

Adopted	Rejected
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# COMMITTEE REPORT

<b>YES:</b>	<b>9</b>
<b>NO:</b>	<b>0</b>

## MR. SPEAKER:

*Your Committee on Rules and Legislative Procedures, to which was referred Senate Bill 33, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1           Page 6, line 2, after ""members"" insert **"surplus"**.
- 2           Page 6, between lines 16 and 17, begin a new paragraph and insert:
- 3           **"(g) Dividends paid on the equity securities of a stock holding**
- 4           **company or reorganized insurer may be paid only in accordance**
- 5           **with IC 27-14-3-11.**
- 6           **(h) Compensation payable to directors and executive officers of**
- 7           **an MIHC, stock holding company, or reorganized insurer may be**
- 8           **paid only in accordance with IC 27-14-3-12.**
- 9           **(i) Operations outside the ordinary course of the insurance**
- 10          **business may be conducted only as provided in IC 27-14-3-13."**
- 11          Page 7, between lines 38 and 39, begin a new paragraph and insert:
- 12          **"Sec. 12. "Disinterested director" means a director of an MIHC**
- 13          **who does not hold, directly or indirectly, a material ownership**

1 **interest in any subsidiary."**

2 Page 7, line 39, delete "12" and insert "**13**".

3 Page 7, line 41, delete "13" and insert "**14**".

4 Page 8, line 10, delete "14" and insert "**15**".

5 Page 8, between lines 14 and 15, begin a new paragraph and insert:

6 **"Sec. 16. "Financial services businesses" includes investment**  
 7 **banking, commercial banking, industrial banking, savings and loan**  
 8 **associations, credit unions, trust companies, other lending and loan**  
 9 **brokerage services, services related to the extension of credit**  
 10 **(including but not limited to real estate and personal property**  
 11 **appraisal; arranging equity financing; check-guaranty services;**  
 12 **collection agency services; asset management, servicing, and**  
 13 **collection activities; real estate settlement services; and lease**  
 14 **financing transactions), securities broker-dealer and trading**  
 15 **services, private placement services, acting as a futures commission**  
 16 **merchant, securities underwriting, transactions in bullion, precious**  
 17 **metals, and foreign currency, investment advisory services,**  
 18 **financial planning services, third party administration of insurance**  
 19 **policy claims and accounts receivable, the advance or loan of funds**  
 20 **using accounts receivable as collateral, organization and operation**  
 21 **of investment companies and mutual funds, employee benefit**  
 22 **planning and consultation services, actuarial services, issuance of**  
 23 **money orders, savings bonds, and traveler's checks, and other**  
 24 **operations and services either closely related to or a proper**  
 25 **incident to the foregoing."**

26 Page 8, line 15, delete "15" and insert "**17**".

27 Page 8, line 20, delete "16" and insert "**18**".

28 Page 8, between lines 21 and 22, begin a new paragraph and insert:

29 **"Sec. 19. "Material ownership interest" means an ownership**  
 30 **interest equal to more than one-half of one percent (0.5%) of the**  
 31 **voting securities of the issuer, or a larger percentage as the**  
 32 **commissioner may approve."**

33 Page 8, line 22, delete "17" and insert "**20**".

34 Page 8, line 27, delete "18" and insert "**21**".

35 Page 8, line 27, after "means" insert ":".

36 Page 8, line 35, delete "19" and insert "**22**".

37 Page 8, line 36, delete "20" and insert "**23**".

38 Page 8, line 37, delete "21" and insert "**24**".

1 Page 8, line 42, delete "22" and insert "25".

2 Page 9, between lines 2 and 3, begin a new paragraph and insert:

3 **"Sec. 26. "Net income" means an amount equal to the**  
 4 **consolidated net income of the company for which the**  
 5 **determination is being made, determined in accordance with**  
 6 **generally accepted accounting principles on a basis consistent with**  
 7 **prior periods, less net realized investment gains (reduced by capital**  
 8 **gains tax, if any) on the sale of investments (including real estate)**  
 9 **that were held as of the effective date of the plan of reorganization**  
 10 **by a former MIC. For purposes of this section, "net realized**  
 11 **investment gains" means an amount equal to realized investment**  
 12 **gains less realized investment losses (reduced by capital gains tax,**  
 13 **if any) for the same accounting period for all investments**  
 14 **(including real estate) held as of the effective date of the plan of**  
 15 **reorganization as determined in accordance with generally**  
 16 **accepted accounting principles on a basis consistent with prior**  
 17 **periods. The cumulative total of net realized investment gains after**  
 18 **the effective date of the plan of reorganization that are applied to**  
 19 **reduce one (1) or more years of net income for the purposes of this**  
 20 **section and IC 27-14-3-11(e) shall not exceed the net unrealized**  
 21 **investment gains as of the effective date of the plan of**  
 22 **reorganization. For purposes of this section, "net unrealized**  
 23 **investment gains" mean unrealized investment gains less**  
 24 **unrealized investment losses (as adjusted for deferred income**  
 25 **taxes) as of the effective date of the plan of reorganization.**

26 **Sec. 27. "Ordinary course of the insurance business" includes**  
 27 **but is not limited to the following actions and activities of the**  
 28 **MIHC and its subsidiaries:**

29 **(1) Operations, practices, and procedures of the company in**  
 30 **effect prior to the effective date of the plan of reorganization.**

31 **(2) Operations, practices, and procedures that are consistent**  
 32 **with industry practices and standards used or in effect at any**  
 33 **relevant time.**

34 **(3) The payment of obligations due under any surplus note**  
 35 **issued by the company with the approval of the commissioner.**

36 **(4) Expanding the business of any company into other**  
 37 **insurance, insurance-related, and financial services**  
 38 **businesses.**

1       **Any expansion in the ordinary course of the insurance business**  
 2       **may be accomplished through acquisition, merger, consolidation,**  
 3       **strategic alliance, joint venture, or other business combination."**

- 4       Page 9, line 3, delete "23" and insert "**28**".
- 5       Page 9, line 28, delete "24" and insert "**29**".
- 6       Page 9, line 30, delete "25" and insert "**30**".
- 7       Page 9, line 38, delete "26" and insert "**31**".
- 8       Page 9, line 41, delete "27" and insert "**32**".
- 9       Page 10, line 1, delete "28" and insert "**33**".
- 10      Page 10, line 4, delete "29" and insert "**34**".
- 11      Page 10, line 6, delete "30" and insert "**35**".
- 12      Page 10, line 12, delete "31" and insert "**36**".
- 13      Page 10, line 18, delete "32" and insert "**37**".
- 14      Page 10, line 23, delete "33" and insert "**38**".
- 15      Page 12, line 34, after "members" insert "**surplus**".
- 16      Page 16, line 25, after "members" insert "**surplus**".
- 17      Page 21, between lines 3 and 4, begin a new paragraph and insert:
- 18      "**(f) Concurrent with the initial public offering of any securities**  
 19      **of a stock holding company or a reorganized insurer, the majority**  
 20      **of the members of the board of directors of the MIHC must be**  
 21      **disinterested directors."**
- 22      Page 23, line 21, after "members" insert "**surplus**".
- 23      Page 24, between lines 17 and 18, begin a new paragraph and insert:
- 24      "**(e) A reorganized insurer or stock holding company of the**  
 25      **MIHC that has any shareholder other than the MIHC or a direct**  
 26      **or indirect wholly owned subsidiary of the MIHC may not declare**  
 27      **or pay any dividend or other distribution on its capital stock except**  
 28      **to the extent of:**
- 29              **(1) one (1) or more years of net income attributable to the**  
 30              **year of or years after the effective date of the plan of**  
 31              **reorganization; and**
- 32              **(2) proceeds from the issuance of capital stock (which as of**  
 33              **any date shall be that amount equal to the net proceeds**  
 34              **received by the issuer less amounts previously paid out of the**  
 35              **net proceeds to stockholders in the form of dividends or other**  
 36              **distributions).**
- 37      **Sec. 12. (a) For purposes of this section, "executive officer" has**  
 38      **the same meaning as the term is defined by the Securities and**

1 Exchange Commission in 17 CFR 240.3b-7.

2 (b) After the effective date of a reorganization under this article,  
3 the compensation of directors or executive officers of a company  
4 shall include only those amounts that satisfy any one (1) of the  
5 following criteria:

6 (1) Amounts that are payable with respect to services  
7 rendered before the effective date of the plan of  
8 reorganization.

9 (2) Amounts that would be deemed to be reasonable  
10 compensation by the Internal Revenue Service and therefore  
11 allowed as proper expense deductions for federal income tax  
12 purposes.

13 (3) Amounts that are disclosed to the policyholders in proxy  
14 solicitation materials or other written materials approved by  
15 the commissioner as part of the notice of the meeting of the  
16 members called to approve a plan of reorganization, are  
17 approved by the commissioner in principle and concept as  
18 part of the approval of the plan of reorganization, and are  
19 approved by the commissioner as to specific amount prior to  
20 payments after the effective date of the plan of reorganization.

21 (4) Amounts that the commissioner deems necessary to  
22 preserve the safety and soundness of the stock insurance  
23 company subsidiary by enabling it to engage and retain  
24 capable employees.

25 (5) Amounts payable solely out of net income of the company  
26 after the effective date of the plan of reorganization.

27 Sec. 13. A company may invest and conduct operations in  
28 businesses outside the ordinary course of the insurance business  
29 only from funds separately raised and net income earned, after the  
30 effective date of a plan of reorganization."

31 Page 32, line 33, after "members" insert "surplus".

32 Page 36, between lines 33 and 34, begin a new paragraph and insert:

33 "Sec. 15. An MIHC may reorganize with a foreign mutual  
34 insurance holding company, subject to the approval of the  
35 commissioner, under IC 27-1-23. If the MIHC is not the surviving  
36 entity in any reorganization transaction, then the commissioner  
37 must consider the effect of the transaction on the protections  
38 afforded policyholders under the members' surplus protection

1        **principle in determining whether the transaction is in the best**  
2        **interests of the policyholders. If the commissioner waives any or all**  
3        **of the provisions of the members' surplus protection principle in**  
4        **approving a transaction, then the commissioner must explain the**  
5        **basis for waiving the provisions in writing in the order approving**  
6        **the transaction."**

(Reference is to SB 33 as printed November 16, 1999.)

**and when so amended that said bill do pass.**

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Representative Moses