- 41 portion of the stock of the applicant and describe how the
- 42 offering price of the stock that may be purchased was



1 established or the method by which that price will be  
 2 determined, except that subscription rights need not be  
 3 granted to an eligible member who resides in a foreign  
 4 country or other jurisdiction for which the commissioner  
 5 determines that any registration, qualification, or filing  
 6 requirements would be impracticable or unduly burdensome  
 7 for reasons of cost or otherwise.

8 (2) Specify how subscription rights are to be allocated in  
 9 whole shares of stock among the eligible members.

10 (3) Provide a fair and equitable means for allocating shares of  
 11 stock in the event of an over-subscription to the shares by  
 12 eligible members exercising subscription rights received  
 13 under this chapter.

14 (4) Provide that any portion of shares not subject to  
 15 subscription rights and any shares of stock not subscribed to  
 16 by eligible members exercising subscription rights received  
 17 under this chapter, or not subscribed to by an employee  
 18 benefit plan or by directors, officers, and employees  
 19 exercising subscription rights, will be sold:

20 (A) in a public offering through an underwriter;

21 (B) through private placement; or

22 (C) by any other method approved by the commissioner  
 23 that is fair and equitable to members.

24 (5) Require a person that exercises subscription rights to:

25 (A) purchase at least a minimum number of shares of  
 26 stock; or

27 (B) a minimum dollar amount of shares of stock.

28 (6) Require that a majority of the members of the board of  
 29 directors of the mutual insurance holding company must be  
 30 persons who are not officers or employees of the mutual  
 31 insurance holding company or any of its subsidiaries, unless  
 32 this requirement is waived by the commissioner upon a  
 33 showing of good cause.

34 (7) Require that at least three (3) members of the board of  
 35 directors of the:

36 (A) intermediate stock holding company; or

37 (B) reorganized insurer if there is no intermediate stock  
 38 holding company;

39 of the mutual insurance holding company must be persons  
 40 who are not officers or employees of the mutual insurance  
 41 holding company or any of its subsidiaries, unless this  
 42 requirement is waived by the commissioner upon a showing



1 of good cause.

2 **(8) Provide that the mutual insurance holding company will**  
 3 **adopt articles of incorporation or articles of amendment that**  
 4 **include a provision prohibiting the mutual insurance holding**  
 5 **company from waiving any dividends from its subsidiaries**  
 6 **except:**

7 **(A) under conditions specified in the articles of**  
 8 **incorporation; and**

9 **(B) after approval of the waiver by the board of directors**  
 10 **of the mutual insurance holding company and by the**  
 11 **commissioner.**

12 **Sec. 7. A reorganized insurer or intermediate stock holding**  
 13 **company may offer and sell voting capital stock without complying**  
 14 **with sections 2 through 6 of this chapter if the board of directors**  
 15 **of the reorganized insurer or intermediate stock holding company**  
 16 **approves the offer and sale and each of the following conditions are**  
 17 **satisfied:**

18 **(1) The offer is not the first offering of voting capital stock by**  
 19 **the reorganized insurer or intermediate stock holding**  
 20 **company to a person or persons other than a mutual**  
 21 **insurance holding company or intermediate stock holding**  
 22 **company.**

23 **(2) The stock that is to be offered and sold is:**

24 **(A) listed or approved for listing upon notice of issuance on**  
 25 **the New York Stock Exchange, the Nasdaq Stock Market,**  
 26 **LLC, or any other exchange approved and designated by**  
 27 **the commissioner; or**

28 **(B) of senior rank or substantially equal rank to stock of**  
 29 **the same issuer that is listed or designated under clause**  
 30 **(A).**

31 **(3) The reorganized insurer or intermediate stock holding**  
 32 **company intending to make the offering delivers to the**  
 33 **commissioner, at least thirty (30) days before commencing the**  
 34 **offering, a notice containing the following information:**

35 **(A) The name of the entity intending to make the offering**  
 36 **and the affiliated mutual insurance holding company.**

37 **(B) The total number and type of shares that are intended**  
 38 **to be offered.**

39 **(C) The intended date of the sale and whether the sale will**  
 40 **be by an underwritten public offering, a private offering,**  
 41 **or otherwise.**

42 **(D) The exchanges on which the shares (or shares of junior**



1 or substantially equal rank) are listed, or the national  
 2 market systems on which the shares are designated  
 3 (demonstrating compliance with subdivision (2)), together  
 4 with the symbols under which the shares are traded.

5 (E) A record of the trading price and trading volume of the  
 6 previously issued voting capital stock shares during the  
 7 immediately preceding fifty-two (52) weeks or shorter  
 8 period of time if trading for a shorter period of time.

9 (4) The commissioner does not issue a written objection to the  
 10 offering and sale of voting capital stock under this section  
 11 without compliance with sections 2 through 6 of this chapter  
 12 within twenty (20) days after the commissioner receives the  
 13 notice filed under subdivision (3).

14 (5) The offer and sale of stock is completed not more than one  
 15 hundred eighty (180) days after the commissioner receives the  
 16 notice filed under subdivision (3), except as otherwise  
 17 provided by order of the commissioner.

18 **Sec. 8. A mutual insurance holding company and its subsidiaries  
 19 and affiliates may not do any of the following:**

20 (1) Lend funds to any person to finance the purchase of stock  
 21 in a stock offering by a mutual insurance holding company or  
 22 any of its subsidiaries.

23 (2) Pay commissions, "special fees", or other special or  
 24 extraordinary compensation to officers, directors, interested  
 25 persons, or affiliates for arranging, promoting, aiding,  
 26 assisting, or participating in the structure or placement of a  
 27 stock offering by the mutual insurance holding company or  
 28 any of its subsidiaries, except to the extent permitted under  
 29 section 5(5) of this chapter.

30 **Sec. 9. (a) This section does not apply to the payment of  
 31 dividends, savings, or unabsorbed premium deposits allowed or  
 32 returned as set forth in IC 27-7-2-37.5 or other similar programs  
 33 permitted or filed in other states.**

34 (b) The reorganized insurer must obtain approval by the  
 35 commissioner of the dividend practices with respect to  
 36 participating policies and contracts in force as of the effective date  
 37 of the reorganization to be followed by the reorganized insurer as  
 38 set forth in IC 27-14.5-2-6(4) if the dividend practices of the  
 39 reorganized insurer will be different from the dividend practices  
 40 of the mutual insurance company.

41 (c) The commissioner may require the establishment of a closed  
 42 block or other mechanism that the commissioner finds to be fair





1 for the protection of mutual insurance company policyholder  
2 dividends.

3 (d) The dividend practices of the reorganized insurer, the  
4 requirement to establish a closed block or other mechanism, if any,  
5 or the terms of the closed block, may be modified after approval  
6 under subsection (b) or subsequent to a reorganization under  
7 IC 27-14.5-2 only with the prior approval of the commissioner on  
8 application of the reorganized insurer.

9 (e) Neither an intermediate stock holding company nor a  
10 reorganized insurer may pay dividends or make other distributions  
11 with respect to its stock or its shareholders if the reorganized  
12 insurer has failed to pay policyholder dividends in compliance with  
13 the dividend practices approved by the commissioner in  
14 accordance with this section.

15 **Chapter. 4. Public Hearing, Public Comment, Commissioner**  
16 **Approval, and Effective Date of Plan**

17 **Sec. 1. Not more than sixty (60) days after the filing of a plan of**  
18 **reorganization that:**

19 (1) is complete; and

20 (2) does not include a plan to issue stock;

21 the commissioner shall approve the plan without holding a hearing  
22 unless the commissioner concludes that one (1) or more of the  
23 findings listed in section 6 of this chapter is likely to be made.

24 **Sec. 2. Not more than sixty (60) days after:**

25 (1) the filing of a plan of reorganization that:

26 (A) is complete; and

27 (B) includes a plan to issue stock; or

28 (2) the filing of an application with respect to a plan to issue  
29 stock that is:

30 (A) complete; and

31 (B) filed sometime after the consummation of an approved  
32 plan of reorganization;

33 the commissioner may, if deemed necessary because the  
34 commissioner believes that one (1) or more of the findings listed in  
35 section 6 of this chapter may be made, conduct a public hearing or  
36 allow public comment for a period of not more than sixty (60) days  
37 to afford interested persons an opportunity to present information,  
38 views, arguments, or comments in regard to the proposed plan.

39 **Sec. 3. (a) If the commissioner deems that a public hearing or**  
40 **public comment period is necessary, the commissioner shall**  
41 **provide written notice of a hearing or comment period held under**  
42 **this chapter at least thirty (30) days before the hearing or sixty (60)**



1 days before the end of the comment period by publication in:

- 2 (1) a newspaper of general circulation in the city of  
 3 Indianapolis;  
 4 (2) a newspaper of general circulation in the city in which the  
 5 principal office of the applicant is located; and  
 6 (3) a newspaper of general circulation in any other city or  
 7 cities that the commissioner deems appropriate.

8 The commissioner may provide written notice of the hearing or  
 9 comment period by other means and to persons that the  
 10 commissioner deems appropriate.

11 (b) The notice provided under this section must:

- 12 (1) refer to the applicable statutory provisions;  
 13 (2) state the:  
 14 (A) date, time, and location of the hearing; or  
 15 (B) means by which comments may be submitted; and  
 16 (3) include a brief statement of the subject of the hearing or  
 17 comment period.

18 Sec. 4. At a hearing held under this chapter:

- 19 (1) any interested person may appear;  
 20 (2) any interested person may:  
 21 (A) file a written statement; or  
 22 (B) make an oral presentation; and  
 23 (3) at the discretion of the commissioner or the  
 24 commissioner's appointee, testimony may be taken under oath  
 25 or by affirmation.

26 Sec. 5. The commissioner shall approve or disapprove any plan  
 27 submitted under this article on or before the later of:

- 28 (1) thirty (30) days after a hearing or comment period held  
 29 under this chapter; or  
 30 (2) thirty (30) days after the commissioner accepts the  
 31 application relating to the plan.

32 Sec. 6. The commissioner shall approve a plan submitted under  
 33 this article unless the commissioner makes at least one (1) of the  
 34 following findings with respect to the plan:

- 35 (1) Disapproval of the plan is necessary to prevent practices  
 36 that will cause material financial impairment to the applicant  
 37 or its subsidiaries.  
 38 (2) The financial position or management resources and  
 39 capabilities of the applicant or its subsidiaries or affiliates  
 40 warrant disapproval.  
 41 (3) The plan does not comply with this article.  
 42 (4) The proposed plan would not be fair and equitable to the



1 members.

2 **Sec. 7. (a) The commissioner shall transmit to the applicant any**  
 3 **order approving or disapproving a plan submitted under this**  
 4 **article.**

5 **(b) If the commissioner disapproves a plan, the commissioner**  
 6 **shall provide the applicant with a written statement detailing:**

- 7 **(1) the reasons for; and**  
 8 **(2) all findings in connection with;**  
 9 **the disapproval.**

10 **Sec. 8. The approval by the commissioner of a plan to issue**  
 11 **stock expires one hundred eighty (180) days after the date of**  
 12 **approval, except as otherwise provided by an order of the**  
 13 **commissioner.**

14 **Sec. 9. Except as otherwise provided in this article, the**  
 15 **organization of a mutual insurance holding company under a plan**  
 16 **under this article must be conducted in compliance with the**  
 17 **provisions of IC 27-1-6 concerning the formation of domestic**  
 18 **insurance companies.**

19 **Sec. 10. (a) Except as otherwise provided in this article and**  
 20 **subject to subsection (b), the amendment of the articles of**  
 21 **incorporation of a mutual insurance company under a plan under**  
 22 **this article must be conducted in compliance with IC 27-1-8.**

23 **(b) The commissioner, the attorney general, and the secretary**  
 24 **of state shall:**

- 25 **(1) examine; and**  
 26 **(2) if warranted, approve;**  
 27 **the proposed articles of amendment before the amended articles**  
 28 **are submitted to the members for approval.**

29 **Sec. 11. (a) Before the commissioner issues a permit for**  
 30 **completion of organization of the mutual insurance holding**  
 31 **company and a certificate of authority for the reorganized insurer**  
 32 **under subsection (b), the commissioner must:**

- 33 **(1) issue notice to the applicant that the commissioner has**  
 34 **approved the plan of reorganization of the applicant under**  
 35 **this article; and**  
 36 **(2) receive the minutes of the meeting of the members at**  
 37 **which the plan was approved under this article.**

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

- 40 **(1) a permit for completion of organization of the mutual**  
 41 **insurance holding company as provided in IC 27-1-6-11; and**  
 42 **(2) a certificate of authority for the reorganized insurer as**



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provided in IC 27-1-8-9.

**Sec. 12. (a) A plan of reorganization is effective when:**

- (1) the commissioner has issued the permit for completion of organization of the mutual insurance holding company; and**
- (2) the certificate of authority for the reorganized insurer has been:**

- (A) issued by the commissioner under this chapter; and**
- (B) recorded in the office of the county recorder of the county in which the principal office of the reorganized insurer is located.**

**(b) A plan to issue stock is effective on the date on which the stock is issued in compliance with this article.**

**Sec. 13. The commissioner may, at the applicant's expense, hire attorneys, actuaries, accountants, investment bankers, and other experts as may be reasonably necessary to assist the commissioner in reviewing an application.**

**Chapter. 5. Mutual Insurance Holding Companies**

**Sec. 1. A mutual insurance holding company organized under this article is subject to any rules adopted by the commissioner under IC 4-22-2.**

**Sec. 2. The articles of incorporation of a mutual insurance holding company must contain the following or provisions at least substantially equivalent to the following:**

- (1) The name of the mutual insurance holding company, which must include the term "mutual" or the abbreviation "MHC".**
- (2) A provision specifying that one (1) purpose of the mutual insurance holding company is, at all times, to have the direct or indirect power to cast at least a majority of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.**
- (3) A provision specifying that the mutual insurance holding company does not have the power to engage in the business of issuing insurance policies or contracts, except through a stock insurance company subsidiary.**
- (4) A provision specifying that the mutual insurance holding company is not authorized to issue voting stock.**
- (5) A provision setting forth any rights of members of the mutual insurance holding company in the equity of the mutual insurance holding company upon dissolution or liquidation.**
- (6) A provision specifying that:**
  - (A) a member of the mutual insurance holding company is**



- 1 not, as a member, personally liable for the acts, debts,  
 2 liabilities, or obligations of the mutual insurance holding  
 3 company; and  
 4 (B) no assessment of any kind may be imposed upon the  
 5 members of the mutual insurance holding company by any  
 6 person, including:  
 7 (i) the board of directors, members, or creditors of the  
 8 mutual insurance holding company; and  
 9 (ii) any governmental office or official, including the  
 10 commissioner;  
 11 because of any liability of any company or because of any  
 12 act, debt, or liability of the mutual insurance holding  
 13 company.
- 14 **Sec. 3. The members of a mutual insurance holding company**  
 15 **have the rights and obligations specified in:**  
 16 (1) this article; and  
 17 (2) the articles of incorporation and bylaws of the mutual  
 18 insurance holding company.
- 19 **Sec. 4. (a) With the written approval of the commissioner, and**  
 20 **subject to any conditions that the commissioner may impose, a**  
 21 **mutual insurance holding company may do any of the following:**  
 22 (1) Merge or consolidate with, or acquire the assets of:  
 23 (A) a mutual insurance holding company licensed under  
 24 this article; or  
 25 (B) any similar entity organized under the laws of any  
 26 other state.  
 27 (2) Either alone or together with one (1) or more of an  
 28 intermediate stock holding company, a stock insurance  
 29 company subsidiaries or other subsidiaries, directly or  
 30 indirectly, acquire the stock or assets of:  
 31 (A) a stock insurance company;  
 32 (B) a mutual insurance company that is reorganized under  
 33 this article or the law of its state of organization; or  
 34 (C) a mutual insurance company.  
 35 (3) Acquire a stock insurance company through the merger of  
 36 the stock insurance company or its parent company, as  
 37 applicable, into:  
 38 (A) a stock insurance company subsidiary; or  
 39 (B) an intermediate stock holding company subsidiary or  
 40 the mutual insurance holding company.  
 41 (b) A mutual insurance holding company and its affiliates may:  
 42 (1) establish any other type of entity as otherwise permitted



- 1           by law; and  
 2           (2) acquire the stock or assets of any other entity or person as  
 3           otherwise permitted by law.  
 4           (c) Whenever a mutual insurance holding company:  
 5           (1) holds;  
 6           (2) acquires; or  
 7           (3) plans to acquire;  
 8           more than fifty percent (50%) of the voting capital stock of a stock  
 9           insurance company, the mutual insurance holding company must  
 10          submit to the commissioner a description of any membership  
 11          interests of policyholders of the stock insurance company in the  
 12          mutual insurance holding company.  
 13          Sec. 5. (a) Except as provided in subsection (b), a mutual  
 14          insurance holding company:  
 15               (1) has and may exercise all the rights and privileges of  
 16               insurance companies formed under this title; and  
 17               (2) is subject to all of the requirements and regulations  
 18               imposed upon insurance companies formed under this title.  
 19          (b) The exceptions referred to in subsection (a) are as follows:  
 20               (1) A mutual insurance holding company has no right or  
 21               privilege to write insurance (except through a stock insurance  
 22               company subsidiary) and is not subject to any requirement or  
 23               rule adopted under IC 4-22-2 relating to the writing of  
 24               insurance.  
 25               (2) A mutual insurance holding company is not subject to the  
 26               surplus requirements in IC 27-1-6-15.  
 27               (3) A mutual insurance holding company is not subject to the  
 28               deposit requirement in IC 27-1-6-15(d).  
 29               (4) A mutual insurance holding company is not subject to the  
 30               investment requirements under IC 27-1-12, IC 27-1-13, or  
 31               IC 27-1-23-2.6 that limit or restrict investments in  
 32               subsidiaries.  
 33               (5) A mutual insurance holding company is not subject to  
 34               risk-based capital requirements under IC 27-1-36.  
 35               (6) A mutual insurance holding company is not subject to a  
 36               requirement under this title if the commissioner determines  
 37               by order or rule adopted by the commissioner under  
 38               IC 4-22-2 that the requirement does not apply to the mutual  
 39               insurance holding company.  
 40               (7) A mutual insurance holding company is not subject to any  
 41               requirement or rule adopted under IC 4-22-2 that is imposed  
 42               upon insurance companies formed under this title to the



- 1 extent that the requirement or rule is in conflict with this  
2 article.
- 3 **Sec. 6. (a)** Not later than June 1 of each year, each mutual  
4 insurance holding company must file with the commissioner an  
5 annual statement consisting of the following information:
- 6 (1) Audited financial statements, including:  
7 (A) an income statement;  
8 (B) a balance sheet; and  
9 (C) a statement of cash flows.
- 10 (2) Complete information on the status of any condition  
11 imposed in connection with the approval of a plan of  
12 reorganization.
- 13 (3) An investment plan covering all assets of the mutual  
14 insurance holding company.
- 15 (4) A statement disclosing any intention to pledge, borrow  
16 against, alienate, hypothecate, or in any way encumber the  
17 assets of the mutual insurance holding company.
- 18 (b) The commissioner, through an order or by a rule adopted  
19 under IC 4-22-2, may waive or suspend all or any part of the  
20 requirements of subsection (a) for a particular mutual insurance  
21 holding company or class of mutual insurance holding companies.
- 22 **Sec. 7. (a)** A mutual insurance holding company, an  
23 intermediate stock holding company, and stock insurance company  
24 subsidiaries that are owned entirely or in part, directly or  
25 indirectly, by the mutual insurance holding company constitute an  
26 insurance holding company system (as defined in IC 27-1-23-1).
- 27 (b) Notwithstanding subsection (a), a separate filing or approval  
28 is not required under IC 27-1-23 for a reorganization that:  
29 (1) is included in a plan approved under this article; and  
30 (2) does not involve the acquisition of control of an insurance  
31 company that is not affiliated with the applicant before the  
32 reorganization.
- 33 **Sec. 8.** A membership interest in a mutual insurance holding  
34 company does not constitute a security under Indiana law.
- 35 **Sec. 9.** A mutual insurance holding company may convert to a  
36 stock company under IC 27-15 as though the mutual insurance  
37 holding company were a mutual insurance company.
- 38 **Chapter 6. Miscellaneous Provisions**
- 39 **Sec. 1. (a)** This article, while independent of any other law, is  
40 supplemental to IC 27-1-2 through IC 27-1-20.
- 41 (b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and  
42 completely applicable to this article in the same manner as if the



1 provisions of this article had been an original part of IC 27-1-2  
 2 through IC 27-1-20. If any conflict exists between this article and  
 3 IC 27-1-2 through IC 27-1-20, this article is controlling.

4 **Sec. 2. All information, documents, and copies of information**  
 5 **and documents obtained by or disclosed to the commissioner or to**  
 6 **any other person in the course of an examination or approval of a**  
 7 **plan under this article:**

8 (1) are declared confidential for purposes of IC 5-14-3-4(a)(1);

9 (2) shall be given confidential treatment;

10 (3) are not subject to subpoena; and

11 (4) shall not be made public by the commissioner or any other  
 12 person, except to insurance departments of other states with  
 13 the prior written consent of the applicant.

14 **Sec. 3. Any action:**

15 (1) challenging the validity of; or

16 (2) arising out of;

17 **an action that is taken or proposed to be taken under this article**  
 18 **must commence not later than thirty (30) days after the approval**  
 19 **by the commissioner of the plan under which or in respect of which**  
 20 **the action is taken or proposed to be taken.**

21 **Sec. 4. The provisions of this article are severable in the manner**  
 22 **provided in IC 1-1-1-8(b).**

23 **Sec. 5. (a) A person who is aggrieved by an agency action of the**  
 24 **commissioner under this article may petition for judicial review of**  
 25 **the action in accordance, so far as practicable, with IC 4-21.5-5.**

26 **(b) A person who is aggrieved by a failure of the commissioner**  
 27 **to act or make a determination required by this article may bring**  
 28 **an action for mandate in the circuit court of Marion County to**  
 29 **compel the commissioner to act or make the determination.**

30 SECTION 28. IC 34-51-2-19 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19. If a subrogation  
 32 claim or other lien or claim that arose out of the payment of medical  
 33 expenses or other benefits exists in respect to a claim for personal  
 34 injuries or death and the claimant's recovery is diminished:

35 (1) by comparative fault; or

36 (2) by reason of the uncollectibility of the full value of the claim  
 37 for personal injuries or death resulting from limited liability  
 38 insurance; ~~or from any other cause;~~

39 the lien or claim shall be diminished in the same proportion as the  
 40 claimant's recovery is diminished. The party holding the lien or claim  
 41 shall bear a pro rata share of the claimant's attorney's fees and litigation  
 42 expenses.





1 SECTION 29. IC 35-40-5-8.5, AS ADDED BY P.L.78-2018,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 MAY 1, 2023]: Sec. 8.5. (a) This section applies if:

- 4 (1) a defendant has filed an appeal of the defendant's conviction;  
5 or  
6 (2) the state has filed an appeal in connection with criminal  
7 proceedings against a defendant.

8 (b) A:

- 9 (1) victim or alleged victim; or  
10 (2) spouse or member of the immediate family (as defined in  
11 IC 27-14-1-17 **(before its repeal) or IC 27-14.5-1-16**) of the  
12 victim or alleged victim, if:

13 (A) the victim or alleged victim is deceased; and

14 (B) the spouse or the immediate family member is not a  
15 defendant in the criminal case;

16 in a case described in subsection (a) is entitled, at no charge, to an  
17 electronic copy of the transcript prepared for appeal in the case  
18 described in subsection (a).

19 (c) The trial court clerk shall provide the victim or alleged victim (or  
20 spouse or immediate family member) with an electronic copy of the  
21 transcript as soon as practicable after the court reporter has filed the  
22 transcript with the clerk.

23 (d) The victim or alleged victim (or spouse or immediate family  
24 member) is not entitled to any confidential information that the court  
25 has excluded from public access under the Indiana rules of appellate  
26 procedure, the court administrative rules adopted by the supreme court,  
27 or any other statute or court rule.

28 SECTION 30. **An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1329, 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 4, line 33, delete "four (4)" and insert "**two (2)**".

Page 6, delete lines 39 through 40, begin a new line block indented and insert:

**"(1) act in any manner in relation to claims for personal injury or automobile liability; or"**.

Page 14, delete lines 16 through 42.

Delete pages 15 through 16.

Page 17, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 16. IC 27-1-45.5-3, AS ADDED BY P.L.117-2021, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) **Before December 31, 2026**, IPEP shall apply to the insurance commissioner for a certificate of authority to transact the business of insurance in Indiana as a domestic tax exempt reciprocal insurance company.

(b) The bylaws or articles of incorporation prepared by IPEP for purposes of IPEP's conversion to a domestic tax exempt reciprocal insurance company must require that the board of the domestic tax exempt reciprocal insurance company be made up of at least seven (7) individuals.

(c) IPEP, in converting to a domestic tax exempt reciprocal insurance company, must meet the requirements and conditions for the formation of a domestic tax exempt reciprocal insurance company set forth in IC 27-1-6, including an examination under IC 27-1-6-17.

SECTION 17. IC 27-2-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**Chapter 28. Notice of Material Change**

**Sec. 1. (a) This chapter applies to a personal automobile or homeowner's policy that is issued, delivered, amended, or renewed after June 30, 2024.**

**(b) This chapter does not apply to notices required by the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).**

**Sec. 2. As used in this chapter, "automobile policy" means a policy providing one (1) or more of the types of insurance described in Class 2(f) of IC 27-1-5-1.**

**Sec. 3. As used in this chapter, "homeowner's policy" means a**



policy that provides:

(1) coverage for:

(A) damage to or the destruction of:

(i) a structure; or

(ii) a unit within a structure;

that is used as a residence by one (1) or more individuals;  
and

(B) damage to or the loss of personal property that is present in the structure or unit described in clause (A); caused by perils such as fire, hail, and lightning; and

(2) coverage against the civil liability of the policyholder arising from bodily injury or property damage incurred by others.

Sec. 4. As used in this chapter, "insured" means an individual entitled to coverage under a personal automobile or homeowner's policy.

Sec. 5. As used in this chapter, "insurer" refers to an insurer (as defined in IC 27-1-2-3) that issues a personal automobile or homeowner's policy.

Sec. 6. (a) As used in this chapter, "material change" means:

(1) a nonrenewal or cancellation of;

(2) an increase of more than ten percent (10%) over the expiring premium for;

(3) a reduction in coverage of; or

(4) another adverse or unfavorable change in the terms of coverage or amount of;

insurance in connection with a personal automobile or homeowner's policy.

(b) The term does not include the following:

(1) An increase in the insurer's filed rate plan and automatic inflationary increases.

(2) An additional premium due to a change initiated by the insured, such as:

(A) adding or removing vehicles or drivers;

(B) adding an endorsement;

(C) adding additional coverages;

(D) adding covered premises; or

(E) increasing coverage limits or deductibles.

(3) An additional premium due to a change in risk exposure as a result of the insured's participation in a usage based or telematics insurance program.

Sec. 7. As used in this chapter, "personal automobile or



homeowner's policy" means:

- (1) an automobile policy; or
- (2) a homeowner's policy;

that is underwritten on an individual basis for an individual, family, or household.

**Sec. 8. (a)** An insurer that makes a material change to an insured's personal automobile or homeowner's policy shall provide a written notice to the insured that:

- (1) explains the principal factors for the material change; or
- (2) states that the insured has a right to request and obtain an explanation of the principal factors for the material change.

(b) An insured who receives a notice of a material change described in subsection (a)(2) may submit to the insurer a written request for an explanation of the principal factors for the material change.

(c) Upon receiving a request for an explanation under subsection (b), the insurer shall provide written notice to the insured explaining the principal factors for the material change.

(d) An insurer shall provide a copy of a written notice provided under subsection (a)(1) or (c) to the insurance producer, if any, who:

- (1) represented:
  - (A) the insured in obtaining coverage from the insurer; or
  - (B) the insurer in regard to the providing of coverage to the insured; and
- (2) is not an employee, an exclusive agent, or a captive agent of the insurer.

(e) A written notice provided under subsection (a) or (c), or a written request submitted under subsection (b), must be provided by:

- (1) first class mail; or
- (2) electronic delivery as set forth in IC 27-1-43.

**Sec. 9. (a)** A written notice provided under section 8(a)(1) or 8(c) of this chapter:

- (1) must:
  - (A) be sufficiently clear; and
  - (B) use language sufficiently specific;
    - to enable the insured to identify the basis for the insurer's decision to make the material change;
- (2) must include a description of the principal factors most heavily weighed by an insurer in making a material change, listed in no particular order; and



(3) may provide a point of contact through which the insured may discuss the reasons for the material change.

(b) A statement that:

(1) the material change is based on the insurer's internal standards, policies, or models;

(2) the insured failed to achieve a particular score on the insurer's scoring system; or

(3) contains generalized terms, such as "poor credit history", "poor credit rating", or "poor insurance score";

does not meet the requirements set forth in subsection (a).

(c) This section does not require the disclosure of factors that are otherwise disclosed to the insured.

**Sec. 10. The requirements set forth in this chapter:**

(1) do not replace; and

(2) are in addition to;

the requirements under IC 27-7-6 and IC 27-7-12.

**Sec. 11. This chapter does not prohibit an insurer from voluntarily providing the disclosures required by this chapter.**

**Sec. 12. (a) The commissioner shall adopt rules under IC 4-22-2 to implement this chapter.**

(b) The rules adopted under subsection (a) must include monetary penalties for a violation of this chapter that are consistent with other penalties assessed for similar violations under this title.

(c) The commissioner is solely responsible for the enforcement of this chapter.

**Sec. 13. A violation of this chapter does not create a private cause of action."**

Page 24, delete line 10.

Page 24, between lines 10 and 11, begin a new line block indented and insert:

**"(40) Violating IC 27-8-13-18.1 concerning a Medicare product solicitation."**

Page 24, after line 20, begin a new paragraph and insert:

"SECTION 18. IC 27-8-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) The commissioner shall adopt rules under IC 4-22-2 to establish minimum standards for:

(1) claims payment;

(2) marketing practices, **subject to section 18.1 of this chapter;**

(3) compensation arrangements; and

(4) reporting practices;



for Medicare supplement policies and certificates.

(b) The commissioner may adopt rules under IC 4-22-2 that are necessary to conform Medicare supplement policies and certificates to the requirements of federal law and federal regulations. A rule adopted under this subsection may do the following:

- (1) Require refunds or credits if the policies or certificates do not meet loss ratio requirements.
- (2) Establish a uniform methodology for calculating and reporting loss ratios.
- (3) Assure public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance.
- (4) Establish a process for approving or disapproving policy forms and certificate forms and proposed premium increases.
- (5) Establish a policy for holding public hearings before approval of premium increases.
- (6) Establish standards for Medicare Select policies and certificates.

SECTION 19. IC 27-8-13-18.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 18.1. (a) As used in this section, "Medicare product" means any of the following:**

- (1) A Medicare supplement policy.**
- (2) A Medicare Advantage plan.**
- (3) A Medicare prescription drug plan.**
- (4) A similar policy, plan, or contract based on an individual's eligibility for Medicare.**

**(b) As used in this section, "Medicare product solicitation" means a communication that:**

- (1) is initiated by:**
  - (A) an individual who is licensed or required to be licensed as an insurance producer under this title; or**
  - (B) an insurance solicitor (as defined in IC 27-1-2-3);****and made to another individual without the other individual's advance consent; and**
- (2) discusses the possible issuance or delivery of a Medicare product to the other individual.**

**The term does not include a face-to-face meeting.**

**(c) Except as provided in subsection (d), if an individual described in subsection (b)(1)(A) or (b)(1)(B) makes a Medicare product solicitation, the individual shall comply with applicable federal marketing and communications requirements for Medicare products under:**



(1) 42 CFR 422, Subpart V; and  
 (2) 42 CFR 423, Subpart V;  
 when making the Medicare product solicitation.

(d) Subsection (c) does not apply to telephone call recording requirements under 42 CFR 422, Subpart V, and 42 CFR 423, Subpart V.

(e) An individual described in subsection (b)(1)(A) or (b)(1)(B) who violates this section commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

SECTION 20. IC 27-2-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**Chapter 29. Transition from Affordable Care Act to Medicare**

**Sec. 1.** As used in this chapter, "Affordable Care Act" refers to the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

**Sec. 2.** As used in this chapter, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

**Sec. 3.** As used in this chapter, "insurer" has the meaning set forth in IC 27-1-2-3(x).

**Sec. 4.** As used in this chapter, "Marketplace plan" means:

- (1) a policy of accident and sickness insurance;
- (2) a health maintenance organization contract; or
- (3) an exclusive provider organization plan, point of service plan, preferred provider organization plan, or any other plan or program;

that is a qualified health plan available from a marketplace under the Affordable Care Act.

**Sec. 5.** As used in this chapter, "policy of accident and sickness insurance" means a policy or contract providing one (1) or more of the kinds of insurance described in Class 1(b) or 2(a) of IC 27-1-5-1.

**Sec. 6.** As used in this chapter, "qualified health plan" has the meaning set forth in Section 1301 of the Affordable Care Act, 42 U.S.C. 18021.

**Sec. 7. (a)** An insurer or health maintenance organization that provides coverage under a Marketplace plan shall provide to each individual covered under the Marketplace plan, not earlier than six (6) months and not later than two (2) months before the birthday on which the individual will become sixty-five (65) years of age, a written message that includes the following:



(1) A statement that the individual will be eligible to enroll in Medicare during the individual's initial enrollment period, which begins three (3) months before the individual becomes sixty-five (65) years of age.

(2) This statement: "According to the health insurance exchange website operated by the federal government under the Affordable Care Act, in most cases, if you have a Marketplace plan when you become eligible for Medicare, you will want to end your Marketplace coverage."

(3) Detailed instructions that the individual may follow to cancel the individual's Marketplace plan before the individual becomes covered under Medicare, so that there is no overlap between the individual's Marketplace plan coverage and the individual's Medicare coverage.

(b) A written message required by subsection (a):

(1) shall be sent by first class mail in the form of a letter addressed to the individual at the address of the individual's residence; and

(2) shall also be sent to the individual as an electronic mail message if the insurer or health maintenance organization knows the individual's electronic mail address.

SECTION 21. IC 27-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 1. Proceedings under this article apply to the following:

(1) All insurers who are doing, or who have done, insurance business in Indiana, and against whom claims arising from that business may exist.

(2) All insurers who purport to do insurance business in Indiana.

(3) All insurers who have insureds resident in Indiana.

(4) All other persons organized or in the process of organizing with the intent to do an insurance business in Indiana.

(5) All nonprofit service plans, fraternal benefit societies, and beneficial societies.

(6) All title insurance companies.

(7) All health maintenance organizations under IC 27-13.

(8) All multiple employer welfare arrangements under IC 27-1-34.

(9) All limited service health maintenance organizations under IC 27-13-34.

(10) All mutual insurance holding companies under IC 27-14 (before its repeal) or IC 27-14.5.

SECTION 22. IC 27-9-2-1 IS AMENDED TO READ AS





FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 1. (a) Whenever the commissioner has reasonable cause to believe, and determines, after a hearing held under IC 4-21.5-3, that any domestic insurer has committed or engaged in, or is about to commit or engage in, any act, practice, or transaction that would subject it to a delinquency proceeding under IC 27-9-3-1 or IC 27-9-3-6, the commissioner may make and serve upon the insurer and any other persons involved, any orders reasonably necessary to correct, eliminate, or remedy that conduct, condition, or ground.

(b) If the commissioner has reasonable cause to believe that any domestic insurer is in such condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if that domestic insurer gives its consent, the commissioner shall upon his determination issue an order:

- (1) notifying the insurer of his determination; and
- (2) providing the insurer with a written list of the commissioner's requirements to correct its business practices.

(c) If the commissioner makes a determination to supervise an insurer subject to an order under subsection (a) or (b), the commissioner shall notify the insurer that it is under the supervision of the commissioner. If the insurer is a reorganized insurer under IC 27-14 **(before its repeal) or IC 27-14.5**, the commissioner may also determine to supervise the mutual insurance holding company that is affiliated with the reorganized insurer, regardless of whether another basis exists for supervising the mutual insurance holding company. If the commissioner makes a determination to supervise a mutual insurance holding company, the commissioner shall notify the mutual insurance holding company that it is under the supervision of the commissioner.

(d) During the period of supervision, the commissioner may appoint a supervisor to supervise the insurer. The order appointing a supervisor must direct the supervisor to enforce orders issued under subsection (a) or (b). The order may also provide that the insurer may not do any of the following things, during the period of supervision, without the prior approval of the commissioner or his supervisor:

- (1) Dispose of, convey, or encumber any of its assets or its business in force.
- (2) Withdraw funds from any of its bank accounts.
- (3) Lend any of its funds.
- (4) Invest any of its funds.
- (5) Transfer any of its property.
- (6) Incur any debt, obligation, or liability.



- (7) Merge or consolidate with another company.
- (8) Enter into any new reinsurance contract or agreement.
- (9) Restrict the writing of new business on the renewal of existing business.

(e) Any insurer subject to an order under this section must comply with the lawful requirements of the commissioner and, if placed under supervision, has sixty (60) days from the date the supervision order is served within which to comply with the requirements of the commissioner. In the event of the insurer's failure to comply within those time requirements, the commissioner may institute proceedings under IC 27-9-3-1 or IC 27-9-3-6 to have a rehabilitator or liquidator appointed, or extend the period of supervision.

(f) During the period of supervision, the insurer may request the commissioner to review any action taken or proposed to be taken by the supervisor, specifying the reason the action complained of is believed not to be in the best interest of the insurer.

(g) If a person violates a supervision order issued under this section, he is civilly liable up to ten thousand dollars (\$10,000).

(h) The commissioner may apply for and the Marion County circuit court may grant, under IC 4-21.5-6, orders as are necessary and proper to enforce a supervision order.

(i) In the event that a person subject to this article knowingly violates any valid order of the commissioner issued under this section and, as a result of that violation, the net worth of the insurer is reduced or the insurer suffers loss it would not otherwise have suffered, that person is personally liable to the insurer for the amount of that reduction or loss. The commissioner or supervisor is authorized to bring an action on behalf of the insurer in the Marion County circuit court to recover the amount of the reduction or loss together with any costs.

SECTION 23. IC 27-9-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 1. The commissioner may apply by petition to the Marion County circuit court for an order authorizing him to rehabilitate a domestic insurer or an alien insurer domiciled in Indiana on any one (1) of the following grounds:

- (1) The insurer is in a condition that the further transaction of business would be hazardous, financially, to its policyholders, creditors, or the public.
- (2) There is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the



insurer that if established would endanger assets in an amount threatening the solvency of the insurer.

(3) The insurer has failed to remove any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee, or other person, if the person has been found after notice and hearing by the commissioner under IC 4-21.5-3 to be dishonest or untrustworthy in a way affecting the insurer's business.

(4) Control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in a person found after notice and hearing under IC 4-21.5-3 to be untrustworthy.

(5) Any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee, or other person, has refused to be examined under oath by the commissioner concerning its affairs, whether in Indiana or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all his influence on management.

(6) After demand by the commissioner under this article or IC 27-1-3, the insurer has failed to promptly make available for examination any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer so far as they concern the insurer.

(7) Without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to IC 27-1-23 or IC 27-6, substantially all of its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person.

(8) The insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator, or sequestrator or similar fiduciary of the insurer or its property otherwise than as authorized under this title, and the appointment has been made or is imminent, and the appointment might:

(A) remove the insurer from the jurisdiction of the Indiana courts; or

(B) prejudice orderly delinquency proceedings under this article.



(9) Within the previous four (4) years the insurer has willfully violated its charter or articles of incorporation, its bylaws, this title, or any valid order of the commissioner under IC 27-9-2-1.

(10) The insurer has failed to pay within sixty (60) days after the due date any obligation to any state or any political subdivision of any state or any judgment entered in any state, if the court in which the judgment was entered had jurisdiction over the subject matter. However, nonpayment shall not be a ground until sixty (60) days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full.

(11) The insurer has failed to file its annual report or other financial report required by law and, after written demand by the commissioner, has failed to immediately give an adequate explanation.

(12) The board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities, request or consent to rehabilitation under this article.

(13) The insurer is a mutual insurance holding company under IC 27-14 (**before its repeal**) or IC 27-14.5 and a reorganized insurance company that is affiliated with the mutual insurance holding company and is or has been the subject of a petition for an order authorizing the commissioner to rehabilitate the reorganized insurance company under this section or to liquidate the reorganized insurance company under section 6 of this chapter, regardless of whether another basis exists for petitioning for rehabilitation of the mutual insurance holding company.

SECTION 24. IC 27-13-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The commissioner may make an examination concerning the quality management program of a health maintenance organization whenever necessary for the protection of the citizens of Indiana. However, an examination of the quality management program of a health maintenance organization domiciled in Indiana must be conducted at least once every ~~three (3)~~ **five (5)** years.

SECTION 25. IC 27-14 IS REPEALED [EFFECTIVE MAY 1, 2023]. (Mutual Insurance Holding Company Law).

SECTION 26. IC 27-14.5 IS ADDED TO THE INDIANA CODE



AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2023]:

**ARTICLE 14.5. MUTUAL INSURANCE HOLDING COMPANY LAW**

**Chapter 1. General Provisions and Definitions**

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

**Sec. 2. (a)** This article replaces IC 27-14, as repealed by this House Enrolled Act 1329-2023.

**(b)** The repeal of IC 27-14 does not affect the validity of any mutual insurance company reorganization that was approved under IC 27-14. Any existing mutual insurance holding company and any related intermediate stock holding company or reorganized insurer created or reorganized under IC 27-14 (before its repeal) are:

- (1)** governed by this article after April 30, 2023; and
- (2)** considered created or reorganized as of the date the mutual insurance holding company, related intermediate stock holding company, or reorganized insurer was created or reorganized, as applicable, under IC 27-14.

**Sec. 3. (a)** This article is intended to enable mutual insurance companies to seek additional capital more effectively to:

- (1)** enhance their financial strength and flexibility;
- (2)** support long term growth internally and through mergers and acquisitions; and
- (3)** expand and enhance the domestic insurance companies of this state.

**(b)** This article provides an alternative organizational structure to help strengthen the Indiana mutual insurance industry by permitting mutual insurance companies to:

- (1)** reorganize into a mutual insurance holding company structure; and
- (2)** raise capital through the sale of capital stock.

**Sec. 4.** The definitions set forth in this chapter apply throughout this article.

**Sec. 5. (a)** Subject to subsection (b), "acting in concert" means:

- (1)** a knowing participation in a joint activity whether or not under an express agreement;
- (2)** interdependent conscious parallel action toward a common goal under an express agreement or otherwise; or
- (3)** a combination or pooling of voting interests or other interests in the securities of any person for a common purpose



under any contract, understanding, relationship, agreement, or other arrangement, written or otherwise.

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

**(1) its trustee; or**

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

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

**Sec. 6. "Adoption date"** means, with respect to a plan, the date on which the board of directors approves a plan of reorganization or a plan to issue stock.

**Sec. 7. "Affiliate"** means a person who, directly or indirectly:

**(1) controls;**

**(2) is controlled by; or**

**(3) is under common control with;**

another person.

**Sec. 8. "Applicant"** means, with respect to a plan, a person that has submitted a plan to the commissioner under this article.

**Sec. 9. (a) Subject to subsection (b), "associate"** means any of the following:

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

**(A) an officer;**

**(B) a partner; or**

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

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

**(A) spouse; or**

**(B) member of the immediate family sharing the same household.**

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

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

**(1) has a beneficial interest in; or**

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

an employee benefit plan.

**Sec. 10. "Commissioner"** refers to the insurance commissioner



appointed under IC 27-1-1-2.

**Sec. 11. "Company" means any of the following:**

- (1) A mutual insurance company.**
- (2) A mutual insurance holding company.**
- (3) An intermediate stock holding company.**
- (4) A reorganized insurer.**

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

**Sec. 13. "Eligible member" means, with respect to a plan, a person who is a member of a mutual insurance company or mutual insurance holding company, as applicable, on the adoption date of a plan and:**

- (1) solely for purposes of receipt of notice of and voting at a meeting of members on a plan of reorganization, continues to be a member of the mutual insurance company on the record date for the meeting of members; or**
- (2) solely for purposes of eligibility to receive stock subscription rights, if any, under a plan to issue stock, continues to be a member of the mutual insurance company or mutual insurance holding company, as applicable, on the date the commissioner approves the plan to issue stock.**

**Sec. 14. "Employee benefit plan" means an employee benefit plan established by a mutual insurance holding company or by one (1) or more of the subsidiaries of a mutual insurance holding company for the sole benefit of its:**

- (1) employees; or**
- (2) sales agents.**

**Sec. 15. "Entity" has the meaning set forth in IC 23-0.5-1.5-8.**

**Sec. 16. "Immediate family" means any child, stepchild, grandchild, parent, stepparent, grandparent, sibling, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, or sister-in-law. The term includes adoptive relationships.**

**Sec. 17. "Intermediate stock holding company" means an entity, other than a reorganized insurer and its subsidiaries, that:**

- (1) is owned entirely or in part, directly or indirectly, by a mutual insurance holding company; and**
- (2) directly or indirectly owns all or part of the capital stock of a reorganized insurer.**

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

- (1) records; and**
- (2) articles of incorporation and bylaws;**



of a mutual insurance company or mutual insurance holding company, as applicable, is a member or policyholder of the mutual insurance company or mutual insurance holding company, as applicable, with voting rights.

**Sec. 19. "Member's interest" means:**

- (1) the voting rights of a member provided by the mutual insurance company's or the mutual insurance holding company's articles of incorporation or bylaws; and
- (2) the right to receive cash, stock, or other consideration in the event of a liquidation or dissolution under IC 27-1-10, conversion to a stock company under IC 27-15, or as provided by the mutual insurance company's or mutual insurance holding company's articles of incorporation or bylaws.

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

- (1) submitting; or
- (2) subject to;

a plan of reorganization or plan to issue stock under this article.

**Sec. 21. "Mutual insurance holding company" means a mutual insurance holding company established under IC 27-14.5-2.**

**Sec. 22. "Participating policy" means a policy providing for the distribution of policy dividends.**

**Sec. 23. "Person" means any of the following:**

- (1) An individual.
- (2) A group of individuals acting in concert.
- (3) A trust.
- (4) An association.
- (5) A partnership.
- (6) A limited liability company.
- (7) A corporation.
- (8) A joint venture.
- (9) A government or governmental subdivision, agency, or instrumentality.
- (10) Any entity.

**Sec. 24. "Plan" means a plan:**

- (1) of reorganization; or
- (2) to issue stock.

**Sec. 25. "Plan of reorganization" means a plan adopted under IC 27-14.5-2.**

**Sec. 26. "Plan to issue stock" means a plan to issue shares of stock of an intermediate stock holding company or a reorganized insurer adopted under IC 27-14.5-3.**





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

**Sec. 28. "Reorganized insurer" means an entity:**

**(1) that is a domestic stock insurance company that is owned entirely or in part by a mutual insurance holding company or an intermediate stock holding company; and**

**(2) the members of which:**

**(A) may be; or**

**(B) are entitled to become;**

**members of the mutual insurance holding company.**

**Sec. 29. "Subsidiary" means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:**

**(1) directly; or**

**(2) indirectly through one (1) or more intermediaries.**

**Sec. 30. "Voting capital stock" means capital stock whose holder has the right to vote in the election of directors of the entity issuing the stock.**

#### **Chapter 2. Mutual Insurance Company Reorganization**

**Sec. 1. (a) A mutual insurance company may reorganize under this chapter as a mutual insurance holding company with one (1) or more subsidiaries if the following occur:**

**(1) The adoption of a plan of reorganization by the mutual insurance company's board of directors in accordance with section 4 of this chapter.**

**(2) The approval by the commissioner of the mutual insurance company's application for reorganization.**

**(3) The favorable vote of the mutual insurance company's members under sections 8 through 12 of this chapter.**

**(b) The subsidiaries of a mutual insurance holding company that result from a reorganization of a mutual insurance company under this chapter:**

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

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

**Sec. 2. The reorganization of a mutual insurance company or two (2) or more mutual insurance companies into a mutual insurance holding company structure under this chapter may be accomplished by any means approved by the commissioner, including the following:**

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



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

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

(4) The transfer or acquisition of any or all of the capital stock of any company.

(5) The merger of two (2) or more companies.

(6) The merger of a mutual insurance company's members into any existing mutual insurance holding company with continued corporate existence of the reorganized mutual insurance company as a reorganized insurer.

**Sec. 3.** After the effective date of the reorganization of a mutual insurance company as a mutual insurance holding company under this chapter, the mutual insurance holding company must at all times have the direct or indirect power to cast at least a majority of the votes for the election of the members of the board of directors of:

(1) each stock insurance company subsidiary; and

(2) any intermediate stock holding company.

**Sec. 4.** A plan of reorganization under this chapter must be adopted by:

(1) a vote of not less than two-thirds (2/3) of the members of the board of directors of the mutual insurance company; or

(2) in the case of the formation of any intermediate stock insurance holding company that is not concurrent with the formation of the mutual insurance holding company, by a vote of not less than two-thirds (2/3) of the members of the board of directors of the mutual insurance holding company.

**Sec. 5.** Not later than ninety (90) days after the adoption of a plan of reorganization and before a vote on the plan by the members, the company adopting the plan of reorganization must file with the commissioner an application containing the following:

(1) A plan of reorganization.

(2) The form of the notice, proxy statement, and the proxy form to be used in providing notice of the plan of reorganization and soliciting the votes of members under section 11 of this chapter.

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

**Sec. 6. (a)** A plan of reorganization filed with the commissioner under this chapter must include the following:

(1) A description of all significant terms of the proposed



reorganization.

(2) Any plan to issue stock that may be proposed in connection with the plan of reorganization.

(3) A statement describing how the reorganization is fair and equitable to the members.

(4) With respect to participating policies and contracts of the reorganized insurer, a description of the current dividend practices of the mutual insurance company and the dividend practices to be followed by the reorganized insurer on and after the effective date of the plan of reorganization.

(5) Information sufficient to demonstrate that the financial condition of the mutual insurance company will not be diminished upon reorganization.

(6) Provisions that provide the following:

(A) Immediate membership in the mutual insurance holding company for all existing members of the mutual insurance company.

(B) A member's interest in a mutual insurance holding company may not be transferred, assigned, pledged, or alienated in any manner except in connection with a transfer, assignment, pledge, or alienation of the policy from which the member's interest is derived.

(C) A member's interest in a mutual insurance holding company will automatically terminate upon the lapse or other termination of the policy from which the member's interest is derived.

(7) Provisions for the discretionary granting of membership interests for existing or future policyholders of the reorganized insurer and any other existing or future direct or indirect stock insurance company subsidiary.

(8) Provisions to ensure that, in the event of proceedings for rehabilitation or liquidation involving a stock insurance company subsidiary of the mutual insurance holding company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company subsidiary.

(9) The proposed articles of incorporation and bylaws of the mutual insurance holding company, intermediate stock holding company, and reorganized insurer or proposed amendments thereto as necessary to effectuate the reorganization.

(10) A certification that the plan of reorganization has been



duly adopted by a vote of not less than two-thirds (2/3) of the members of the board of directors of the mutual insurance company.

(11) The names, addresses, and occupational information of all corporate officers and all members of the board of directors of the proposed mutual insurance holding company.

(12) A description of any plans for the initial sale of stock of the intermediate stock holding company or reorganized insurer.

(13) With regard to a policy of the mutual insurance company in force on the effective date of a plan of reorganization, a provision that provides the policy continues to remain in force under the policy's terms as the policy of the reorganized insurer.

(14) Any other information requested by the commissioner.

(b) A plan of reorganization that is filed with the commissioner under this chapter may also include any other provision acceptable to the commissioner.

**Sec. 7.** A plan of reorganization that is adopted by the board of directors of the applicant may be amended or terminated by a vote of not less than two-thirds (2/3) of the members of the board of directors of the applicant:

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

(2) at any time before the members vote on the plan of reorganization; or

(3) otherwise, at any time, with the consent of the commissioner.

**Sec. 8.** (a) A plan of reorganization must be submitted for approval by the members at a special or annual meeting of members held in accordance with IC 27-1-7-7.

(b) The meeting of members under subsection (a) must be held after the commissioner has approved the plan under IC 27-14.5-4.

**Sec. 9.** In accordance with IC 27-1-7-9, a member:

(1) may vote in person or by proxy; and

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

**Sec. 10.** All members, in accordance with IC 27-1-7-7, must be



provided with notice of the meeting at which the plan of reorganization will be submitted for approval by the members in the manner outlined in the plan of reorganization approved by the commissioner.

**Sec. 11.** A person soliciting a proxy from a member shall provide all members with a proxy statement that:

- (1) identifies the person soliciting the proxy;
- (2) informs the member of the right to vote upon the plan of reorganization and the vote required for approval;
- (3) briefly describes the proposed plan of reorganization and any voting capital stock to be offered;
- (4) explains the use of any new capital to be raised; and
- (5) describes any employee benefit plan or stock option plan.

**Sec. 12.** A plan of reorganization is approved under this chapter upon the affirmative vote of at least a majority of the votes cast by eligible members either in person or by proxy.

**Sec. 13.** Not later than thirty (30) days after the members have approved a plan of reorganization under this chapter, the applicant must file with the commissioner the minutes of the meeting at which the plan of reorganization was approved.

**Sec. 14.** The reorganized insurer to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this chapter has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the mutual insurance company that is subject to the plan of reorganization.

**Sec. 15.** If a proceeding is pending against a mutual insurance company that is the subject of a plan of reorganization under this chapter:

- (1) the proceeding may be continued against the reorganized insurer under its former name after the effective date of the reorganization, as if the reorganization had not occurred; or
- (2) the reorganized insurer that succeeds to the mutual insurance company's business may be substituted in the proceeding for the mutual insurance company.

**Sec. 16.** The reorganized insurer, at its discretion, may retain the name the reorganized insurer had prior to its reorganization into a mutual insurance holding company structure.

### **Chapter 3. Issuance of Capital Stock**

**Sec. 1.** (a) Subject to subsection (c), a reorganized insurer may issue shares of any class or type of stock permitted under this title.

(b) Subject to subsection (c), an intermediate stock holding



company may issue any class or type of stock permitted by the law under which the intermediate stock holding company is organized.

(c) A reorganized insurer and an intermediate stock holding company may issue shares of stock to a person or entity other than:

- (1) the mutual insurance holding company of which it is a subsidiary; or
- (2) an intermediate stock holding company that is a subsidiary of the mutual insurance holding company referred to in subdivision (1);

only in compliance with this chapter.

**Sec. 2. A plan to issue stock under this chapter must be adopted:**

- (1) by a vote of not less than two-thirds (2/3) of the members of the board of directors of the mutual insurance company; or
- (2) in the case of a plan to issue shares of stock that is not concurrent with the formation of the mutual insurance holding company, by a vote of not less than two-thirds (2/3) of the members of the board of directors of the mutual insurance holding company and the reorganized insurer or intermediate stock holding company proposing to issue the stock.

**Sec. 3. A board of directors that adopts a plan to issue stock under this chapter may amend or withdraw the plan at any time before the effective date by a vote of not less than two-thirds (2/3) of the members of the board of directors. However, after the commissioner has approved a plan to issue stock, the plan may not be amended unless the commissioner approves the amendment.**

**Sec. 4. Not later than ninety (90) days after the adoption of a plan to issue stock, the reorganized insurer or intermediate stock holding company adopting the plan must file with the commissioner an application that contains the following:**

- (1) A proposed plan to issue stock.
- (2) The form of notice to be sent to members informing members of the member's right to vote on the plan.
- (3) The form of the proxy statement to be used to solicit the votes of members, which must include a description of the plan.
- (4) The form of proxy to be solicited from members.
- (5) If it is necessary to amend the current articles of incorporation or bylaws of a company that is affected by the plan, a copy of the proposed articles of amendment and amended bylaws of the company, which must comply with the requirements of IC 27-1-8.
- (6) A list of the officers and directors of each company that is



affected by the plan.

(7) A description of the following:

(A) The stock intended to be offered by the applicant.

(B) All shareholder rights applicable to the stock intended to be offered by the applicant.

(C) The total number of shares authorized to be issued.

(D) The estimated number of shares the applicant intends to offer.

(E) The intended date or range of dates for the offering.

(8) A list of the following:

(A) The name or names of any underwriter, syndicate member, or placement agent involved.

(B) If known by the applicant, the name or names of each person or group of persons who will control five percent (5%) or more of the total outstanding shares of the class of stock to be offered.

(C) If any of the persons listed under clause (A) or (B) is a corporation or other business entity, the name of each member of its board of directors or equivalent management body.

(9) Copies of any filings that have been made, if applicable, with the United States Securities and Exchange Commission.

(10) A description of all expenses expected to be incurred in connection with the plan to issue stock.

(11) Any other information requested by the commissioner.

**Sec. 5. A plan to issue stock that is filed with the commissioner under this chapter must do the following:**

(1) Describe the reasons for and the purposes of the proposed issuance of shares of stock.

(2) Require that, after the effective date, the mutual insurance holding company must at all times have the direct or indirect power to cast at least a majority of the votes for the election of the members of the board of directors of the reorganized insurer and any intermediate stock holding company.

(3) Provide that the aggregate total number of shares of stock that may be purchased by the directors and officers of the mutual insurance holding company and its subsidiaries and associates may not exceed thirty percent (30%) of the total number of shares of stock to be issued, not including any shares attributed to the officers and directors and their associates but held by one (1) or more tax-qualified employee benefit plans.



**(4) Provide that the aggregate total number of shares of stock that may be purchased by:**

**(A) a single director or officer of the mutual insurance holding company or the subsidiaries of the mutual insurance holding company;**

**(B) associates of a person referred to in clause (A); and**

**(C) persons acting in concert with a person referred to in clause (A) or (B);**

**may not exceed five percent (5%) of the total number of shares to be issued under the plan, not including any shares attributed to the officers and directors and their associates but held by one (1) or more tax-qualified employee benefit plans.**

**(5) Provide that a director, officer, agent, or employee of the mutual insurance holding company or its subsidiaries, or an associate of a director, officer, agent, or employee may not receive any fee, commission, or other valuable consideration for aiding, promoting, or assisting in the issuance of stock under this section, except for:**

**(A) compensation as provided for in the plan and approved by the commissioner;**

**(B) the person's usual, regular salary or compensation; and**

**(C) reasonable fees and compensation paid to an individual who is an attorney, accountant, or actuary for services performed in the individual's independent practice, even if the individual is also a director, officer, agent, or employee of the mutual insurance holding company or its subsidiaries.**

**(6) Describe:**

**(A) how the offering price of the stock to be sold was established; or**

**(B) the method by which the offering price will be determined.**

**Sec. 6. A plan to issue stock in a public offering (other than an offering in a private placement or solely in connection with a consolidation, merger, share exchange, or other business combination or an offering of stock in connection with an employee benefit plan or under a stock option plan) must do the following:**

**(1) Provide for each eligible member to receive, without payment, nontransferable subscription rights to purchase a portion of the stock of the applicant and describe how the**





offering price of the stock that may be purchased was established or the method by which that price will be determined, except that subscription rights need not be granted to an eligible member who resides in a foreign country or other jurisdiction for which the commissioner determines that any registration, qualification, or filing requirements would be impracticable or unduly burdensome for reasons of cost or otherwise.

(2) Specify how subscription rights are to be allocated in whole shares of stock among the eligible members.

(3) Provide a fair and equitable means for allocating shares of stock in the event of an over-subscription to the shares by eligible members exercising subscription rights received under this chapter.

(4) Provide that any portion of shares not subject to subscription rights and any shares of stock not subscribed to by eligible members exercising subscription rights received under this chapter, or not subscribed to by an employee benefit plan or by directors, officers, and employees exercising subscription rights, will be sold:

(A) in a public offering through an underwriter;

(B) through private placement; or

(C) by any other method approved by the commissioner that is fair and equitable to members.

(5) Require a person that exercises subscription rights to:

(A) purchase at least a minimum number of shares of stock; or

(B) a minimum dollar amount of shares of stock.

(6) Require that a majority of the members of the board of directors of the mutual insurance holding company must be persons who are not officers or employees of the mutual insurance holding company or any of its subsidiaries, unless this requirement is waived by the commissioner upon a showing of good cause.

(7) Require that at least three (3) members of the board of directors of the:

(A) intermediate stock holding company; or

(B) reorganized insurer if there is no intermediate stock holding company;

of the mutual insurance holding company must be persons who are not officers or employees of the mutual insurance holding company or any of its subsidiaries, unless this



requirement is waived by the commissioner upon a showing of good cause.

**(8) Provide that the mutual insurance holding company will adopt articles of incorporation or articles of amendment that include a provision prohibiting the mutual insurance holding company from waiving any dividends from its subsidiaries except:**

**(A) under conditions specified in the articles of incorporation; and**

**(B) after approval of the waiver by the board of directors of the mutual insurance holding company and by the commissioner.**

**Sec. 7. A reorganized insurer or intermediate stock holding company may offer and sell voting capital stock without complying with sections 2 through 6 of this chapter if the board of directors of the reorganized insurer or intermediate stock holding company approves the offer and sale and each of the following conditions are satisfied:**

**(1) The offer is not the first offering of voting capital stock by the reorganized insurer or intermediate stock holding company to a person or persons other than a mutual insurance holding company or intermediate stock holding company.**

**(2) The stock that is to be offered and sold is:**

**(A) listed or approved for listing upon notice of issuance on the New York Stock Exchange, the Nasdaq Stock Market, LLC, or any other exchange approved and designated by the commissioner; or**

**(B) of senior rank or substantially equal rank to stock of the same issuer that is listed or designated under clause (A).**

**(3) The reorganized insurer or intermediate stock holding company intending to make the offering delivers to the commissioner, at least thirty (30) days before commencing the offering, a notice containing the following information:**

**(A) The name of the entity intending to make the offering and the affiliated mutual insurance holding company.**

**(B) The total number and type of shares that are intended to be offered.**

**(C) The intended date of the sale and whether the sale will be by an underwritten public offering, a private offering, or otherwise.**



**(D) The exchanges on which the shares (or shares of junior or substantially equal rank) are listed, or the national market systems on which the shares are designated (demonstrating compliance with subdivision (2)), together with the symbols under which the shares are traded.**

**(E) A record of the trading price and trading volume of the previously issued voting capital stock shares during the immediately preceding fifty-two (52) weeks or shorter period of time if trading for a shorter period of time.**

**(4) The commissioner does not issue a written objection to the offering and sale of voting capital stock under this section without compliance with sections 2 through 6 of this chapter within twenty (20) days after the commissioner receives the notice filed under subdivision (3).**

**(5) The offer and sale of stock is completed not more than one hundred eighty (180) days after the commissioner receives the notice filed under subdivision (3), except as otherwise provided by order of the commissioner.**

**Sec. 8. A mutual insurance holding company and its subsidiaries and affiliates may not do any of the following:**

**(1) Lend funds to any person to finance the purchase of stock in a stock offering by a mutual insurance holding company or any of its subsidiaries.**

**(2) Pay commissions, "special fees", or other special or extraordinary compensation to officers, directors, interested persons, or affiliates for arranging, promoting, aiding, assisting, or participating in the structure or placement of a stock offering by the mutual insurance holding company or any of its subsidiaries, except to the extent permitted under section 5(5) of this chapter.**

**Sec. 9. (a) This section does not apply to the payment of dividends, savings, or unabsorbed premium deposits allowed or returned as set forth in IC 27-7-2-37.5 or other similar programs permitted or filed in other states.**

**(b) The reorganized insurer must obtain approval by the commissioner of the dividend practices with respect to participating policies and contracts in force as of the effective date of the reorganization to be followed by the reorganized insurer as set forth in IC 27-14.5-2-6(4) if the dividend practices of the reorganized insurer will be different from the dividend practices of the mutual insurance company.**

**(c) The commissioner may require the establishment of a closed**



block or other mechanism that the commissioner finds to be fair for the protection of mutual insurance company policyholder dividends.

(d) The dividend practices of the reorganized insurer, the requirement to establish a closed block or other mechanism, if any, or the terms of the closed block, may be modified after approval under subsection (b) or subsequent to a reorganization under IC 27-14.5-2 only with the prior approval of the commissioner on application of the reorganized insurer.

(e) Neither an intermediate stock holding company nor a reorganized insurer may pay dividends or make other distributions with respect to its stock or its shareholders if the reorganized insurer has failed to pay policyholder dividends in compliance with the dividend practices approved by the commissioner in accordance with this section.

#### **Chapter. 4. Public Hearing, Public Comment, Commissioner Approval, and Effective Date of Plan**

**Sec. 1. Not more than sixty (60) days after the filing of a plan of reorganization that:**

- (1) is complete; and
- (2) does not include a plan to issue stock;

the commissioner shall approve the plan without holding a hearing unless the commissioner concludes that one (1) or more of the findings listed in section 6 of this chapter is likely to be made.

**Sec. 2. Not more than sixty (60) days after:**

- (1) the filing of a plan of reorganization that:
  - (A) is complete; and
  - (B) includes a plan to issue stock; or
- (2) the filing of an application with respect to a plan to issue stock that is:
  - (A) complete; and
  - (B) filed sometime after the consummation of an approved plan of reorganization;

the commissioner may, if deemed necessary because the commissioner believes that one (1) or more of the findings listed in section 6 of this chapter may be made, conduct a public hearing or allow public comment for a period of not more than sixty (60) days to afford interested persons an opportunity to present information, views, arguments, or comments in regard to the proposed plan.

**Sec. 3. (a)** If the commissioner deems that a public hearing or public comment period is necessary, the commissioner shall provide written notice of a hearing or comment period held under



**this chapter at least thirty (30) days before the hearing or sixty (60) days before the end of the comment period by publication in:**

- (1) a newspaper of general circulation in the city of Indianapolis;**
- (2) a newspaper of general circulation in the city in which the principal office of the applicant is located; and**
- (3) a newspaper of general circulation in any other city or cities that the commissioner deems appropriate.**

**The commissioner may provide written notice of the hearing or comment period by other means and to persons that the commissioner deems appropriate.**

**(b) The notice provided under this section must:**

- (1) refer to the applicable statutory provisions;**
- (2) state the:**
  - (A) date, time, and location of the hearing; or**
  - (B) means by which comments may be submitted; and**
- (3) include a brief statement of the subject of the hearing or comment period.**

**Sec. 4. At a hearing held under this chapter:**

- (1) any interested person may appear;**
- (2) any interested person may:**
  - (A) file a written statement; or**
  - (B) make an oral presentation; and**
- (3) at the discretion of the commissioner or the commissioner's appointee, testimony may be taken under oath or by affirmation.**

**Sec. 5. The commissioner shall approve or disapprove any plan submitted under this article on or before the later of:**

- (1) thirty (30) days after a hearing or comment period held under this chapter; or**
- (2) thirty (30) days after the commissioner accepts the application relating to the plan.**

**Sec. 6. The commissioner shall approve a plan submitted under this article unless the commissioner makes at least one (1) of the following findings with respect to the plan:**

- (1) Disapproval of the plan is necessary to prevent practices that will cause material financial impairment to the applicant or its subsidiaries.**
- (2) The financial position or management resources and capabilities of the applicant or its subsidiaries or affiliates warrant disapproval.**
- (3) The plan does not comply with this article.**



(4) The proposed plan would not be fair and equitable to the members.

Sec. 7. (a) The commissioner shall transmit to the applicant any order approving or disapproving a plan submitted under this article.

(b) If the commissioner disapproves a plan, the commissioner shall provide the applicant with a written statement detailing:

- (1) the reasons for; and
- (2) all findings in connection with;

the disapproval.

Sec. 8. The approval by the commissioner of a plan to issue stock expires one hundred eighty (180) days after the date of approval, except as otherwise provided by an order of the commissioner.

Sec. 9. Except as otherwise provided in this article, the organization of a mutual insurance holding company under a plan under this article must be conducted in compliance with the provisions of IC 27-1-6 concerning the formation of domestic insurance companies.

Sec. 10. (a) Except as otherwise provided in this article and subject to subsection (b), the amendment of the articles of incorporation of a mutual insurance company under a plan under this article must be conducted in compliance with IC 27-1-8.

(b) The commissioner, the attorney general, and the secretary of state shall:

- (1) examine; and
- (2) if warranted, approve;

the proposed articles of amendment before the amended articles are submitted to the members for approval.

Sec. 11. (a) Before the commissioner issues a permit for completion of organization of the mutual insurance holding company and a certificate of authority for the reorganized insurer under subsection (b), the commissioner must:

- (1) issue notice to the applicant that the commissioner has approved the plan of reorganization of the applicant under this article; and
- (2) receive the minutes of the meeting of the members at which the plan was approved under this article.

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

- (1) a permit for completion of organization of the mutual insurance holding company as provided in IC 27-1-6-11; and



(2) a certificate of authority for the reorganized insurer as provided in IC 27-1-8-9.

**Sec. 12. (a) A plan of reorganization is effective when:**

(1) the commissioner has issued the permit for completion of organization of the mutual insurance holding company; and  
 (2) the certificate of authority for the reorganized insurer has been:

(A) issued by the commissioner under this chapter; and  
 (B) recorded in the office of the county recorder of the county in which the principal office of the reorganized insurer is located.

(b) A plan to issue stock is effective on the date on which the stock is issued in compliance with this article.

**Sec. 13.** The commissioner may, at the applicant's expense, hire attorneys, actuaries, accountants, investment bankers, and other experts as may be reasonably necessary to assist the commissioner in reviewing an application.

#### **Chapter. 5. Mutual Insurance Holding Companies**

**Sec. 1.** A mutual insurance holding company organized under this article is subject to any rules adopted by the commissioner under IC 4-22-2.

**Sec. 2.** The articles of incorporation of a mutual insurance holding company must contain the following or provisions at least substantially equivalent to the following:

- (1) The name of the mutual insurance holding company, which must include the term "mutual" or the abbreviation "MHC".
- (2) A provision specifying that one (1) purpose of the mutual insurance holding company is, at all times, to have the direct or indirect power to cast at least a majority of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.
- (3) A provision specifying that the mutual insurance holding company does not have the power to engage in the business of issuing insurance policies or contracts, except through a stock insurance company subsidiary.
- (4) A provision specifying that the mutual insurance holding company is not authorized to issue voting stock.
- (5) A provision setting forth any rights of members of the mutual insurance holding company in the equity of the mutual insurance holding company upon dissolution or liquidation.
- (6) A provision specifying that:



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

(B) no assessment of any kind may be imposed upon the members of the mutual insurance holding company by any person, including:

(i) the board of directors, members, or creditors of the mutual insurance holding company; and

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

because of any liability of any company or because of any act, debt, or liability of the mutual insurance holding company.

Sec. 3. The members of a mutual insurance holding company have the rights and obligations specified in:

(1) this article; and

(2) the articles of incorporation and bylaws of the mutual insurance holding company.

Sec. 4. (a) With the written approval of the commissioner, and subject to any conditions that the commissioner may impose, a mutual insurance holding company may do any of the following:

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

(A) a mutual insurance holding company licensed under this article; or

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

(2) Either alone or together with one (1) or more of an intermediate stock holding company, a stock insurance company subsidiaries or other subsidiaries, directly or indirectly, acquire the stock or assets of:

(A) a stock insurance company;

(B) a mutual insurance company that is reorganized under this article or the law of its state of organization; or

(C) a mutual insurance company.

(3) Acquire a stock insurance company through the merger of the stock insurance company or its parent company, as applicable, into:

(A) a stock insurance company subsidiary; or

(B) an intermediate stock holding company subsidiary or the mutual insurance holding company.

(b) A mutual insurance holding company and its affiliates may:





(1) establish any other type of entity as otherwise permitted by law; and

(2) acquire the stock or assets of any other entity or person as otherwise permitted by law.

(c) Whenever a mutual insurance holding company:

(1) holds;

(2) acquires; or

(3) plans to acquire;

more than fifty percent (50%) of the voting capital stock of a stock insurance company, the mutual insurance holding company must submit to the commissioner a description of any membership interests of policyholders of the stock insurance company in the mutual insurance holding company.

Sec. 5. (a) Except as provided in subsection (b), a mutual insurance holding company:

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

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

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

(1) A mutual insurance holding company has no right or privilege to write insurance (except through a stock insurance company subsidiary) and is not subject to any requirement or rule adopted under IC 4-22-2 relating to the writing of insurance.

(2) A mutual insurance holding company is not subject to the surplus requirements in IC 27-1-6-15.

(3) A mutual insurance holding company is not subject to the deposit requirement in IC 27-1-6-15(d).

(4) A mutual insurance holding company is not subject to the investment requirements under IC 27-1-12, IC 27-1-13, or IC 27-1-23-2.6 that limit or restrict investments in subsidiaries.

(5) A mutual insurance holding company is not subject to risk-based capital requirements under IC 27-1-36.

(6) A mutual insurance holding company is not subject to a requirement under this title if the commissioner determines by order or rule adopted by the commissioner under IC 4-22-2 that the requirement does not apply to the mutual insurance holding company.

(7) A mutual insurance holding company is not subject to any requirement or rule adopted under IC 4-22-2 that is imposed



upon insurance companies formed under this title to the extent that the requirement or rule is in conflict with this article.

**Sec. 6. (a)** Not later than June 1 of each year, each mutual insurance holding company must file with the commissioner an annual statement consisting of the following information:

- (1) Audited financial statements, including:
  - (A) an income statement;
  - (B) a balance sheet; and
  - (C) a statement of cash flows.
- (2) Complete information on the status of any condition imposed in connection with the approval of a plan of reorganization.
- (3) An investment plan covering all assets of the mutual insurance holding company.
- (4) A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company.

(b) The commissioner, through an order or by a rule adopted under IC 4-22-2, may waive or suspend all or any part of the requirements of subsection (a) for a particular mutual insurance holding company or class of mutual insurance holding companies.

**Sec. 7. (a)** A mutual insurance holding company, an intermediate stock holding company, and stock insurance company subsidiaries that are owned entirely or in part, directly or indirectly, by the mutual insurance holding company constitute an insurance holding company system (as defined in IC 27-1-23-1).

(b) Notwithstanding subsection (a), a separate filing or approval is not required under IC 27-1-23 for a reorganization that:

- (1) is included in a plan approved under this article; and
- (2) does not involve the acquisition of control of an insurance company that is not affiliated with the applicant before the reorganization.

**Sec. 8.** A membership interest in a mutual insurance holding company does not constitute a security under Indiana law.

**Sec. 9.** A mutual insurance holding company may convert to a stock company under IC 27-15 as though the mutual insurance holding company were a mutual insurance company.

#### **Chapter 6. Miscellaneous Provisions**

**Sec. 1. (a)** This article, while independent of any other law, is supplemental to IC 27-1-2 through IC 27-1-20.

(b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and



completely applicable to this article in the same manner as if the provisions of this article had been an original part of IC 27-1-2 through IC 27-1-20. If any conflict exists between this article and IC 27-1-2 through IC 27-1-20, this article is controlling.

**Sec. 2. All information, documents, and copies of information and documents obtained by or disclosed to the commissioner or to any other person in the course of an examination or approval of a plan under this article:**

- (1) are declared confidential for purposes of IC 5-14-3-4(a)(1);**
- (2) shall be given confidential treatment;**
- (3) are not subject to subpoena; and**
- (4) shall not be made public by the commissioner or any other person, except to insurance departments of other states with the prior written consent of the applicant.**

**Sec. 3. Any action:**

- (1) challenging the validity of; or**
- (2) arising out of;**

**an action that is taken or proposed to be taken under this article must commence not later than thirty (30) days after the approval by the commissioner of the plan under which or in respect of which the action is taken or proposed to be taken.**

**Sec. 4. The provisions of this article are severable in the manner provided in IC 1-1-1-8(b).**

**Sec. 5. (a) A person who is aggrieved by an agency action of the commissioner under this article may petition for judicial review of the action in accordance, so far as practicable, with IC 4-21.5-5.**

**(b) A person who is aggrieved by a failure of the commissioner to act or make a determination required by this article may bring an action for mandate in the circuit court of Marion County to compel the commissioner to act or make the determination.**

**SECTION 27. IC 34-51-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19. If a subrogation claim or other lien or claim that arose out of the payment of medical expenses or other benefits exists in respect to a claim for personal injuries or death and the claimant's recovery is diminished:**

- (1) by comparative fault; or**
- (2) by reason of the uncollectibility of the full value of the claim for personal injuries or death resulting from limited liability insurance; or from any other cause;**

**the lien or claim shall be diminished in the same proportion as the claimant's recovery is diminished. The party holding the lien or claim shall bear a pro rata share of the claimant's attorney's fees and litigation**



expenses.

SECTION 28. IC 35-40-5-8.5, AS ADDED BY P.L.78-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2023]: Sec. 8.5. (a) This section applies if:

- (1) a defendant has filed an appeal of the defendant's conviction; or
- (2) the state has filed an appeal in connection with criminal proceedings against a defendant.

(b) A:

- (1) victim or alleged victim; or
- (2) spouse or member of the immediate family (as defined in IC 27-14-1-17 **(before its repeal) or IC 27-14.5-1-16**) of the victim or alleged victim, if:
  - (A) the victim or alleged victim is deceased; and
  - (B) the spouse or the immediate family member is not a defendant in the criminal case;

in a case described in subsection (a) is entitled, at no charge, to an electronic copy of the transcript prepared for appeal in the case described in subsection (a).

(c) The trial court clerk shall provide the victim or alleged victim (or spouse or immediate family member) with an electronic copy of the transcript as soon as practicable after the court reporter has filed the transcript with the clerk.

(d) The victim or alleged victim (or spouse or immediate family member) is not entitled to any confidential information that the court has excluded from public access under the Indiana rules of appellate procedure, the court administrative rules adopted by the supreme court, or any other statute or court rule.

SECTION 29. **An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1329 as introduced.)

CARBAUGH

Committee Vote: yeas 12, nays 0.

HB 1329—LS 7406/DI 55

