

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 386, 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 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 2-5-23-2.5 IS ADDED TO THE INDIANA CODE
4 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2004]: **Sec. 2.5. As used in this chapter, "health care**
6 **facility" means an institution providing health care services that is**
7 **licensed in Indiana, including institutions primarily engaged in**
8 **providing services for health maintenance organizations or for the**
9 **diagnosis or treatment of human disease, pain, injury, deformity,**
10 **or physical condition. The term includes a general hospital, a**
11 **special hospital, a mental hospital, a public health center, a**
12 **diagnostic center, a treatment center, a rehabilitation center, an**
13 **extended care facility, a skilled nursing home, a nursing home, an**
14 **intermediate care facility, a tuberculosis hospital, a chronic disease**
15 **hospital, a maternity hospital, an outpatient clinic, a home health**
16 **care agency, a bioanalytical laboratory, or a central services**

1 **facility servicing one (1) or more such institutions.**

2 SECTION 2. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JANUARY 1, 2004]: Sec. 8. ~~Beginning May 1, 1997,~~
 4 The health policy advisory committee is established. At the request of
 5 the chairman, the health policy advisory committee shall provide
 6 information and otherwise assist the commission to perform the duties
 7 of the commission under this chapter. The health policy advisory
 8 committee members are ex officio and may not vote. The health policy
 9 advisory committee members shall be appointed from the general
 10 public and must include one (1) individual who represents each of the
 11 following:

- 12 (1) The interests of public hospitals.
 13 (2) The interests of community mental health centers.
 14 (3) The interests of community health centers.
 15 (4) The interests of the long term care industry.
 16 (5) The interests of health care professionals licensed under
 17 IC 25, but not licensed under IC 25-22.5.
 18 (6) The interests of rural hospitals. An individual appointed under
 19 this subdivision must be licensed under IC 25-22.5.
 20 (7) The interests of health maintenance organizations (as defined
 21 in IC 27-13-1-19).
 22 ~~(8) The interests of for-profit health care facilities (as defined in~~
 23 ~~IC 27-8-10-1(1)).~~
 24 ~~(9) (8)~~ (8) A statewide consumer organization.
 25 ~~(10) (9)~~ (9) A statewide senior citizen organization.
 26 ~~(11) (10)~~ (10) A statewide organization representing people with
 27 disabilities.
 28 ~~(12) (11)~~ (11) Organized labor.
 29 ~~(13) (12)~~ (12) The interests of businesses that purchase health
 30 insurance policies.
 31 ~~(14) (13)~~ (13) The interests of businesses that provide employee
 32 welfare benefit plans (as defined in 29 U.S.C. 1002) that are
 33 self-funded.
 34 ~~(15) (14)~~ (14) A minority community.
 35 ~~(16) (15)~~ (15) The uninsured. An individual appointed under this
 36 subdivision must be and must have been chronically uninsured.
 37 ~~(17) (16)~~ (16) An individual who is not associated with any
 38 organization, business, or profession represented in this

1 subsection other than as a consumer.

2 SECTION 3. IC 5-10-8-8.1, AS AMENDED BY P.L.233-1999,
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2004]: Sec. 8.1. (a) This section applies only to the state
5 and former legislators, instead of section 8 of this chapter.

6 (b) As used in this section, "legislator" means a member of the
7 general assembly.

8 (c) After June 30, 1988, the state shall provide to each retired
9 legislator:

10 (1) whose retirement date is after June 30, 1988;

11 (2) who is not participating in a group health insurance coverage
12 plan:

13 (A) including Medicare coverage as prescribed by 42 U.S.C.
14 1395 et seq.; but

15 (B) not including a group health insurance plan provided by
16 the state; ~~or a health insurance plan provided under~~
17 ~~IC 27-8-10;~~

18 (3) who served as a legislator for at least ten (10) years; and

19 (4) who participated in a group health insurance plan provided by
20 the state on the legislator's retirement date;

21 a group health insurance program that is equal to that offered active
22 employees.

23 (d) A retired legislator who qualifies under subsection (c) may
24 participate in the group health insurance program if the retired
25 legislator:

26 (1) pays an amount equal to the employer's and employee's
27 premium for the group health insurance for an active employee;
28 and

29 (2) within ninety (90) days after the legislator's retirement date
30 files a written request for insurance coverage with the employer.

31 (e) A retired legislator's eligibility to continue insurance under this
32 section ends when the member becomes eligible for Medicare coverage
33 as prescribed by 42 U.S.C. 1395 et seq., or when the employer
34 terminates the health insurance program.

35 (f) A retired legislator who is eligible for insurance coverage under
36 this section may elect to have the legislator's spouse covered under the
37 health insurance program at the time the legislator retires. If a retired
38 legislator's spouse pays the amount the retired legislator would have

1 been required to pay for coverage selected by the spouse, the spouse's
 2 subsequent eligibility to continue insurance under this section is not
 3 affected by the death of the retired legislator and is not affected by the
 4 retired legislator's eligibility for Medicare. The spouse's eligibility ends
 5 on the earliest of the following:

6 (1) When the spouse becomes eligible for Medicare coverage as
 7 prescribed by 42 U.S.C. 1395 et seq.

8 (2) When the employer terminates the health insurance program.

9 (3) The date of the spouse's remarriage.

10 (g) The surviving spouse of a legislator who dies or has died in
 11 office may elect to participate in the group health insurance program
 12 if all of the following apply:

13 (1) The deceased legislator would have been eligible to
 14 participate in the group health insurance program under this
 15 section had the legislator retired on the day of the legislator's
 16 death.

17 (2) The surviving spouse files a written request for insurance
 18 coverage with the employer.

19 (3) The surviving spouse pays an amount equal to the employer's
 20 and employee's premium for the group health insurance for an
 21 active employee.

22 (h) The eligibility of the surviving spouse of a legislator to purchase
 23 group health insurance under subsection (g) ends on the earliest of the
 24 following:

25 (1) When the employer terminates the health insurance program.

26 (2) The date of the spouse's remarriage.

27 (3) When the spouse becomes eligible for Medicare coverage as
 28 prescribed by 42 U.S.C. 1395 et seq.

29 SECTION 4. IC 16-21-3-2 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The state health
 31 commissioner may take action under section 1 of this chapter on any of
 32 the following grounds:

33 (1) Violation of any of the provisions of this chapter or of the
 34 rules adopted under this chapter.

35 (2) Permitting, aiding, or abetting the commission of any illegal
 36 act in an institution.

37 (3) **Knowingly collecting or attempting to collect from a**
 38 **subscriber (as defined in IC 27-13-1-32) or an enrollee (as**

1 **defined in IC 27-13-1-12) of a health maintenance**
2 **organization (as defined in IC 27-13-1-19) any amounts that**
3 **are owed by the health maintenance organization.**

4 (4) Conduct or practice found by the council to be detrimental to
5 the welfare of the patients of an institution.

6 SECTION 5. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Any assignment of the wages
8 of an employee is valid only if all of the following conditions are
9 satisfied:

- 10 (1) The assignment is:
 - 11 (A) in writing;
 - 12 (B) signed by the employee personally;
 - 13 (C) by its terms revocable at any time by the employee upon
 - 14 written notice to the employer; and
 - 15 (D) agreed to in writing by the employer.
- 16 (2) An executed copy of the assignment is delivered to the
- 17 employer within ten (10) days after its execution.
- 18 (3) The assignment is made for a purpose described in subsection
- 19 (b).

20 (b) A wage assignment under this section may be made for the
21 purpose of paying any of the following:

- 22 (1) Premium on a policy of insurance. ~~obtained for the employee~~
23 ~~by the employer.~~
- 24 (2) Pledge or contribution of the employee to a charitable or
- 25 nonprofit organization.
- 26 (3) Purchase price of bonds or securities, issued or guaranteed by
- 27 the United States.
- 28 (4) Purchase price of shares of stock, or fractional interests
- 29 therein, of the employing company, or of a company owning the
- 30 majority of the issued and outstanding stock of the employing
- 31 company, whether purchased from such company, in the open
- 32 market or otherwise. However, if such shares are to be purchased
- 33 on installments pursuant to a written purchase agreement, the
- 34 employee has the right under the purchase agreement at any time
- 35 before completing purchase of such shares to cancel said
- 36 agreement and to have repaid promptly the amount of all
- 37 installment payments which theretofore have been made.
- 38 (5) Dues to become owing by the employee to a labor

- 1 organization of which the employee is a member.
- 2 (6) Purchase price of merchandise sold by the employer to the
- 3 employee, at the written request of the employee.
- 4 (7) Amount of a loan made to the employee by the employer and
- 5 evidenced by a written instrument executed by the employee.
- 6 (8) Contributions, assessments, or dues of the employee to a
- 7 hospital service or a surgical or medical expense plan or to an
- 8 employees' association, trust, or plan existing for the purpose of
- 9 paying pensions or other benefits to said employee or to others
- 10 designated by the employee.
- 11 (9) Payment to any credit union, nonprofit organizations, or
- 12 associations of employees of such employer organized under any
- 13 law of this state or of the United States.
- 14 (10) Payment to any person or organization regulated under the
- 15 Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit
- 16 to the employee's account by electronic transfer or as otherwise
- 17 designated by the employee.
- 18 (11) Premiums on policies of insurance and annuities purchased
- 19 by the employee on the employee's life.
- 20 (12) The purchase price of shares or fractional interest in shares
- 21 in one (1) or more mutual funds.

22 SECTION 6. IC 25-1-9-4, AS AMENDED BY P.L.22-1999,
 23 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2001]: Sec. 4. (a) A practitioner shall conduct the
 25 practitioner's practice in accordance with the standards established by
 26 the board regulating the profession in question and is subject to the
 27 exercise of the disciplinary sanctions under section 9 of this chapter if,
 28 after a hearing, the board finds:

- 29 (1) a practitioner has:
 - 30 (A) engaged in or knowingly cooperated in fraud or material
 - 31 deception in order to obtain a license to practice;
 - 32 (B) engaged in fraud or material deception in the course of
 - 33 professional services or activities; or
 - 34 (C) advertised services in a false or misleading manner;
- 35 (2) a practitioner has been convicted of a crime that has a direct
- 36 bearing on the practitioner's ability to continue to practice
- 37 competently;
- 38 (3) a practitioner has knowingly violated any state statute or rule,

- 1 or federal statute or regulation, regulating the profession in
 2 question;
- 3 (4) a practitioner has continued to practice although the
 4 practitioner has become unfit to practice due to:
- 5 (A) professional incompetence that:
- 6 (i) may include the undertaking of professional activities
 7 that the practitioner is not qualified by training or experience
 8 to undertake; and
- 9 (ii) does not include activities performed under
 10 IC 16-21-2-9;
- 11 (B) failure to keep abreast of current professional theory or
 12 practice;
- 13 (C) physical or mental disability; or
- 14 (D) addiction to, abuse of, or severe dependency upon alcohol
 15 or other drugs that endanger the public by impairing a
 16 practitioner's ability to practice safely;
- 17 (5) a practitioner has engaged in a course of lewd or immoral
 18 conduct in connection with the delivery of services to the public;
- 19 (6) a practitioner has allowed the practitioner's name or a license
 20 issued under this chapter to be used in connection with an
 21 individual who renders services beyond the scope of that
 22 individual's training, experience, or competence;
- 23 (7) a practitioner has had disciplinary action taken against the
 24 practitioner or the practitioner's license to practice in any other
 25 state or jurisdiction on grounds similar to those under this
 26 chapter;
- 27 (8) a practitioner has diverted:
- 28 (A) a legend drug (as defined in IC 16-18-2-199); or
- 29 (B) any other drug or device issued under a drug order (as
 30 defined in IC 16-42-19-3) for another person;
- 31 (9) a practitioner, except as otherwise provided by law, has
 32 knowingly prescribed, sold, or administered any drug classified
 33 as a narcotic, addicting, or dangerous drug to a habitue or addict;
- 34 **or**
- 35 (10) a practitioner has failed to comply with an order imposing a
 36 sanction under section 9 of this chapter; **or**
- 37 **(11) a practitioner who is a participating provider of a health**
 38 **maintenance organization has knowingly collected or**

1 **attempted to collect from a subscriber or enrollee of the**
 2 **health maintenance organization any sums that are owed by**
 3 **the health maintenance organization.**

4 (b) A certified copy of the record of disciplinary action is conclusive
 5 evidence of the other jurisdiction's disciplinary action under subsection
 6 (a)(7)."

7 Page 2, after line 30, begin a new paragraph and insert:

8 "SECTION 8. IC 27-1-12-2 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The following
 10 definitions apply to this section:

11 (1) "Acceptable collateral" means, as to securities lending
 12 transactions:

13 (A) cash;

14 (B) cash equivalents;

15 (C) letters of credit; and

16 (D) direct obligations of, or securities that are fully guaranteed
 17 as to principal and interest by, the government of the United
 18 States or any agency of the United States, including the
 19 Federal National Mortgage Association and the Federal Home
 20 Loan Mortgage Corporation.

21 (2) "Acceptable collateral" means, as to lending foreign securities,
 22 sovereign debt that is rated:

23 (A) A- or higher by Standard & Poor's Corporation;

24 (B) A3 or higher by Moody's Investors Service, Inc.;

25 (C) A- or higher by Duff and Phelps, Inc.; or

26 (D) 1 by the Securities Valuation Office.

27 (3) "Acceptable collateral" means, as to repurchase transactions:

28 (A) cash;

29 (B) cash equivalents; and

30 (C) direct obligations of, or securities that are fully guaranteed
 31 as to principal and interest by, the government of the United
 32 States or any agency of the United States, including the
 33 Federal National Mortgage Association and the Federal Home
 34 Loan Mortgage Corporation.

35 (4) "Acceptable collateral" means, as to reverse repurchase
 36 transactions:

37 (A) cash; and

38 (B) cash equivalents.

- 1 (5) "Admitted assets" means assets permitted to be reported as
2 admitted assets on the statutory financial statement of the life
3 insurance company most recently required to be filed with the
4 commissioner.
- 5 (6) "Business entity" means:
6 (A) a sole proprietorship;
7 (B) a corporation;
8 (C) a limited liability company;
9 (D) an association;
10 (E) a partnership;
11 (F) a joint stock company;
12 (G) a joint venture;
13 (H) a mutual fund;
14 (I) a trust;
15 (J) a joint tenancy; or
16 (K) other, similar form of business organization;
17 whether organized for-profit or not-for-profit.
- 18 (7) "Cash" means any of the following:
19 (A) United States denominated paper currency and coins.
20 (B) Negotiable money orders and checks.
21 (C) Funds held in any time or demand deposit in any
22 depository institution, the deposits of which are insured by the
23 Federal Deposit Insurance Corporation.
- 24 (8) "Cash equivalent" means any of the following:
25 (A) A certificate of deposit issued by a depository institution,
26 the deposits of which are insured by the Federal Deposit
27 Insurance Corporation.
28 (B) A banker's acceptance issued by a depository institution,
29 the deposits of which are insured by the Federal Deposit
30 Insurance Corporation.
31 (C) A government money market mutual fund.
32 (D) A class one money market mutual fund.
- 33 (9) "Class one money market mutual fund" means a money
34 market mutual fund that at all times qualifies for investment
35 pursuant to the "Purposes and Procedures of the Securities
36 Valuation Office" or any successor publication either using the
37 bond class one reserve factor or because it is exempt from asset
38 valuation reserve requirements.

- 1 (10) "Dollar roll transaction" means two (2) simultaneous
 2 transactions that have settlement dates not more than ninety-six
 3 (96) days apart and that meet the following description:
 4 (A) In one (1) transaction, a life insurance company sells to a
 5 business entity one (1) or both of the following:
 6 (i) Asset-backed securities that are issued, assumed, or
 7 guaranteed by the Government National Mortgage
 8 Association, the Federal National Mortgage Association, or
 9 the Federal Home Loan Mortgage Corporation or the
 10 successor of an entity referred to in this item.
 11 (ii) Other asset-backed securities referred to in Section 106
 12 of Title I of the Secondary Mortgage Market Enhancement
 13 Act of 1984 (15 U.S.C. 77r-1), as amended.
 14 (B) In the other transaction, the life insurance company is
 15 obligated to purchase from the same business entity securities
 16 that are substantially similar to the securities sold under clause
 17 (A).
 18 (11) "Domestic jurisdiction" means:
 19 (A) the United States;
 20 (B) any state, territory, or possession of the United States;
 21 (C) the District of Columbia;
 22 (D) Canada; or
 23 (E) any province of Canada.
 24 (12) "Earnings available for fixed charges" means income, after
 25 deducting:
 26 (A) operating and maintenance expenses other than expenses
 27 that are fixed charges;
 28 (B) taxes other than federal and state income taxes;
 29 (C) depreciation; and
 30 (D) depletion;
 31 but excluding extraordinary nonrecurring items of income or
 32 expense appearing in the regular financial statements of a
 33 business entity.
 34 (13) "Fixed charges" includes:
 35 (A) interest on funded and unfunded debt;
 36 (B) amortization of debt discount; and
 37 (C) rentals for leased property.
 38 (14) "Foreign currency" means a currency of a foreign

- 1 jurisdiction.
- 2 (15) "Foreign jurisdiction" means a jurisdiction other than a
3 domestic jurisdiction.
- 4 (16) "Government money market mutual fund" means a money
5 market mutual fund that at all times:
- 6 (A) invests only in:
- 7 (i) obligations that are issued, guaranteed, or insured by the
8 United States; or
- 9 (ii) collateralized repurchase agreements composed of
10 obligations that are issued, guaranteed, or insured by the
11 United States; and
- 12 (B) qualifies for investment without a reserve pursuant to the
13 "Purposes and Procedures of the Securities Valuation Office"
14 or any successor publication.
- 15 (17) "Guaranteed or insured," when used in reference to an
16 obligation acquired under this section, means that the guarantor
17 or insurer has agreed to:
- 18 (A) perform or insure the obligation of the obligor or purchase
19 the obligation; or
- 20 (B) be unconditionally obligated, until the obligation is repaid,
21 to maintain in the obligor a minimum net worth, fixed charge
22 coverage, stockholders' equity, or sufficient liquidity to enable
23 the obligor to pay the obligation in full.
- 24 (18) "Investment company" means:
- 25 (A) an investment company as defined in Section 3(a) of the
26 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as
27 amended; or
- 28 (B) a person described in Section 3(c) of the Investment
29 Company Act of 1940.
- 30 (19) "Investment company series" means an investment portfolio
31 of an investment company that is organized as a series company
32 to which assets of the investment company have been specifically
33 allocated.
- 34 (20) "Letter of credit" means a clean, irrevocable, and
35 unconditional letter of credit that is:
- 36 (A) issued or confirmed by; and
- 37 (B) payable and presentable at;
38 a financial institution on the list of financial institutions meeting

1 the standards for issuing letters of credit under the "Purposes and
 2 Procedures of the Securities Valuation Office" or any successor
 3 publication. To constitute acceptable collateral for the purposes
 4 of paragraph 29 of subsection (b) of this section, a letter of credit
 5 must have an expiration date beyond the term of the subject
 6 transaction.

7 (21) "Market value" means the following:

- 8 (A) As to cash, the amount of the cash.
- 9 (B) As to cash equivalents, the amount of the cash equivalents.
- 10 (C) As to letters of credit, the amount of the letters of credit.
- 11 (D) As to a security as of any date:
 - 12 (i) the price for the security on that date obtained from a
 - 13 generally recognized source, or the most recent quotation
 - 14 from such a source; or
 - 15 (ii) if no generally recognized source exists, the price for the
 - 16 security as determined in good faith by the parties to a
 - 17 transaction;

18 plus accrued but unpaid income on the security to the extent
 19 not included in the price as of that date.

20 (22) "Money market mutual fund" means a mutual fund that
 21 meets the conditions of 17 CFR 270.2a-7, under the Investment
 22 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

23 (23) "Multilateral development bank" means an international
 24 development organization of which the United States is a
 25 member.

26 (24) "Mutual fund" means:

- 27 (A) an investment company; or
 - 28 (B) in the case of an investment company that is organized as
 - 29 a series company, an investment company series;
- 30 that is registered with the United States Securities and Exchange
 31 Commission under the Investment Company Act of 1940 (15
 32 U.S.C. 80a-1 et seq.).

33 (25) "Obligation" means any of the following:

- 34 (A) A bond.
- 35 (B) A note.
- 36 (C) A debenture.
- 37 (D) Any other form of evidence of debt.

38 (26) "Person" means:

- 1 (A) an individual;
- 2 (B) a business entity;
- 3 (C) a multilateral development bank; or
- 4 (D) a government or quasi-governmental body, such as a
- 5 political subdivision or a government sponsored enterprise.
- 6 (27) "Repurchase transaction" means a transaction in which a life
- 7 insurance company purchases securities from a business entity
- 8 that is obligated to repurchase the purchased securities or
- 9 equivalent securities from the life insurance company at a
- 10 specified price, either within a specified period of time or upon
- 11 demand.
- 12 (28) "Reverse repurchase transaction" means a transaction in
- 13 which a life insurance company sells securities to a business
- 14 entity and is obligated to repurchase the sold securities or
- 15 equivalent securities from the business entity at a specified price,
- 16 either within a specified period of time or upon demand.
- 17 (29) "Securities lending transaction" means a transaction in which
- 18 securities are loaned by a life insurance company to a business
- 19 entity that is obligated to return the loaned securities or equivalent
- 20 securities to the life insurance company, either within a specified
- 21 period of time or upon demand.
- 22 (30) "Securities Valuation Office" refers to:
- 23 (A) the Securities Valuation Office of the National Association
- 24 of Insurance Commissioners; or
- 25 (B) any successor of the office referred to in Clause (A)
- 26 established by the National Association of Insurance
- 27 Commissioners.
- 28 (31) "Series company" means an investment company that is
- 29 organized as a series company (as defined in Rule 18f-2(a)
- 30 adopted under the Investment Company Act of 1940 (15 U.S.C.
- 31 80a-1 et seq.), as amended).
- 32 (32) "Supported", when used in reference to an obligation, by
- 33 whomever issued or made, means that:
- 34 (a) repayment of the obligation by:
- 35 (i) a domestic jurisdiction or by an administration, agency,
- 36 authority, or instrumentality of a domestic jurisdiction; or
- 37 (ii) a business entity;
- 38 as the case may be, is secured by real or personal property of

1 value at least equal to the principal amount of the obligation
 2 by means of mortgage, assignment of vendor's interest in one
 3 (1) or more conditional sales contracts, other title retention
 4 device, or by means of other security interest in such property
 5 for the benefit of the holder of the obligation; and

6 (b) the:

7 (i) domestic jurisdiction or administration, agency, authority,
 8 or instrumentality of the domestic jurisdiction; or

9 (ii) business entity;

10 as the case may be, has entered into a firm agreement to rent
 11 or use the property pursuant to which it is obligated to pay
 12 money as rental or for the use of such property in amounts and
 13 at times which shall be sufficient, after provision for taxes
 14 upon and other expenses of use of the property, to repay in full
 15 the obligation with interest and when such agreement and the
 16 money obligated to be paid thereunder are assigned, pledged,
 17 or secured for the benefit of the holder of the obligation.
 18 However, where the security for the repayment of the
 19 obligation consists of a first mortgage lien or deed of trust on
 20 a fee interest in real property, the obligation may provide for
 21 the amortization, during the initial, fixed period of the lease or
 22 contract, of less than one hundred percent (100%) of the
 23 obligation if there is pledged or assigned, as additional
 24 security for the obligation, sufficient rentals payable under the
 25 lease, or of contract payments, to secure the amortized
 26 obligation payments required during the initial, fixed period of
 27 the lease or contract, including but not limited to payments of
 28 principal, interest, and taxes other than the income taxes of the
 29 borrower, and if there is to be left unamortized at the end of
 30 such period an amount not greater than the original appraised
 31 value of the land only, exclusive of all improvements, as
 32 prescribed by law.

33 (b) Investments of domestic life insurance companies at the time
 34 they are made shall conform to the following categories, conditions,
 35 limitations, and standards:

36 1. Obligations of a domestic jurisdiction or of any administration,
 37 agency, authority, or instrumentality of a domestic jurisdiction.

38 2. Obligations guaranteed, supported, or insured as to principal and

1 interest by a domestic jurisdiction or by an administration, agency,
2 authority, or instrumentality of a domestic jurisdiction.

3 3. Obligations issued under or pursuant to the Farm Credit Act of
4 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31,
5 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through
6 1449) as in effect on December 31, 1990, interest bearing obligations
7 of the FSLIC Resolution Fund or shares of any institution whose
8 deposits are insured by the Savings Association Insurance Fund of the
9 Federal Deposit Insurance Corporation to the extent that such shares
10 are insured, obligations issued or guaranteed by a multilateral
11 development bank, and obligations issued or guaranteed by the African
12 Development Bank.

13 4. Obligations issued, guaranteed, or insured as to principal and
14 interest by a city, county, drainage district, road district, school district,
15 tax district, town, township, village, or other civil administration,
16 agency, authority, instrumentality, or subdivision of a domestic
17 jurisdiction, providing such obligations are authorized by law and are:

18 (a) direct and general obligations of the issuing, guaranteeing or
19 insuring governmental unit, administration, agency, authority,
20 district, subdivision, or instrumentality;

21 (b) payable from designated revenues pledged to the payment of
22 the principal and interest thereof; or

23 (c) improvement bonds or other obligations constituting a first
24 lien, except for tax liens, against all of the real estate within the
25 improvement district or on that part of such real estate not
26 discharged from such lien through payment of the assessment.

27 The area to which such improvement bonds or other obligations
28 relate shall be situated within the limits of a town or city and at
29 least fifty percent (50%) of the properties within such area shall
30 be improved with business buildings or residences.

31 5. Loans evidenced by obligations secured by first mortgage liens
32 on otherwise unencumbered real estate or otherwise unencumbered
33 leaseholds having at least fifty (50) years of unexpired term, such real
34 estate, or leaseholds to be located in a domestic jurisdiction. Such loans
35 shall not exceed eighty percent (80%) of the fair value of the security
36 determined in a manner satisfactory to the department, except that the
37 percentage stated may be exceeded if and to the extent such excess is
38 guaranteed or insured by:

- 1 (a) a domestic jurisdiction or by an administration, agency,
- 2 authority, or instrumentality of any domestic jurisdiction; or
- 3 (b) a private mortgage insurance corporation approved by the
- 4 department.

5 If improvements constitute a part of the value of the real estate or
 6 leaseholds, such improvements shall be insured against fire for the
 7 benefit of the mortgagee in an amount not less than the difference
 8 between the value of the land and the unpaid balance of the loan.

9 For the purpose of this section, real estate or a leasehold shall not be
 10 deemed to be encumbered by reason of the existence in relation thereto
 11 of:

- 12 (1) liens inferior to the lien securing the loan made by the life
- 13 insurance company;
- 14 (2) taxes or assessment liens not delinquent;
- 15 (3) instruments creating or reserving mineral, oil, water or timber
- 16 rights, rights-of-way, common or joint driveways, sewers, walls,
- 17 or utility connections;
- 18 (4) building restrictions or other restrictive covenants; or
- 19 (5) an unassigned lease reserving rents or profits to the owner.

20 A loan that is authorized by this paragraph remains qualified under this
 21 paragraph notwithstanding any refinancing, modification, or extension
 22 of the loan. Investments authorized by this paragraph shall not in the
 23 aggregate exceed forty-five percent (45%) of the life insurance
 24 company's admitted assets.

25 6. Loans evidenced by obligations guaranteed or insured, but only
 26 to the extent guaranteed or insured, by a domestic jurisdiction or by any
 27 agency, administration, authority, or instrumentality of any domestic
 28 jurisdiction, and secured by second or subsequent mortgages or deeds
 29 of trust on real estate or leaseholds, provided the terms of the leasehold
 30 mortgages or deeds of trust shall not exceed four-fifths (4/5) of the
 31 unexpired lease term, including enforceable renewable options
 32 remaining at the time of the loan.

33 7. Real estate contracts involving otherwise unencumbered real
 34 estate situated in a domestic jurisdiction, to be secured by the title to
 35 such real estate, which shall be transferred to the life insurance
 36 company or to a trustee or nominee of its choosing. For statement and
 37 deposit purposes, the value of a contract acquired pursuant to this
 38 paragraph shall be whichever of the following amounts is the least:

- 1 (a) eighty percent (80%) of the contract price of the real estate;
- 2 (b) eighty percent (80%) of the fair value of the real estate at the
- 3 time the contract is purchased, such value to be determined in a
- 4 manner satisfactory to the department; or
- 5 (c) the amount due under the contract.

6 For the purpose of this paragraph, real estate shall not be deemed
 7 encumbered by reason of the existence in relation thereto of: (1) taxes
 8 or assessment liens not delinquent; (2) instruments creating or
 9 reserving mineral, oil, water or timber rights, rights-of-way, common
 10 or joint driveways, sewers, walls or utility connections; (3) building
 11 restrictions or other restrictive covenants; or (4) an unassigned lease
 12 reserving rents or profits to the owner. Fire insurance upon
 13 improvements constituting a part of the real estate described in the
 14 contract shall be maintained in an amount at least equal to the unpaid
 15 balance due under the contract or the fair value of improvements,
 16 whichever is the lesser.

17 8. Improved or unimproved real property, whether encumbered or
 18 unencumbered, or any interest therein, held directly or evidenced by
 19 joint venture interests, general or limited partnership interests, trust
 20 certificates, or any other instruments, and acquired by the life insurance
 21 company as an investment, which real property, if unimproved, is
 22 developed within five (5) years. Real property acquired for investment
 23 under this paragraph, whether leased or intended to be developed for
 24 commercial or residential purposes or otherwise lawfully held, is
 25 subject to the following conditions and limitations:

- 26 (a) The real estate shall be located in a domestic jurisdiction.
- 27 (b) The admitted assets of the life insurance company must
- 28 exceed twenty-five million dollars (\$25,000,000).
- 29 (c) The life insurance company shall have the right to expend
- 30 from time to time whatever amount or amounts may be necessary
- 31 to conform the real estate to the needs and purposes of the lessee
- 32 and the amount so expended shall be added to and become a part
- 33 of the investment in such real estate.
- 34 (d) The value for statement and deposit purposes of an investment
- 35 under this paragraph shall be reduced annually by amortization of
- 36 the costs of improvement and development, less land costs, over
- 37 the expected life of the property, which value and amortization
- 38 shall for statement and deposit purposes be determined in a

1 manner satisfactory to the commissioner. In determining such
2 value with respect to the calendar years in which an investment
3 begins or ends with respect to a point in time other than the
4 beginning or end of a calendar year, the amortization provided
5 above shall be made on a proportional basis.

6 (e) Fire insurance shall be maintained in an amount at least equal
7 to the insurable value of the improvements or the difference
8 between the value of the land and the value at which such real
9 estate is carried for statement and deposit purposes, whichever
10 amount is smaller.

11 (f) Real estate acquired in any of the manners described and
12 sanctioned under section 3 of this chapter, or otherwise lawfully
13 held, except paragraph 5 of that section which specifically relates
14 to the acquisition of real estate under this paragraph, shall not be
15 affected in any respect by this paragraph unless such real estate
16 at or subsequent to its acquisition fulfills the conditions and
17 limitations of this paragraph, and is declared by the life insurance
18 company in a writing filed with the department to be an
19 investment under this paragraph. The value of real estate acquired
20 under section 3 of this chapter, or otherwise lawfully held, and
21 invested under this paragraph shall be initially that at which it was
22 carried for statement and deposit purposes under that section.

23 (g) Neither the cost of each parcel of improved real property nor
24 the aggregate cost of all unimproved real property acquired under
25 the authority of this paragraph may exceed two percent (2%) of
26 the life insurance company's admitted assets. For purposes of this
27 paragraph, "unimproved real property" means land containing no
28 structures intended for commercial, industrial, or residential
29 occupancy, and "improved real property" consists of all land
30 containing any such structure. When applying the limitations of
31 subparagraph (d) of this paragraph, unimproved real property
32 becomes improved real property as soon as construction of any
33 commercial, industrial, or residential structure is so completed as
34 to be capable of producing income. In the event the real property
35 is mortgaged with recourse to the life insurance company or the
36 life insurance company commences a plan of construction upon
37 real property at its own expense or guarantees payment of
38 borrowed funds to be used for such construction, the total project

1 cost of the real property will be used in applying the two percent
2 (2%) test. Further, no more than ten percent (10%) of the life
3 insurance company's admitted assets may be invested in all
4 property, measured by the property value for statement and
5 deposit purposes as defined in this paragraph, held under this
6 paragraph at the same time.

7 9. Deposits of cash in a depository institution, the deposits of which
8 are insured by the Federal Deposit Insurance Corporation, or
9 certificates of deposit issued by a depository institution, the deposits of
10 which are insured by the Federal Deposit Insurance Corporation.

11 10. Bank and bankers' acceptances and other bills of exchange of
12 kinds and maturities eligible for purchase or rediscount by federal
13 reserve banks.

14 11. Obligations that are issued, guaranteed, assumed, or supported
15 by a business entity organized under the laws of a domestic jurisdiction
16 and that are rated:

17 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
18 higher in the case of commercial paper);

19 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
20 higher in the case of commercial paper);

21 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in
22 the case of commercial paper); or

23 (d) 1 or 2 by the Securities Valuation Office.

24 Investments may also be made under this paragraph in obligations
25 that have not received a rating if the earnings available for fixed
26 charges of the business entity for the period of its five (5) fiscal years
27 next preceding the date of purchase shall have averaged per year not
28 less than one and one-half (1 1/2) times its average annual fixed
29 charges applicable to such period and if during either of the last two (2)
30 years of such period such earnings available for fixed charges shall
31 have been not less than one and one-half (1 1/2) times its fixed charges
32 for such year. However, if the business entity is a finance company or
33 other lending institution at least eighty percent (80%) of the assets of
34 which are cash and receivables representing loans or discounts made
35 or purchased by it, the multiple shall be one and one-quarter (1 1/4)
36 instead of one and one-half (1 1/2).

37 11.(A) Obligations issued, guaranteed, or assumed by a business
38 entity organized under the laws of a domestic jurisdiction, which

1 obligations have not received a rating or, if rated, have not received a
2 rating that would qualify the obligations for investment under
3 paragraph 11 of this section. Investments authorized by this paragraph
4 may not exceed ten percent (10%) of the life insurance company's
5 admitted assets.

6 12. Preferred stock of, or common or preferred stock guaranteed as
7 to dividends by, any corporation organized under the laws of a
8 domestic jurisdiction, which over the period of the seven (7) fiscal
9 years immediately preceding the date of purchase earned an average
10 amount per annum at least equal to five percent (5%) of the par value
11 of its common and preferred stock (or, in the case of stocks having no
12 par value, of its issued or stated value) outstanding at date of purchase,
13 or which over such period earned an average amount per annum at least
14 equal to two (2) times the total of its annual interest charges, preferred
15 dividends and dividends guaranteed by it, determined with reference
16 to the date of purchase. No investment shall be made under this
17 paragraph in a stock upon which any dividend is in arrears or has been
18 in arrears for ninety (90) days within the immediately preceding five
19 (5) year period.

20 13. Common stock of any solvent corporation organized under the
21 laws of a domestic jurisdiction which over the seven (7) fiscal years
22 immediately preceding purchase earned an average amount per annum
23 at least equal to six percent (6%) of the par value of its capital stock
24 (or, in the case of stock having no par value, of the issued or stated
25 value of such stock) outstanding at date of purchase, but the conditions
26 and limitations of this paragraph shall not apply to the special area of
27 investment to which paragraph 23 of this section pertains.

28 13.(A) Stock or shares of any mutual fund that:

- 29 (a) has been in existence for a period of at least five (5) years
30 immediately preceding the date of purchase, has assets of not less
31 than twenty-five million dollars (\$25,000,000) at the date of
32 purchase, and invests substantially all of its assets in investments
33 permitted under this section; or
34 (b) is a class one money market mutual fund or a class one bond
35 mutual fund.

36 Investments authorized by this paragraph 13(A) in mutual funds having
37 the same or affiliated investment advisers shall not at any one (1) time
38 exceed in the aggregate ten percent (10%) of the life insurance

1 company's admitted assets. The limitations contained in paragraph 22
2 of this subsection apply to investments in the types of mutual funds
3 described in subparagraph (a). For the purposes of this paragraph,
4 "class one bond mutual fund" means a mutual fund that at all times
5 qualifies for investment using the bond class one reserve factor under
6 the "Purposes and Procedures of the Securities Valuation Office" or
7 any successor publication.

8 The aggregate amount of investments under this paragraph may be
9 limited by the commissioner if the commissioner finds that investments
10 under this paragraph may render the operation of the life insurance
11 company hazardous to the company's policyholders or creditors or to
12 the general public.

13 14. Loans upon the pledge of any of the investments described in
14 this section other than real estate and those qualifying solely under
15 paragraph 20 of this subsection, but the amount of such a loan shall not
16 exceed seventy-five percent (75%) of the value of the investment
17 pledged.

18 15. Real estate acquired or otherwise lawfully held under the
19 provisions of IC 27-1, except under paragraph 7 or 8 of this subsection,
20 which real estate as an investment shall also include the value of
21 improvements or betterments made thereon subsequent to its
22 acquisition. The value of such real estate for deposit and statement
23 purposes is to be determined in a manner satisfactory to the
24 department.

25 15.(A) Tangible personal property, equipment trust obligations, or
26 other instruments evidencing an ownership interest or other interest in
27 tangible personal property when the life insurance company purchasing
28 such property has admitted assets in excess of twenty-five million
29 dollars (\$25,000,000), and where there is a right to receive determined
30 portions of rental, purchase, or other fixed obligatory payments for the
31 use of such personal property from a corporation whose obligations
32 would be eligible for investment under the provisions of paragraph 11
33 of this subsection, provided that the aggregate of such payments
34 together with the estimated salvage value of such property at the end
35 of its minimum useful life, to be determined in a manner acceptable to
36 the insurance commissioner, and the estimated tax benefits to the
37 insurer resulting from ownership of such property, is adequate to return
38 the cost of the investment in such property, and provided further, that

1 each net investment in tangible personal property for which any single
2 private corporation is obligated to pay rental, purchase, or other
3 obligatory payments thereon does not exceed one-half of one percent
4 (1/2%) of the life insurance company's admitted assets, and the
5 aggregate net investments made under the provisions of this paragraph
6 do not exceed five percent (5%) of the life insurance company's
7 admitted assets.

8 16. Loans to policyholders of the life insurance company in amounts
9 not exceeding in any case the reserve value of the policy at the time the
10 loan is made.

11 17. A life insurance company doing business in a foreign
12 jurisdiction may, if permitted or required by the laws of such
13 jurisdiction, invest funds equal to its obligations in such jurisdiction in
14 investments legal for life insurance companies domiciled in such
15 jurisdiction or doing business therein as alien companies.

16 17.(A) Investments in (i) obligations issued, guaranteed, assumed,
17 or supported by a foreign jurisdiction or by a business entity organized
18 under the laws of a foreign jurisdiction and (ii) preferred stock and
19 common stock issued by any such business entity, if the obligations of
20 such foreign jurisdiction or business entity, as appropriate, are rated:

21 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
22 higher in the case of commercial paper);

23 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
24 higher in the case of commercial paper);

25 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in
26 the case of commercial paper); or

27 (d) 1 or 2 by the Securities Valuation Office.

28 If the obligations issued by a business entity organized under the laws
29 of a foreign jurisdiction have not received a rating, investments may
30 nevertheless be made under this paragraph in such obligations and in
31 the preferred and common stock of the business entity if the earnings
32 available for fixed charges of the business entity for a period of five (5)
33 fiscal years preceding the date of purchase have averaged at least three
34 (3) times its average fixed charges applicable to such period, and if
35 during either of the last two (2) years of such period, the earnings
36 available for fixed charges were at least three (3) times its fixed
37 charges for such year. in Investments authorized by this paragraph in
38 a single foreign jurisdiction shall not exceed ten percent (10%) of the

1 life insurance company's admitted assets. Subject to section 2.2(g) of
2 this chapter, investments authorized by this paragraph denominated in
3 foreign currencies shall not in the aggregate exceed ten percent (10%)
4 of a life insurance company's admitted assets, and investments in any
5 one (1) foreign currency shall not exceed five percent (5%) of the life
6 insurance company's admitted assets. Investments authorized by this
7 paragraph and paragraph 17(B) shall not in the aggregate exceed
8 twenty percent (20%) of the life insurance company's admitted assets.
9 This paragraph in no way limits or restricts investments which are
10 otherwise specifically eligible for deposit under this section.

11 17.(B) Investments in:

12 (a) obligations issued, guaranteed, or assumed by a foreign
13 jurisdiction or by a business entity organized under the laws of a
14 foreign jurisdiction; and

15 (b) preferred stock and common stock issued by a business entity
16 organized under the laws of a foreign jurisdiction;

17 which investments are not eligible for investment under paragraph
18 17.(A).

19 Investments authorized by this paragraph 17(B) shall not in the
20 aggregate exceed five percent (5%) of the life insurance company's
21 admitted assets. Subject to section 2.2(g) of this chapter, if investments
22 authorized by this paragraph 17(B) are denominated in a foreign
23 currency, the investments shall not, as to such currency, exceed two
24 percent (2%) of the life insurance company's admitted assets.
25 Investments authorized by this paragraph 17(B) in any one (1) foreign
26 jurisdiction shall not exceed two percent (2%) of the life insurance
27 company's admitted assets.

28 Investments authorized by paragraph 17(A) of this subsection and
29 this paragraph 17(B) shall not in the aggregate exceed twenty percent
30 (20%) of the life insurance company's admitted assets.

31 18. To protect itself against loss, a company may in good faith
32 receive in payment of or as security for debts due or to become due,
33 investments or property which do not conform to the categories,
34 conditions, limitations, and standards set out above.

35 19. A life insurance company may purchase for its own benefit any
36 of its outstanding annuity or insurance contracts or other obligations
37 and the claims of holders thereof.

38 20. A life insurance company may make investments although not

1 conforming to the categories, conditions, limitations, and standards
 2 contained in paragraphs 1 through 11, 12 through 19, and 29 through
 3 30.(A) of this subsection, but limited in aggregate amount to the lesser
 4 of:

- 5 (a) ten percent (10%) of the company's admitted assets; or
- 6 (b) the aggregate of the company's capital, surplus, and
 7 contingency reserves reported on the statutory financial statement
 8 of the insurer most recently required to be filed with the
 9 commissioner.

10 This paragraph 20 does not apply to investments authorized by
 11 paragraph 11.(A) of this subsection.

12 20.(A) Investments under paragraphs 1 through 20 and paragraphs
 13 29 through 30.(A) of this subsection are subject to the general
 14 conditions, limitations, and standards contained in paragraphs 21
 15 through 28 of this subsection.

16 21. Investments in obligations (other than real estate mortgage
 17 indebtedness) and capital stock of, and in real estate and tangible
 18 personal property leased to, a single corporation, shall not exceed two
 19 percent (2%) of the life insurance company's admitted assets, taking
 20 into account the provisions of section 2.2(h) of this chapter. The
 21 conditions and limitations of this paragraph shall not apply to
 22 investments under paragraph 13(A) of this subsection or the special
 23 area of investment to which paragraph 23 of this subsection pertains.

24 22. Investments in:

- 25 (a) preferred stock; and
- 26 (b) common stock;

27 shall not, in the aggregate, exceed twenty percent (20%) of the life
 28 insurance company's admitted assets, exclusive of assets held in
 29 segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1.
 30 These limitations shall not apply to investments for the special
 31 purposes described in paragraph 23 of this subsection nor to
 32 investments in connection with segregated accounts provided for in
 33 class 1(c) of IC 27-1-5-1.

34 ~~23. Limitations defined in paragraphs 13, 20, 21, 22, and 26 of this~~
 35 ~~subsection upon the right of a life insurance company to invest in~~
 36 ~~obligations, and capital stock, of corporations shall be inapplicable~~
 37 ~~when, within IC 27-2-9, the result of such investment, whether in one~~
 38 ~~(1) or more transactions, is to effect, between a life insurance company~~

1 and another company, a relationship of primary and subsidiary
 2 companies; or to enlarge a life insurance company's investment in its
 3 subsidiary insurance company. However, except as otherwise provided
 4 in IC 27-2-9-3(e), the total of a life insurance company's investments
 5 in a company or companies to which it stands in the relation of primary
 6 company shall not at any time exceed ten percent (10%) of its admitted
 7 assets. In the event that a primary and subsidiary relationship ceases to
 8 exist between a life insurance company and another company, the life
 9 insurance company shall have until December 31 of the succeeding
 10 calendar year and such additional period of time as the commissioner
 11 may determine within which to conform its investments in stocks and
 12 securities of such other company to the conditions and limitations
 13 defined in this section, exclusive of this paragraph. **Investments in**
 14 **subsidiary companies must be made in accordance with**
 15 **IC 27-1-23-2.6.**

16 24. No investment, other than commercial bank deposits and loans
 17 on life insurance policies, shall be made unless authorized by the life
 18 insurance company's board of directors or a committee designated by
 19 the board of directors and charged with the duty of supervising loans
 20 or investments.

21 25. No life insurance company shall subscribe to or participate in
 22 any syndicate or similar underwriting of the purchase or sale of
 23 securities or property or enter into any transaction for such purchase or
 24 sale on account of said company, jointly with any other corporation,
 25 firm, or person, or enter into any agreement to withhold from sale any
 26 of its securities or property, but the disposition of its assets shall at all
 27 times be within its control. Nothing contained in this paragraph shall
 28 be construed to invalidate or prohibit an agreement by two (2) or more
 29 companies to join and share in the purchase of investments for bona
 30 fide investment purposes.

31 26. No life insurance company may invest in the stocks or
 32 obligations, except investments under paragraphs 9 and 10 of this
 33 subsection, of any corporation in which an officer of such life insurance
 34 company is either an officer or director. However, this limitation shall
 35 not apply with respect to such investments in:

- 36 (a) a corporation which is a subsidiary or affiliate of such life
- 37 insurance company; or
- 38 (b) a trade association, provided such investment meets the

1 requirements of paragraph 5 of this subsection.

2 27. Except for the purpose of mutualization provided for in section
3 23 of this chapter, or for the purpose of retirement of outstanding
4 shares of capital stock pursuant to amendment of its articles of
5 incorporation, or in connection with a plan approved by the
6 commissioner for purchase of such shares by the life insurance
7 company's officers, employees, or agents, no life insurance company
8 shall invest in its own stock.

9 28. In applying the conditions, limitations, and standards prescribed
10 in paragraphs 11, 12, and 13 of this subsection to the stocks or
11 obligations of a corporation which in the seven (7) year period
12 preceding purchase of such stocks or obligations acquired its property
13 or a substantial part thereof through consolidation, merger, or purchase,
14 the earnings of the several predecessors or constituent corporations
15 shall be consolidated.

16 29. A. Before a life insurance company may engage in securities
17 lending transactions, repurchase transactions, reverse repurchase
18 transactions, or dollar roll transactions, the life insurance company's
19 board of directors must adopt a written plan that includes guidelines
20 and objectives to be followed, including the following:

21 (1) A description of how cash received will be invested or used
22 for general corporate purposes of the company.

23 (2) Operational procedures for managing interest rate risk,
24 counterparty default risk, and the use of acceptable collateral in
25 a manner that reflects the liquidity needs of the transaction.

26 (3) A statement of the extent to which the company may engage
27 in securities lending transactions, repurchase transactions, reverse
28 repurchase transactions, and dollar roll transactions.

29 B. A life insurance company must enter into a written agreement for
30 all transactions authorized by this paragraph, other than dollar roll
31 transactions. The written agreement:

32 (1) must require the termination of each transaction not more than
33 one (1) year after its inception or upon the earlier demand of the
34 company; and

35 (2) must be with the counterparty business entity, except that, for
36 securities lending transactions, the agreement may be with an
37 agent acting on behalf of the life insurance company if:

38 (A) the agent is:

- 1 (i) a business entity, the obligations of which are rated BBB-
 2 or higher by Standard & Poor's Corporation (or A-2 or
 3 higher in the case of commercial paper), Baa3 or higher by
 4 Moody's Investors Service, Inc. (or P-2 or higher in the case
 5 of commercial paper), BBB- or higher by Duff and Phelps,
 6 Inc. (or D-2 or higher in the case of commercial paper), or
 7 1 or 2 by the Securities Valuation Office;
- 8 (ii) a business entity that is a primary dealer in United States
 9 government securities, recognized by the Federal Reserve
 10 Bank of New York; or
- 11 (iii) any other business entity approved by the
 12 commissioner; and
- 13 (B) the agreement requires the agent to enter into with each
 14 counterparty separate agreements that are consistent with the
 15 requirements of this paragraph.
- 16 C. Cash received in a transaction under this paragraph shall be:
- 17 (1) invested:
- 18 (A) in accordance with this section 2; and
- 19 (B) in a manner that recognizes the liquidity needs of the
 20 transaction; or
- 21 (2) used by the life insurance company for its general corporate
 22 purposes.
- 23 D. For as long as a transaction under this paragraph remains
 24 outstanding, the life insurance company or its agent or custodian shall
 25 maintain, as to acceptable collateral received in the transaction, either
 26 physically or through book entry systems of the Federal Reserve, the
 27 Depository Trust Company, the Participants Trust Company, or another
 28 securities depository approved by the commissioner:
- 29 (1) possession of the acceptable collateral;
- 30 (2) a perfected security interest in the acceptable collateral; or
- 31 (3) in the case of a jurisdiction outside the United States:
- 32 (A) title to; or
- 33 (B) rights of a secured creditor to;
- 34 the acceptable collateral.
- 35 E. The limitations set forth in paragraphs 17 and 21 of this
 36 subsection do not apply to transactions under this paragraph 29. For
 37 purposes of calculations made to determine compliance with this
 38 paragraph, no effect may be given to the future obligation of the life

1 insurance company to:

- 2 (1) resell securities, in the case of a repurchase transaction; or
3 (2) repurchase securities, in the case of a reverse repurchase
4 transaction.

5 F. A life insurance company shall not enter into a transaction under
6 this paragraph if, as a result of the transaction, and after giving effect
7 to the transaction:

- 8 (1) the aggregate amount of securities then loaned, sold to, or
9 purchased from any one (1) business entity under this paragraph
10 would exceed five percent (5%) of the company's admitted assets
11 (but in calculating the amount sold to or purchased from a
12 business entity under repurchase or reverse repurchase
13 transactions, effect may be given to netting provisions under a
14 master written agreement); or
15 (2) the aggregate amount of all securities then loaned, sold to, or
16 purchased from all business entities under this paragraph would
17 exceed forty percent (40%) of the admitted assets of the company
18 (provided, however, that this limitation does not apply to a reverse
19 repurchase transaction if the borrowing is used to meet
20 operational liquidity requirements resulting from an officially
21 declared catastrophe and is subject to a plan approved by the
22 commissioner).

23 G. The following collateral requirements apply to all transactions
24 under this paragraph:

- 25 (1) In a securities lending transaction, the life insurance company
26 must receive acceptable collateral having a market value as of the
27 transaction date at least equal to one hundred two percent (102%)
28 of the market value of the securities loaned by the company in the
29 transaction as of that date. If at any time the market value of the
30 acceptable collateral received from a particular business entity is
31 less than the market value of all securities loaned by the company
32 to that business entity, the business entity shall be obligated to
33 deliver additional acceptable collateral to the company, the
34 market value of which, together with the market value of all
35 acceptable collateral then held in connection with all securities
36 lending transactions with that business entity, equals at least one
37 hundred two percent (102%) of the market value of the loaned
38 securities.

1 (2) In a reverse repurchase transaction, other than a dollar roll
2 transaction, the life insurance company must receive acceptable
3 collateral having a market value as of the transaction date equal
4 to at least ninety-five percent (95%) of the market value of the
5 securities transferred by the company in the transaction as of that
6 date. If at any time the market value of the acceptable collateral
7 received from a particular business entity is less than ninety-five
8 percent (95%) of the market value of all securities transferred by
9 the company to that business entity, the business entity shall be
10 obligated to deliver additional acceptable collateral to the
11 company, the market value of which, together with the market
12 value of all acceptable collateral then held in connection with all
13 reverse repurchase transactions with that business entity, equals
14 at least ninety-five percent (95%) of the market value of the
15 transferred securities.

16 (3) In a dollar roll transaction, the life insurance company must
17 receive cash in an amount at least equal to the market value of the
18 securities transferred by the company in the transaction as of the
19 transaction date.

20 (4) In a repurchase transaction, the life insurance company must
21 receive acceptable collateral having a market value equal to at
22 least one hundred two percent (102%) of the purchase price paid
23 by the company for the securities. If at any time the market value
24 of the acceptable collateral received from a particular business
25 entity is less than one hundred percent (100%) of the purchase
26 price paid by the life insurance company in all repurchase
27 transactions with that business entity, the business entity shall be
28 obligated to provide additional acceptable collateral to the
29 company, the market value of which, together with the market
30 value of all acceptable collateral then held in connection with all
31 repurchase transactions with that business entity, equals at least
32 one hundred two percent (102%) of the purchase price. Securities
33 acquired by a life insurance company in a repurchase transaction
34 shall not be:

- 35 (A) sold in a reverse repurchase transaction;
36 (B) loaned in a securities lending transaction; or
37 (C) otherwise pledged.

38 30. A life insurance company may invest in obligations or interests

1 in trusts or partnerships regardless of the issuer, which are secured by:

2 (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this
3 subsection; or

4 (b) collateral with the characteristics and limitations prescribed
5 for loans under paragraph 5 of this subsection.

6 For the purposes of this paragraph 30, collateral may be substituted for
7 other collateral if it is in the same amount with the same or greater
8 interest rate and qualifies as collateral under subparagraph (a) or (b) of
9 this paragraph.

10 30.(A) A life insurance company may invest in obligations or
11 interests in trusts or partnerships, regardless of the issuer, secured by
12 any form of collateral other than that described in subparagraphs (a)
13 and (b) of paragraph 30 of this subsection, which obligations or
14 interests in trusts or partnerships are rated:

15 (a) A- or higher by Standard & Poor's Corporation or Duff and
16 Phelps, Inc.;

17 (b) A 3 or higher by Moody's Investor Service, Inc.; or

18 (c) 1 by the Securities Valuation Office.

19 Investments authorized by this paragraph may not exceed ten percent
20 (10%) of the life insurance company's admitted assets.

21 31.A. A life insurance company may invest in short-term pooling
22 arrangements as provided in this paragraph.

23 B. The following definitions apply throughout this paragraph:

24 (1) "Affiliate" means, as to any person, another person that,
25 directly or indirectly through one (1) or more intermediaries,
26 controls, is controlled by, or is under common control with the
27 person.

28 (2) "Control" means the possession, directly or indirectly, of the
29 power to direct or cause the direction of the management and
30 policies of a person, whether through the ownership of voting
31 securities, by contract (other than a commercial contract for goods
32 or non-management services), or otherwise, unless the power is
33 the result of an official position with or corporate office held by
34 the person. Control shall be presumed to exist if a person, directly
35 or indirectly, owns, controls, holds with the power to vote or holds
36 proxies representing ten percent (10%) or more of the voting
37 securities of another person. This presumption may be rebutted by
38 a showing that control does not exist in fact. The commissioner

1 may determine, after furnishing all interested persons notice and
 2 an opportunity to be heard and making specific findings of fact to
 3 support the determination, that control exists in fact,
 4 notwithstanding the absence of a presumption to that effect.

5 (3) "Qualified bank" means a national bank, state bank, or trust
 6 company that at all times is not less than adequately capitalized
 7 as determined by standards adopted by United States banking
 8 regulators and that is either regulated by state banking laws or is
 9 a member of the Federal Reserve System.

10 C. A life insurer may participate in investment pools qualified under
 11 this paragraph that invest only in:

12 (1) obligations that are rated BBB- or higher by Standard & Poor's
 13 Corporation (or A-2 or higher in the case of commercial paper),
 14 Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
 15 higher in the case of commercial paper), BBB- or higher by Duff
 16 and Phelps, Inc. (or D-2 or higher in the case of commercial
 17 paper), or 1 or 2 by the Securities Valuation Office, and have:

18 (A) a remaining maturity of three hundred ninety-seven (397)
 19 days or less or a put that entitles the holder to receive the
 20 principal amount of the obligation which put may be exercised
 21 through maturity at specified intervals not exceeding three
 22 hundred ninety-seven (397) days; or

23 (B) a remaining maturity of three (3) years or less and a
 24 floating interest rate that resets not less frequently than
 25 quarterly on the basis of a current short-term index (for
 26 example, federal funds, prime rate, treasury bills, London
 27 InterBank Offered Rate (LIBOR) or commercial paper) and is
 28 not subject to a maximum limit, if the obligations do not have
 29 an interest rate that varies inversely to market interest rate
 30 changes;

31 (2) government money market mutual funds or class one money
 32 market mutual funds; or

33 (3) securities lending, repurchase, and reverse repurchase and
 34 dollar roll transactions that meet the requirements of paragraph 29
 35 of this subsection and any applicable regulations of the
 36 department;

37 provided that the investment pool shall not acquire investments in any
 38 one (1) business entity that exceed ten percent (10%) of the total assets

1 of the investment pool.

2 D. For an investment pool to be qualified under this paragraph, the
3 investment pool shall not:

- 4 (1) acquire securities issued, assumed, guaranteed, or insured by
5 the life insurance company or an affiliate of the company; or
6 (2) borrow or incur any indebtedness for borrowed money, except
7 for securities lending, reverse repurchase, and dollar roll
8 transactions that meet the requirements of paragraph 29 of this
9 subsection.

10 E. A life insurance company shall not participate in an investment
11 pool qualified under this paragraph if, as a result of and after giving
12 effect to the participation, the aggregate amount of participation then
13 held by the company in all investment pools under this paragraph and
14 section 2.4 of this chapter would exceed thirty-five percent (35%) of its
15 admitted assets.

16 F. For an investment pool to be qualified under this paragraph:

- 17 (1) the manager of the investment pool must:
18 (A) be organized under the laws of the United States, a state or
19 territory of the United States, or the District of Columbia, and
20 designated as the pool manager in a pooling agreement; and
21 (B) be the life insurance company, an affiliated company, a
22 business entity affiliated with the company, or a qualified bank
23 or a business entity registered under the Investment Advisors
24 Act of 1940 (15 U.S.C. 80a-I et seq.);
25 (2) the pool manager or an entity designated by the pool manager
26 of the type set forth in subdivision (1) of this subparagraph F shall
27 compile and maintain detailed accounting records setting forth:
28 (A) the cash receipts and disbursements reflecting each
29 participant's proportionate participation in the investment pool;
30 (B) a complete description of all underlying assets of the
31 investment pool (including amount, interest rate, maturity date
32 (if any) and other appropriate designations); and
33 (C) other records which, on a daily basis, allow third parties to
34 verify each participant's interest in the investment pool; and
35 (3) the assets of the investment pool shall be held in one (1) or
36 more accounts, in the name of or on behalf of the investment pool,
37 under a custody agreement or trust agreement with a qualified
38 bank, which must:

- 1 (A) state and recognize the claims and rights of each
2 participant;
- 3 (B) acknowledge that the underlying assets of the investment
4 pool are held solely for the benefit of each participant in
5 proportion to the aggregate amount of its participation in the
6 investment pool; and
- 7 (C) contain an agreement that the underlying assets of the
8 investment pool shall not be commingled with the general
9 assets of the qualified bank or any other person.
- 10 G. The pooling agreement for an investment pool qualified under
11 this paragraph must be in writing and must include the following
12 provisions:
- 13 (1) Insurers, subsidiaries, or affiliates of insurers holding interests
14 in the pool, or any pension or profit sharing plan of such insurers
15 or their subsidiaries or affiliates, shall, at all times, hold one
16 hundred percent (100%) of the interests in the investment pool.
- 17 (2) The underlying assets of the investment pool shall not be
18 commingled with the general assets of the pool manager or any
19 other person.
- 20 (3) In proportion to the aggregate amount of each pool
21 participant's interest in the investment pool:
- 22 (A) each participant owns an undivided interest in the
23 underlying assets of the investment pool; and
- 24 (B) the underlying assets of the investment pool are held solely
25 for the benefit of each participant.
- 26 (4) A participant or (in the event of the participant's insolvency,
27 bankruptcy, or receivership) its trustee, receiver, or other
28 successor-in-interest may withdraw all or any portion of its
29 participation from the investment pool under the terms of the
30 pooling agreement.
- 31 (5) Withdrawals may be made on demand without penalty or
32 other assessment on any business day, but settlement of funds
33 shall occur within a reasonable and customary period thereafter.
34 Payments upon withdrawals under this paragraph shall be
35 calculated in each case net of all then applicable fees and
36 expenses of the investment pool. The pooling agreement shall
37 provide for such payments to be made to the participants in one
38 (1) of the following forms, at the discretion of the pool manager:

- 1 (A) in cash, the then fair market value of the participant's pro
- 2 rata share of each underlying asset of the investment pool;
- 3 (B) in kind, a pro rata share of each underlying asset; or
- 4 (C) in a combination of cash and in kind distributions, a pro
- 5 rata share in each underlying asset.

6 (6) The records of the investment pool shall be made available for
 7 inspection by the commissioner.

8 SECTION 9. IC 27-1-17-4, AS AMENDED BY P.L.268-1999,
 9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2001]: Sec. 4. Whenever a foreign or an alien insurance
 11 company desires to be admitted to do an insurance business in this
 12 state, it shall execute in the English language and present the following
 13 to the department, at its office, accompanied by the fees prescribed by
 14 law:

15 (a) A copy of its articles of incorporation or association, with all
 16 amendments thereto, duly authenticated by the proper officer of
 17 the state, country, province, or government wherein it is
 18 incorporated or organized, or the state in which it is domiciled in
 19 the United States.

20 (b) An application for admission, executed in the manner
 21 provided in this chapter, setting forth:

- 22 (1) the name of such company;
- 23 (2) the location of its principal office or place of business
- 24 without this state;
- 25 (3) the names of the states in which it has been admitted or
- 26 qualified to do business;
- 27 (4) the character of insurance business under its articles of
- 28 incorporation or association which it intends to transact in this
- 29 state, which must conform to the class or classes set forth in
- 30 the provisions of IC 27-1-5-1;
- 31 (5) the total authorized capital stock of the company and the
- 32 amount thereof issued and outstanding, and the surplus
- 33 required of such company by the laws of the state, country,
- 34 province, or government under which it is organized, or the
- 35 state in which it is domiciled in the United States, if a stock
- 36 company, which shall equal at least the requirements set forth
- 37 in section 5(a) of this chapter;
- 38 (6) the total amount of assets and the surplus of assets over all

1 its liabilities, if other than a stock company, which shall equal
2 at least the requirements set forth in section 5(b) of this
3 chapter;

4 (7) if an alien company, the surplus of assets invested
5 according to the laws of the state in the United States where it
6 has its deposit, which shall equal at least the requirements set
7 forth in section 5(c) of this chapter; and

8 (8) such further and additional information as the department
9 may from time to time require.

10 The application shall be signed in duplicate, in the form
11 prescribed by the department, by the president or a vice president
12 and the secretary or an assistant secretary of the corporation, and
13 verified under oath by the officers signing the same.

14 (c) A statement of its financial condition and business, in the form
15 prescribed by law for annual statements, signed and sworn to by
16 the president or secretary or other principal officers of the
17 company; provided, however, that an alien company shall also
18 furnish a separate statement comprising only its condition and
19 business in the United States, which shall be signed and sworn to
20 by its United States manager.

21 (d) A copy of the last report of examination certified to by the
22 insurance commissioner or other proper supervisory official of the
23 state in which such company is domiciled; provided, however,
24 that the commissioner may cause an examination to be made of
25 the condition and affairs of such company before authority to
26 transact business in this state is given.

27 (e) A certificate from the proper official of the state, country,
28 province, or government wherein it is incorporated or organized,
29 or the state in which it is domiciled in the United States, that it is
30 duly organized or incorporated under those laws and authorized
31 to make the kind or kinds of insurance which it proposes to make
32 in this state.

33 (f) A copy of its bylaws or regulations, if any, certified to by the
34 secretary or similar officer of the insurance company.

35 ~~(g) Copies of forms of all policies which the insurance company~~
36 ~~proposes to issue in this state and also copies of the forms of~~
37 ~~application for such policies.~~

38 ~~(h)~~ (g) A duly executed power of attorney in a form prescribed by

1 the department which constitutes and appoints an individual or a
2 corporate resident of Indiana, or an authorized Indiana insurer, as
3 the insurance company's agent, its true and lawful attorney upon
4 whom all lawful processes in any action in law or in equity
5 against it shall be served. Such power of attorney shall contain an
6 agreement by the insurance company that any lawful process
7 against it which may be served upon the agent as its attorney shall
8 be of the same force and validity as if served upon the insurance
9 company and that such power of attorney shall continue in force
10 and be irrevocable so long as any liability of the insurance
11 company remains outstanding in this state. Such power of
12 attorney shall be executed by the president and secretary of the
13 insurance company or other duly authorized officers under its seal
14 and shall be accompanied by a certified copy of the resolution of
15 the board of directors of the company making said appointment
16 and authorizing the execution of said power of attorney. Service
17 of any lawful process shall be by delivering to and leaving with
18 the agent two (2) copies of such process, with copy of the
19 pertinent complaint attached. The agent shall forthwith transmit
20 to the defendant company at its last known principal place of
21 business by registered or certified mail, return receipt requested,
22 one (1) of the copies of such process, with complaint attached, the
23 other copy to be retained in a record which shall show all process
24 served upon and transmitted by him. Such service shall be
25 sufficient provided the returned receipt or, if the defendant
26 company shall refuse to accept such mailing, the registered mail
27 together with an affidavit of plaintiff or his attorney stating that
28 service was made upon the agent and forwarded as above set forth
29 but that such mail was returned by the post office department is
30 filed with the court. The agent shall make information and
31 receipts available to plaintiff, defendant or their attorneys. No
32 plaintiff or complainant shall be entitled to a judgment by default
33 based on service authorized by this section until the expiration of
34 at least thirty (30) days from the date on which either the post
35 office receipt or the unclaimed mail together with affidavit is filed
36 with the court. Nothing in this section shall limit or abridge the
37 right to serve any process, notice or demand upon any company
38 in any other manner permitted by law.

1 (†) (h) Proof which satisfies the department that it has complied
 2 with the financial requirements imposed in this chapter upon
 3 foreign and alien insurance companies which transact business in
 4 this state and that it is entitled to public confidence and that its
 5 admission to transact business in this state will not be prejudicial
 6 to public interest.

7 SECTION 10. IC 27-1-23-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this
 9 chapter, the following terms shall have the respective meanings set
 10 forth in this section, unless the context shall otherwise require:

11 (a) An "acquiring party" is the specific person by whom an
 12 acquisition of control of a domestic insurer or of any corporation
 13 controlling a domestic insurer is to be effected, and each person who
 14 directly, or indirectly through one (1) or more intermediaries, controls
 15 the person specified.

16 (b) An "affiliate" of, or person "affiliated" with, a specific person,
 17 is a person that directly, or indirectly through one (1) or more
 18 intermediaries, controls, or is controlled by, or is under common
 19 control with, the person specified.

20 (c) A "beneficial owner" of a voting security includes any person
 21 who, directly or indirectly, through any contract, arrangement,
 22 understanding, relationship, revocable or irrevocable proxy, or
 23 otherwise has or shares:

24 (1) voting power including the power to vote, or to direct the
 25 voting of, the security; or

26 (2) investment power which includes the power to dispose, or to
 27 direct the disposition, of the security.

28 (d) "Commissioner" means the insurance commissioner of this state.

29 (e) "Control" (including the terms "controlling", "controlled by", and
 30 "under common control with") means the possession, direct or indirect,
 31 of the power to direct or cause the direction of the management and
 32 policies of a person, whether through the beneficial ownership of
 33 voting securities, by contract other than a commercial contract for
 34 goods or nonmanagement services, or otherwise, unless the power is
 35 the result of an official position or corporate office. Control shall be
 36 presumed to exist if any person beneficially owns ten percent (10%) or
 37 more of the voting securities of any other person. The commissioner
 38 may determine this presumption has been rebutted only by a showing

1 made in the manner provided by section 3(k) of this chapter that
 2 control does not exist in fact, after giving all interested persons notice
 3 and an opportunity to be heard. Control shall be presumed again to
 4 exist upon the acquisition of beneficial ownership of each additional
 5 five percent (5%) or more of the voting securities of the other person.
 6 The commissioner may determine, after furnishing all persons in
 7 interest notice and opportunity to be heard, that control exists in fact,
 8 notwithstanding the absence of a presumption to that effect.

9 (f) "Department" means the department of insurance created by
 10 IC 27-1-1-1.

11 (g) A "domestic insurer" is an insurer organized under the laws of
 12 this state.

13 (h) "Earned surplus" means an amount equal to the unassigned
 14 funds of an insurer as set forth in the most recent annual statement of
 15 an insurer that is submitted to the commissioner, excluding surplus
 16 arising from unrealized capital gains or revaluation of assets.

17 (i) An "insurance holding company system" consists of two (2) or
 18 more affiliated persons, one (1) or more of which is an insurer.

19 (j) "Insurer" has the same meaning as set forth in IC 27-1-2-3,
 20 except that it does not include:

21 (1) agencies, authorities, or instrumentalities of the United States,
 22 its possessions and territories, the Commonwealth of Puerto Rico,
 23 the District of Columbia, or a state or political subdivision of a
 24 state;

25 (2) fraternal benefit societies; or

26 (3) nonprofit medical and hospital service associations.

27 **The term includes a health maintenance organization (as defined**
 28 **in IC 27-13-1-19) and a limited service health maintenance**
 29 **organization (as defined in IC 27-13-1-27).**

30 (k) A "person" is an individual, a corporation, a limited liability
 31 company, a partnership, an association, a joint stock company, a trust,
 32 an unincorporated organization, any similar entity or any combination
 33 of the foregoing acting in concert, but shall not include any securities
 34 broker performing no more than the usual and customary broker's
 35 function.

36 (l) A "policyholder" of a domestic insurer includes any person who
 37 owns an insurance policy or annuity contract issued by the domestic
 38 insurer, any person reinsured by the domestic insurer under a

1 reinsurance contract or treaty between the person and the domestic
 2 insurer, and any health maintenance organization with which the
 3 domestic insurer has contracted to provide services or protection
 4 against the cost of care.

5 (m) A "subsidiary" of a specified person is an affiliate controlled by
 6 that person directly or indirectly through one or more intermediaries.

7 (n) "Surplus" means the total of gross paid in and contributed
 8 surplus, special surplus funds, and unassigned surplus, less treasury
 9 stock at cost.

10 (o) "Voting security" includes any security convertible into or
 11 evidencing a right to acquire a voting security.

12 SECTION 11. IC 27-1-23-2.6 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2001]: **Sec. 2.6. (a) As used in this section,**
 15 **"entity" means:**

- 16 (1) a sole proprietorship;
- 17 (2) a corporation;
- 18 (3) a limited liability company;
- 19 (4) a partnership;
- 20 (5) an association;
- 21 (6) a joint stock company;
- 22 (7) a mutual fund;
- 23 (8) a joint venture;
- 24 (9) a trust;
- 25 (10) a joint tenancy;
- 26 (11) an unincorporated organization; or
- 27 (12) a similar entity.

28 (b) As used in this section, "primary company" means a
 29 domestic insurance company that beneficially owns more than fifty
 30 percent (50%) of one (1) or more subsidiary companies.

31 (c) As used in this section, "subsidiary company" means an
 32 entity of which more than fifty percent (50%) is beneficially owned
 33 by an insurance company.

34 (d) As used in this section, "total investment of the primary
 35 company" means the total of:

- 36 (1) a direct investment by a primary company in an asset;
- 37 plus
- 38 (2) the primary company's proportionate share of an

1 investment made by a subsidiary company of the primary
2 company.

3 The primary company's proportionate share must be determined
4 by multiplying the amount of the subsidiary company's investment
5 by the percentage of the primary company's ownership interest in
6 the subsidiary company.

7 (e) A primary company may, independently or in cooperation
8 with another person, organize or acquire one (1) or more
9 subsidiary companies.

10 (f) A subsidiary company of a primary company may conduct
11 business of any kind, and the authority to conduct the business is
12 not limited because of the status of the subsidiary company as a
13 subsidiary company of the primary company.

14 (g) In addition to investments in common stock, preferred stock,
15 debt obligations, and other securities as permitted under
16 IC 27-1-12-2 or IC 27-1-13-3, a primary company to which this
17 section applies may, directly or through one (1) or more subsidiary
18 companies, also do the following:

19 (1) Invest in common stock, preferred stock, debt obligations,
20 and other securities of one (1) or more subsidiary companies,
21 amounts that in total do not exceed the lesser of ten percent
22 (10%) of the primary company's admitted assets or fifty
23 percent (50%) of the primary company's surplus as regards
24 policyholders, if, after the investments, the primary
25 company's surplus as regards policyholders is reasonable in
26 relation to the primary company's outstanding liabilities and
27 adequate to the primary company's financial needs. In
28 calculating the amount of investments permitted under this
29 subdivision:

30 (A) investments, whether made directly or through one (1)
31 or more subsidiary companies, in domestic or foreign
32 insurance subsidiary companies and health maintenance
33 organizations must be excluded; and

34 (B) to the extent that expenditures relate to an investment
35 other than an investment described in clause (A), the
36 following must be included:

37 (i) Total net money or other consideration expended and
38 obligations assumed in the acquisition or formation of a

1 subsidiary company, including all organizational
2 expenses and contributions to capital and surplus of the
3 subsidiary company, whether or not represented by the
4 purchase of capital stock or issuance of other securities.

5 (ii) All amounts expended in acquiring additional
6 common stock, preferred stock, debt obligations, and
7 other securities and all contributions to the capital or
8 surplus of a subsidiary company subsequent to the
9 subsidiary company's acquisition or formation.

10 (2) Notwithstanding subdivision (1), invest an amount in
11 common stock, preferred stock, debt obligations, and other
12 securities of one (1) or more subsidiary companies engaged or
13 organized to engage exclusively in the ownership and
14 management of assets authorized as investments for the
15 primary company if the subsidiary company agrees to limit
16 the subsidiary company's investment in an asset so that, when
17 combined with the investments of the primary company, the
18 total investment of the primary company will not exceed the
19 investment limitations described in subdivision (1) or in any
20 applicable provision of IC 27-1-12-2 or IC 27-1-13-3.

21 (3) Notwithstanding subdivision (1), with the prior approval
22 of the commissioner, invest a greater amount in common
23 stock, preferred stock, debt obligations, or other securities of
24 one (1) or more subsidiary companies if, after the investment,
25 the primary company's surplus regarding policyholders is
26 reasonable in relation to the primary company's outstanding
27 liabilities and adequate to the primary company's financial
28 needs.

29 (h) Investments that are made under this section in common
30 stock, preferred stock, debt obligations, or other securities of a
31 subsidiary company are not subject to restrictions or prohibitions
32 under IC 27-1-12-2 or IC 27-1-13-3 that otherwise apply to
33 investments of primary companies.

34 (i) Before a primary company to which this section applies
35 makes an investment described in subsection (g), a primary
36 company shall make a determination regarding whether the
37 proposed investment meets the applicable requirements by
38 determining the applicable investment limitations as though the

- 1 investment has been made, considering:
- 2 (1) the currently outstanding principal balance on previous
- 3 investments in debt obligations; and
- 4 (2) the value of previous investments in equity securities as of
- 5 the day that the investments in equity securities were made;
- 6 net of any return of capital invested.
- 7 (j) If a primary company ceases to control a subsidiary
- 8 company, the primary company shall dispose of any investment in
- 9 the subsidiary company made under this section:
- 10 (1) not more than three (3) years from the time of the
- 11 cessation of control; or
- 12 (2) within the period determined appropriate by the
- 13 commissioner;
- 14 unless the investment meets the requirements for investment under
- 15 any applicable provision of IC 27-1-12-2 or IC 27-1-13-3 and the
- 16 primary company has notified the commissioner that the
- 17 investment meets the requirements.
- 18 (k) A primary company, at the time of establishing a subsidiary
- 19 company, must possess:
- 20 (1) assets of not less than twenty-five million dollars
- 21 (\$25,000,000); or
- 22 (2) not less than three million five hundred thousand dollars
- 23 (\$3,500,000) of:
- 24 (A) combined capital and surplus in the case of a stock
- 25 company; and
- 26 (B) surplus in the case of a mutual company.
- 27 (l) The department has the power to:
- 28 (1) conduct periodic examinations of a subsidiary company;
- 29 (2) require reports that reflect the effect of the condition and
- 30 operation of a subsidiary company on the financial condition
- 31 of a primary company; and
- 32 (3) make additional examinations or require other reports
- 33 with respect to a subsidiary company that are necessary to
- 34 carry out the purposes of this section.
- 35 A noninsurance subsidiary company shall annually furnish the
- 36 department financial statements that are prepared under generally
- 37 accepted accounting principles and certified by an independent
- 38 certified public accountant, and the department may rely on the

1 **statements. If a subsidiary company conducts the business of the**
2 **subsidiary company in a manner that clearly tends to impair the**
3 **capital or surplus fund of the primary company, or otherwise**
4 **makes the operation of the primary company financially unsafe,**
5 **the department may act under IC 27-1-3-19 with respect to the**
6 **primary company.**

7 **(m) A primary company and a subsidiary company shall, in all**
8 **respects, stand before the law as separate and distinct companies**
9 **and neither company is liable to the creditors, policyholders, or**
10 **stockholders of the other company, acts or omissions of an officer,**
11 **director, stockholder, or member of either company**
12 **notwithstanding.**

13 **(n) The board of directors and officers of a primary company**
14 **and a subsidiary company may be identical. However, the affairs**
15 **of each company shall be carried on separate and distinct from the**
16 **other company.**

17 **(o) A foreign subsidiary company shall be treated in the same**
18 **manner as other foreign companies, except that the treatment may**
19 **be withheld or suspended with respect to a subsidiary company**
20 **that is domiciled in a state that does not treat a:**

21 **(1) primary company; or**

22 **(2) subsidiary company;**

23 **that is domiciled in Indiana in a manner equal to a foreign or**
24 **domestic company doing business in the other state.**

25 **(p) Interests in a subsidiary company that are owned by a**
26 **primary company must be registered in the name of the primary**
27 **company except for shares that are required under Indiana law to**
28 **be registered in the name of another person.**

29 SECTION 12. IC 27-4-1-6 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If after a
31 hearing under IC 4-21.5-3, the commissioner determines that the
32 method of competition or the act or practice in question is defined in
33 section 4 of this chapter and that the person complained of has engaged
34 in such method of competition, act, or practice in violation of this
35 chapter, he shall reduce his findings to writing and shall issue and
36 cause to be served on the person charged with the violation an order
37 requiring such person to cease and desist from such method of
38 competition, act, or practice, and the commissioner may at his

1 discretion order one (1) or more of the following:

2 (1) Payment of a civil penalty of not more than twenty-five
3 thousand dollars (\$25,000) for each act or violation. ~~but not to~~
4 ~~exceed an aggregate penalty of one hundred thousand dollars~~
5 ~~(\$100,000) in any twelve (12) month period unless~~ If the person
6 knew or reasonably should have known that he was in violation
7 of this chapter, ~~in which case~~ the penalty may be not more than
8 fifty thousand dollars (\$50,000) for each act or violation. ~~but not~~
9 ~~to exceed an aggregate penalty of two hundred thousand dollars~~
10 ~~(\$200,000) in any twelve (12) month period.~~

11 (2) Suspension or revocation of the person's license, or certificate
12 of authority, if he knew or reasonably should have known he was
13 in violation of this chapter.

14 (b) **In determining the amount of a civil penalty under**
15 **subsection (a)(1), the commissioner shall consider the remediation**
16 **efforts undertaken by the person.**

17 (c) All civil penalties imposed and collected under this section shall
18 be deposited in the state general fund.

19 SECTION 13. IC 27-7-12 IS ADDED TO THE INDIANA CODE
20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
21 JANUARY 1, 2002]:

22 **Chapter 12. Termination of Residential Policies**

23 **Sec. 1. (a) This chapter applies to policies of insurance covering**
24 **risks to property located in Indiana that take effect or are renewed**
25 **after June 30, 2001, and that insure loss of or damage to:**

26 (1) **real property consisting of not more than four (4)**
27 **residential units, one (1) of which is the principal place of**
28 **residence of the named insured; or**

29 (2) **personal property:**

30 (A) **in which the named insured has an insurable interest;**
31 **and**

32 (B) **that is used within a residential dwelling for personal,**
33 **family, or household purposes.**

34 (b) **This chapter does not apply to the following:**

35 (1) **A policy of inland marine insurance.**

36 (2) **The cancellation or nonrenewal of an automobile**
37 **insurance policy under IC 27-7-6.**

38 (3) **The cancellation or nonrenewal of a commercial property**

1 **and casualty insurance policy under IC 27-1-31-2.5.**

2 **Sec. 2. (a) As used in this chapter, "cancellation" or "canceled"**
 3 **refers to a termination of property insurance coverage that occurs**
 4 **during the policy term.**

5 **(b) As used in this chapter, "nonpayment of premium" means**
 6 **the failure of the named insured to discharge any obligation in**
 7 **connection with the payment of premiums on policies of insurance**
 8 **subject to this chapter, regardless of whether the payments are**
 9 **directly payable to the insurer or its agent or indirectly payable**
 10 **under a premium finance plan or extension of credit. The term**
 11 **includes the failure to pay dues or fees where payment of the dues**
 12 **or fees is a prerequisite to obtaining or continuing property**
 13 **insurance coverage.**

14 **(c) As used in this chapter, "nonrenewal" or "nonrenewed"**
 15 **refers to a termination of property insurance coverage that occurs**
 16 **at the end of the policy term.**

17 **(d) As used in this chapter, "renewal" or "to renew" refers to:**
 18 **(1) the issuance and delivery by an insurer at the end of a**
 19 **policy period of a policy superseding a policy previously**
 20 **issued and delivered by the same insurer; or**
 21 **(2) the issuance and delivery of a certificate or notice**
 22 **extending the term of an existing policy beyond its policy**
 23 **period or term.**

24 **(e) As used in this chapter, "termination" means a cancellation**
 25 **or nonrenewal. The term does not include:**

- 26 **(1) the requirement of a reasonable deductible;**
 27 **(2) reasonable changes in the amount of insurance; or**
 28 **(3) reasonable reductions in policy limits or coverage;**

29 **if the requirements or changes are directly related to the hazard**
 30 **involved and are made on the renewal date for the policy. The term**
 31 **does not include a transfer of a policy to another insurer.**

32 **Sec. 3. (a) Notice of cancellation of property insurance coverage**
 33 **by an insurer must:**

- 34 **(1) be in writing;**
 35 **(2) be delivered or mailed to the named insured at the last**
 36 **known address of the named insured;**
 37 **(3) state the effective date of the cancellation; and**
 38 **(4) upon request of the named insured, be accompanied by a**

1 written explanation of the specific reasons for the
2 cancellation.

3 **(b) An insurer shall provide written notice of cancellation to the**
4 **named insured at least:**

5 **(1) ten (10) days before canceling a policy, if the cancellation**
6 **is for nonpayment of a premium;**

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

10 **(3) ten (10) days before canceling a policy, if the cancellation**
11 **occurs not more than sixty (60) days after the date of issuance**
12 **of the policy.**

13 **(c) If the policy was procured by an independent agent licensed**
14 **in Indiana, the insurer shall deliver or mail notice of cancellation**
15 **to the agent not less than ten (10) days before the insurer delivers**
16 **or mails the notice to the named insured, unless the obligation to**
17 **notify the agent is waived in writing by the agent.**

18 **Sec. 4. (a) Notice of nonrenewal by an insurer must:**

19 **(1) be in writing;**

20 **(2) be delivered or mailed to the named insured at the last**
21 **known address of the named insured;**

22 **(3) state the insurer's intention not to renew the policy upon**
23 **expiration of the current policy period;**

24 **(4) upon request of the named insured, be accompanied by a**
25 **written explanation of the specific reasons for the**
26 **nonrenewal; and**

27 **(5) be provided to the named insured at least twenty (20) days**
28 **before the expiration of the current policy period.**

29 **(b) If the policy was procured by an independent agent licensed**
30 **in Indiana, the insurer shall deliver or mail notice of nonrenewal**
31 **to the agent not less than ten (10) days before the insurer delivers**
32 **or mails the notice to the named insured, unless the obligation to**
33 **notify the agent is waived in writing by the agent.**

34 **(c) If an insurer mails or delivers to an insured a renewal notice,**
35 **bill, certificate, or policy indicating the insurer's willingness to**
36 **renew a policy and the insured does not respond, the insurer is not**
37 **required to provide to the insured notice of intention not to renew.**

38 **Sec. 5. (a) A written explanation provided under section 3 or 4**

1 of this chapter must be of sufficient clarity and specificity to enable
2 a reasonable lay person to identify the basis for the insurer's
3 decision without further inquiry.

4 (b) If notice is not provided under section 4 of this chapter,
5 coverage is considered to be renewed only for the ensuing policy
6 period upon payment of the appropriate premiums under the same
7 terms and conditions, and subject to section 6 of this chapter,
8 unless the named insured has accepted replacement coverage with
9 another insurer or unless the named insured has agreed to the
10 nonrenewal.

11 Sec. 6. After coverage has been in effect for more than sixty (60)
12 days or after the effective date of a renewal policy, a notice of
13 cancellation may not be issued unless cancellation is based on at
14 least one (1) of the following:

15 (1) Nonpayment of a premium.

16 (2) Discovery of fraud or material misrepresentation made by
17 or with the knowledge of the named insured in obtaining the
18 policy, continuing the policy, or in presenting a claim under
19 the policy.

20 (3) Discovery of willful or reckless acts or omissions on the
21 part of the named insured that increase a hazard insured
22 against.

23 (4) The occurrence of a change in the risk that substantially
24 increases a hazard insured against after insurance coverage
25 has been issued or renewed.

26 (5) A violation of any local fire, health, safety, building, or
27 construction regulation or ordinance with respect to an
28 insured property or the occupancy of the property that
29 substantially increases any hazard insured against.

30 (6) A determination by the insurance commissioner that the
31 continuation of the policy would place the insurer in violation
32 of the insurance laws of Indiana.

33 (7) Real property taxes owing on the insured property have
34 been delinquent for two (2) or more years and continue to be
35 delinquent at the time notice of cancellation is issued.

36 Sec. 7. Termination of property insurance coverage by an
37 insurer is prohibited if the termination is based on any of the
38 following:

- 1 **(1) Upon the race, religion, nationality, ethnic group, age, sex,**
 2 **or marital status of the applicant or named insured.**
- 3 **(2) Solely upon the lawful occupation or profession of the**
 4 **applicant or named insured. However, this subdivision does**
 5 **not apply to an insurer that limits its market to one (1) lawful**
 6 **occupation or profession or to several related lawful**
 7 **occupations or professions.**
- 8 **(3) Upon the age or location of the residence of the applicant**
 9 **or named insured, unless that decision is for a business**
 10 **purpose that is not a mere pretext for a decision based on**
 11 **factors prohibited in this chapter or any other provision of**
 12 **this title.**
- 13 **(4) Upon the fact that another insurer previously declined to**
 14 **insure the applicant or terminated an existing policy in which**
 15 **the applicant was the named insured.**
- 16 **(5) Upon the fact that the applicant or named insured**
 17 **previously obtained insurance coverage through a residual**
 18 **market insurance mechanism.**
- 19 **Sec. 8. The named insured must be given notice of a transfer of**
 20 **a policy, including a transfer between insurers within the same**
 21 **insurance group. The notice must:**
- 22 **(1) be in writing;**
 23 **(2) be delivered or mailed to the named insured at the last**
 24 **known address of the named insured;**
 25 **(3) be provided to the named insured at least twenty (20) days**
 26 **before the transfer; and**
 27 **(4) identify the insurer to which the policy will be transferred.**
- 28 **Sec. 9. (a) The following persons are immune from civil liability**
 29 **for any communication giving notice of or specifying the reasons**
 30 **for a termination or for any statement made in connection with an**
 31 **attempt to discover or verify the existence of conditions that would**
 32 **be a reason for a termination under this chapter:**
- 33 **(1) Employees of the department of insurance.**
 34 **(2) An insurer or its authorized representative, agent, or**
 35 **employee.**
 36 **(3) A licensed insurance agent.**
 37 **(4) A person furnishing information to an insurer as to**
 38 **reasons for a termination.**

1 **(b) This section does not apply to statements made in bad faith**
 2 **with malice in fact.**

3 SECTION 14. IC 27-7-13 IS ADDED TO THE INDIANA CODE
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 5 JANUARY 1, 2002]:

6 **Chapter 13. Required Notice of Flood Coverage in a Residential**
 7 **Policy**

8 **Sec. 1. (a) This chapter applies to policies of insurance covering**
 9 **risks to property located in Indiana that are issued or renewed**
 10 **after December 31, 2001, and that insure against loss of or damage**
 11 **to:**

12 **(1) real property consisting of not more than four (4)**
 13 **residential units, one (1) of which is the principal place of**
 14 **residence of the named insured; or**

15 **(2) personal property:**

16 **(A) in which the named insured has an insurable interest;**
 17 **and**

18 **(B) that is used within a residential dwelling for personal,**
 19 **family, or household purposes.**

20 **(b) This chapter does not apply to the following:**

21 **(1) A policy of inland marine insurance.**

22 **(2) An automobile insurance policy under IC 27-7-6.**

23 **(3) A commercial property and casualty insurance policy**
 24 **under IC 27-1-31.**

25 **Sec. 2. If a policy of insurance described in section 1 of this**
 26 **chapter does not provide coverage for flood damage:**

27 **(1) the policy jacket must contain a prominently printed**
 28 **notice stating; or**

29 **(2) the policyholder must be given written notice when the**
 30 **policy is issued, or upon the first renewal after December 31,**
 31 **2001;**

32 **that coverage for flood damage may be available through the**
 33 **National Flood Insurance Program.**

34 SECTION 15. IC 27-8-8-2 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) As used in
 36 this chapter:

37 "Account" means one of the three (3) accounts created under section
 38 3 of this chapter.

- 1 "Association" means the Indiana life and health insurance guaranty
 2 association created under section 3 of this chapter.
- 3 "Commissioner" refers to the commissioner of insurance.
- 4 "Contractual obligation" means an obligation under covered
 5 policies.
- 6 "Covered policy" means any policy or contract that is of a type
 7 described in section 1(a) of this chapter and is not excluded by section
 8 1(b) of this chapter.
- 9 "Impaired insurer" means a member insurer deemed by the
 10 commissioner to be potentially unable to fulfill its contractual
 11 obligations.
- 12 "Insolvent insurer" means a member insurer who becomes insolvent
 13 and is placed under a final order of liquidation, rehabilitation, or
 14 conservation by a court.
- 15 "Member insurer" means any person that is licensed or holds a
 16 certificate of authority to transact in Indiana any kind of insurance for
 17 which coverage is provided under this chapter. The term includes any
 18 insurer whose license or certificate of authority to transact such
 19 insurance in Indiana may have been suspended, revoked, not renewed,
 20 or voluntarily withdrawn but does not include the following:
- 21 (1) A medical and hospital service organization.
- 22 (2) A health maintenance organization under IC 27-13.
- 23 (3) A fraternal benefit society under IC 27-11.
- 24 ~~(4) The Indiana Comprehensive Health Insurance Association or~~
 25 ~~any other~~ A mandatory state pooling plan or arrangement.
- 26 (5) An assessment company or any other person that operates an
 27 assessment plan (as defined in IC 27-1-2-3(y)).
- 28 (6) An interinsurance exchange authorized by IC 27-6-6.
- 29 (7) A prepaid limited health service organization or a limited
 30 service health maintenance organization under IC 27-13-34.
- 31 ~~(8) A special service health care delivery plan under IC 27-8-7.~~
- 32 ~~(9)~~ **(8)** A farmer's mutual insurance company under IC 27-5.
- 33 ~~(10)~~ **(9)** Any person similar to any person described in
 34 subdivisions (1) through ~~(9)~~: **(8)**.
- 35 "Premiums" means direct gross insurance premiums and annuity
 36 considerations received on covered policies, less return premiums and
 37 considerations, and dividends paid or credited to policyholders on
 38 direct business. It does not include premiums and considerations on

1 contracts between insurers and reinsurers. For purposes of assessments
 2 made under section 6 of this chapter, "premiums" for covered policies
 3 shall not be reduced on account of any limitation on benefits for which
 4 the association is obligated under section 5(1) of this chapter. However,
 5 "premiums" for assessment purposes does not include that portion of
 6 any premium exceeding five million dollars (\$5,000,000) for any one
 7 (1) unallocated annuity contract.

8 "Person" means any natural person, corporation, limited liability
 9 company, partnership, association, voluntary organization, trust,
 10 governmental organization or entity, or other business organization or
 11 entity.

12 "Resident" means any person who resides in Indiana at the time the
 13 association becomes obligated for an impaired or insolvent insurer.
 14 Persons other than natural persons are considered to reside in the state
 15 where their principal place of business is located.

16 "Unallocated annuity contract" means an annuity contract or group
 17 annuity certificate that is not issued to and held by a natural person
 18 (excluding a natural person acting as a trustee), except to the extent of
 19 any annuity benefits guaranteed to a natural person by an insurer under
 20 the contract or certificate. For the purposes of section 1.5 of this
 21 chapter, an unallocated annuity contract shall not be considered a group
 22 covered policy.

23 (b) For purposes of this chapter, a policy, contract, or certificate is
 24 considered to be held by the person identified on the policy, contract,
 25 or certificate as the holder or owner of the policy, contract, or
 26 certificate.

27 SECTION 16. IC 27-8-15-28 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 28. (a) As used
 29 in this section, "health insurance plan" means coverage provided under
 30 any of the following:

- 31 (1) A hospital or medical expense incurred policy or certificate.
- 32 (2) A hospital or medical service plan contract.
- 33 (3) A health maintenance organization subscriber contract.
- 34 (4) Medicare or Medicaid.
- 35 (5) An employer based health insurance arrangement.
- 36 (6) An individual health insurance policy.
- 37 (7) ~~A policy issued by the Indiana comprehensive health~~
- 38 ~~insurance association under IC 27-8-10.~~

1 ~~(8)~~ (7) An employee welfare benefit plan (as defined in 29 U.S.C.
2 1002) that is self-funded.

3 ~~(9)~~ (8) A conversion policy issued under section 31 or 31.1 of this
4 chapter.

5 (b) Except as provided in section 29 of this chapter, a small
6 employer insurer shall waive the exclusion period described in section
7 27 of this chapter applicable to a preexisting condition or the limitation
8 period with respect to a particular service in a health insurance plan for
9 the time an eligible employee or a dependent of an eligible employee
10 was previously covered by a health insurance plan if the following
11 conditions are met:

12 (1) The eligible employee or a dependent of the eligible employee
13 was previously covered by a health insurance plan that provided
14 benefits with respect to the particular service.

15 (2) Coverage under the health insurance plan was continuous to
16 a date not more than sixty-three (63) days before the effective
17 date of enrollment by:

18 (A) the eligible employee; or

19 (B) a dependent of the eligible employee.

20 (c) In determining whether an eligible employee or a dependent of
21 the eligible employee meets the requirements of subsection (b)(2), a
22 waiting period imposed by a small employer insurer or small employer
23 before new coverage may become effective must be excluded from the
24 calculation.

25 (d) This section does not preclude the application of any waiting
26 period applicable to all new enrollees under a plan.

27 SECTION 17. IC 27-8-17-12 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) A utilization
29 review agent shall make available ~~upon request~~ **to an enrollee at the**
30 **time an adverse utilization review determination is made, and to a**
31 **provider of record upon request:**

32 (1) a written description of the appeals procedure by which an
33 enrollee or a provider of record may ~~obtain a review of a appeal~~
34 **the utilization review determination** by the utilization review
35 agent; **and**

36 (2) **in the case of an enrollee covered under an accident and**
37 **sickness policy or a health maintenance organization contract**
38 **described in subsection (d), notice that the enrollee has the**

1 **right to appeal the utilization review determination under**
 2 **IC 27-8-28 or IC 27-13-10 and the toll free telephone number**
 3 **that the enrollee may call to request a review of the**
 4 **determination or obtain further information about the right**
 5 **to appeal.**

6 (b) The appeals procedure provided by a utilization review agent
 7 must meet the following requirements:

8 (1) On appeal, the determination not to certify an admission, a
 9 service, or a procedure as necessary or appropriate must be made
 10 by a health care provider licensed in the same discipline as the
 11 provider of record.

12 (2) The determination of the appeal of a utilization review
 13 determination not to certify an admission, service, or procedure
 14 must be completed within thirty (30) days after:

15 (A) the appeal is filed; and

16 (B) all information necessary to complete the appeal is
 17 received.

18 (c) A utilization review agent shall provide an expedited appeals
 19 process for emergency or life threatening situations. The determination
 20 of an expedited appeal under the process required by this subsection
 21 shall be made by a physician and completed within forty-eight (48)
 22 hours after:

23 (1) the appeal is initiated; and

24 (2) all information necessary to complete the appeal is received
 25 by the utilization review agent.

26 **(d) If an enrollee is covered under an accident and sickness**
 27 **insurance policy (as defined in IC 27-8-28-1) or a contract issued**
 28 **by a health maintenance organization (as defined in IC 27-13-1-19),**
 29 **the enrollee's exclusive right to appeal a utilization review**
 30 **determination is provided under IC 27-8-28 or IC 27-13-10,**
 31 **respectively.**

32 **(e) A utilization review agent shall make available upon request**
 33 **a written description of the appeals procedure that an enrollee or**
 34 **provider of record may use to obtain a review of a utilization**
 35 **review determination by the utilization review agent.**

36 SECTION 18. IC 27-8-28 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2001]:

1 **Chapter 28. Internal Grievance Procedures**

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

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

- 7 **(1) Accident only, credit, dental, vision, Medicare supplement,**
 8 **long term care, or disability income insurance.**
 9 **(2) Coverage issued as a supplement to liability insurance.**
 10 **(3) Automobile medical payment insurance.**
 11 **(4) A specified disease policy issued as an individual policy.**
 12 **(5) A limited benefit health insurance policy issued as an**
 13 **individual policy.**
 14 **(6) A short term insurance plan that:**
 15 **(A) may not be renewed; and**
 16 **(B) has a duration of not more than six (6) months.**
 17 **(7) A policy that provides a stipulated daily, weekly, or**
 18 **monthly payment to an insured during hospital confinement**
 19 **without regard to the actual expense of the confinement.**
 20 **(8) Worker's compensation or similar insurance.**

21 **Sec. 2. As used in this chapter, "commissioner" refers to the**
 22 **insurance commissioner appointed under IC 27-1-1-2.**

23 **Sec. 3. As used in this chapter, "covered individual" means an**
 24 **individual who is covered under an accident and sickness insurance**
 25 **policy.**

26 **Sec. 4. As used in this chapter, "department" refers to the**
 27 **department of insurance.**

28 **Sec. 5. As used in this chapter, "external grievance" means the**
 29 **independent review under IC 27-8-29 of a grievance filed under**
 30 **this chapter.**

31 **Sec. 6. As used in this chapter, "grievance" means any**
 32 **dissatisfaction expressed by or on behalf of a covered individual**
 33 **regarding:**

- 34 **(1) a determination that a service or proposed service is not**
 35 **appropriate or medically necessary;**
 36 **(2) a determination that a service or proposed service is**
 37 **experimental or investigational;**
 38 **(3) the availability of participating providers;**

1 **(4) the handling or payment of claims for health care services;**
 2 **or**

3 **(5) matters pertaining to the contractual relationship**
 4 **between:**

5 **(A) a covered individual and an insurer; or**

6 **(B) a group policyholder and an insurer;**

7 **and for which the covered individual has a reasonable expectation**
 8 **that action will be taken to resolve or reconsider the matter that is**
 9 **the subject of dissatisfaction.**

10 **Sec. 7. As used in this chapter, "grievance procedure" means a**
 11 **written procedure established and maintained by an insurer for**
 12 **filing, investigating, and resolving grievances and appeals.**

13 **Sec. 8. As used in this chapter, "insured" means:**

14 **(1) an individual whose employment status or other status**
 15 **except family dependency is the basis for coverage under a**
 16 **group accident and sickness insurance policy; or**

17 **(2) in the case of an individual accident and sickness insurance**
 18 **policy, the individual in whose name the policy is issued.**

19 **Sec. 9. As used in this chapter, "insurer" means any person who**
 20 **delivers or issues for delivery an accident and sickness insurance**
 21 **policy or certificate in Indiana.**

22 **Sec. 10. An insurer shall establish and maintain a grievance**
 23 **procedure that complies with the requirements of this chapter for**
 24 **the resolution of grievances initiated by a covered individual.**

25 **Sec. 11. The commissioner may examine the grievance**
 26 **procedure of an insurer.**

27 **Sec. 12. An insurer shall maintain all grievance records received**
 28 **by the insurer after the most recent examination of the insurer's**
 29 **grievance procedure by the commissioner.**

30 **Sec. 13. (a) An insurer shall provide timely, adequate, and**
 31 **appropriate notice to each insured of:**

32 **(1) the grievance procedure required under this chapter;**

33 **(2) the external grievance procedure required under**
 34 **IC 27-8-29;**

35 **(3) information on how to file:**

36 **(A) a grievance under this chapter; and**

37 **(B) a request for an external grievance review under**
 38 **IC 27-8-29; and**

1 **(4) a toll free telephone number through which a covered**
2 **individual may contact the insurer at no cost to the covered**
3 **individual to obtain information and to file a grievance.**

4 **(b) An insurer shall prominently display on all notices to**
5 **covered individuals the toll free telephone number and the address**
6 **at which a grievance or request for external grievance review may**
7 **be filed.**

8 **Sec. 14. (a) A covered individual may file a grievance orally or**
9 **in writing.**

10 **(b) An insurer shall make available to covered individuals a toll**
11 **free telephone number through which a grievance may be filed.**
12 **The toll free telephone number must:**

- 13 **(1) be staffed by a qualified representative of the insurer;**
14 **(2) be available for at least forty (40) hours per week during**
15 **normal business hours; and**
16 **(3) accept grievances in the languages of the major population**
17 **groups served by the insurer.**

18 **(c) A grievance is considered to be filed on the first date it is**
19 **received, either by telephone or in writing.**

20 **Sec. 15. (a) An insurer shall establish procedures to assist**
21 **covered individuals in filing grievances.**

22 **(b) A covered individual may designate a representative to file**
23 **a grievance for the covered individual and to represent the covered**
24 **individual in a grievance under this chapter.**

25 **Sec. 16. (a) An insurer shall establish written policies and**
26 **procedures for the timely resolution of grievances filed under this**
27 **chapter. The policies and procedures must include the following:**

- 28 **(1) An acknowledgment of the grievance, oral or in writing, to**
29 **the covered individual within five (5) business days after**
30 **receipt of the grievance.**
31 **(2) Documentation of the substance of the grievance and any**
32 **actions taken.**
33 **(3) An investigation of the substance of the grievance,**
34 **including any aspects involving clinical care.**
35 **(4) Notification to the covered individual of the disposition of**
36 **the grievance and the right to appeal.**
37 **(5) Standards for timeliness in:**
38 **(A) responding to grievances; and**

- 1 **(B) providing notice to covered individuals of:**
 2 **(i) the disposition of the grievance; and**
 3 **(ii) the right to appeal;**
 4 **that accommodate the clinical urgency of the situation.**
- 5 **(b) An insurer shall appoint at least one (1) individual to resolve**
 6 **a grievance.**
- 7 **(c) A grievance must be resolved as expeditiously as possible,**
 8 **but not more than twenty (20) business days after the grievance is**
 9 **filed. If an insurer is unable to make a decision regarding the**
 10 **grievance within the twenty (20) day period due to circumstances**
 11 **beyond the insurer's control, the insurer shall:**
- 12 **(1) before the twentieth business day, notify the covered**
 13 **individual in writing of the reason for the delay; and**
 14 **(2) issue a written decision regarding the grievance within an**
 15 **additional ten (10) business days.**
- 16 **(d) An insurer shall notify a covered individual in writing of the**
 17 **resolution of a grievance within five (5) business days after**
 18 **completing an investigation. The grievance resolution notice must**
 19 **include the following:**
- 20 **(1) A statement of the decision reached by the insurer.**
 21 **(2) A statement of the reasons, policies, and procedures that**
 22 **are the basis of the decision.**
 23 **(3) Notice of the covered individual's right to appeal the**
 24 **decision.**
 25 **(4) The department, address, and telephone number through**
 26 **which a covered individual may contact a qualified**
 27 **representative to obtain additional information about the**
 28 **decision or the right to appeal.**
- 29 **Sec. 17. (a) An insurer shall establish written policies and**
 30 **procedures for the timely resolution of appeals of grievance**
 31 **decisions. The procedures for registering and responding to oral**
 32 **and written appeals of grievance decisions must include the**
 33 **following:**
- 34 **(1) Written or oral acknowledgment of the appeal not more**
 35 **than five (5) business days after the appeal is filed.**
 36 **(2) Documentation of the substance of the appeal and the**
 37 **actions taken.**
 38 **(3) Investigation of the substance of the appeal, including any**

- 1 aspects of clinical care involved.
- 2 **(4) Notification to the covered individual:**
- 3 (A) of the disposition of an appeal; and
- 4 (B) that the covered individual may have the right to
- 5 further remedies allowed by law.
- 6 **(5) Standards for timeliness in:**
- 7 (A) responding to an appeal; and
- 8 (B) providing notice to covered individuals of:
- 9 (i) the disposition of an appeal; and
- 10 (ii) the right to initiate an external grievance review
- 11 under IC 27-8-29;
- 12 that accommodate the clinical urgency of the situation.
- 13 **(b) In the case of an appeal of a grievance decision described in**
- 14 **section 6(1) or 6(2) of this chapter, an insurer shall appoint a panel**
- 15 **of one (1) or more qualified individuals to resolve an appeal. The**
- 16 **panel must include one (1) or more individuals who:**
- 17 (1) have knowledge in the medical condition, procedure, or
- 18 treatment at issue;
- 19 (2) are licensed in the same profession and have a similar
- 20 specialty as the provider who proposed or delivered the health
- 21 care procedure, treatment, or service;
- 22 (3) are not involved in the matter giving rise to the appeal or
- 23 in the initial investigation of the grievance; and
- 24 (4) do not have a direct business relationship with the covered
- 25 individual or the health care provider who previously
- 26 recommended the health care procedure, treatment, or
- 27 service giving rise to the grievance.
- 28 **(c) An appeal of a grievance decision must be resolved:**
- 29 (1) as expeditiously as possible, reflecting the clinical urgency
- 30 of the situation; and
- 31 (2) in any case, not later than forty-five (45) days after the
- 32 appeal is filed.
- 33 **(d) An insurer shall allow a covered individual the opportunity**
- 34 **to:**
- 35 (1) appear in person before; or
- 36 (2) if unable to appear in person, otherwise appropriately
- 37 communicate with;
- 38 **the panel appointed under subsection (b).**

1 (e) An insurer shall notify a covered individual in writing of the
2 resolution of an appeal of a grievance decision within five (5)
3 business days after completing the investigation. The appeal
4 resolution notice must include the following:

- 5 (1) A statement of the decision reached by the insurer.
- 6 (2) A statement of the reasons, policies, and procedures that
7 are the basis of the decision.
- 8 (3) Notice of the covered individual's right to further remedies
9 allowed by law, including the right to external grievance
10 review by an independent review organization under
11 IC 27-8-29.
- 12 (4) The department, address, and telephone number through
13 which a covered individual may contact a qualified
14 representative to obtain more information about the decision
15 or the right to an external grievance review.

16 **Sec. 18.** An insurer may not take action against a provider solely
17 on the basis that the provider represents a covered individual in a
18 grievance filed under this chapter.

19 **Sec. 19. (a)** An insurer shall each year file with the
20 commissioner a description of the grievance procedure of the
21 insurer established under this chapter, including:

- 22 (1) the total number of grievances handled through the
23 procedure during the preceding calendar year;
- 24 (2) a compilation of the causes underlying the grievances; and
- 25 (3) a summary of the final disposition of the grievances.

26 **(b)** The information required by subsection (a) must be filed
27 with the commissioner on or before March 1 of each year. The
28 commissioner shall:

- 29 (1) make the information required to be filed under this
30 section available to the public; and
- 31 (2) prepare an annual compilation of the data required under
32 subsection (a) that allows for comparative analysis.

33 **(c)** The commissioner may require any additional reports as are
34 necessary and appropriate for the commissioner to carry out the
35 commissioner's duties under this article.

36 **Sec. 20.** The department may adopt rules under IC 4-22-2 to
37 implement this chapter.

38 SECTION 19. IC 27-8-29 IS ADDED TO THE INDIANA CODE

1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2001]:

3 **Chapter 29. External Review of Grievances**

4 **Sec. 1. As used in this chapter, "accident and sickness insurance**
5 **policy" has the meaning set forth in IC 27-8-28-1.**

6 **Sec. 2. As used in this chapter, "appeal" means the procedure**
7 **described in IC 27-8-28-17.**

8 **Sec. 3. As used in this chapter, "commissioner" refers to the**
9 **insurance commissioner appointed under IC 27-1-1-2.**

10 **Sec. 4. As used in this chapter, "covered individual" has the**
11 **meaning set forth in IC 27-8-28-3.**

12 **Sec. 5. As used in this chapter, "department" refers to the**
13 **department of insurance.**

14 **Sec. 6. As used in this chapter, "external grievance" means the**
15 **independent review under this chapter of a grievance filed under**
16 **IC 27-8-28.**

17 **Sec. 7. As used in this chapter, "grievance" has the meaning set**
18 **forth in IC 27-8-28-6.**

19 **Sec. 8. As used in this chapter, "grievance procedure" has the**
20 **meaning set forth in IC 27-8-28-7.**

21 **Sec. 9. As used in this chapter, "health care provider" means a**
22 **person:**

23 (1) that provides physician services (as defined in
24 IC 12-15-11-1(a)); or

25 (2) who is licensed under IC 25-33.

26 **Sec. 10. As used in this chapter, "insured" has the meaning set**
27 **forth in IC 27-8-28-8.**

28 **Sec. 11. As used in this chapter, "insurer" has the meaning set**
29 **forth in IC 27-8-28-9.**

30 **Sec. 12. An insurer shall establish and maintain an external**
31 **grievance procedure for the resolution of external grievances**
32 **regarding:**

33 (1) an adverse determination of appropriateness;

34 (2) an adverse determination of medical necessity; or

35 (3) a determination that a proposed service is experimental or
36 investigational;

37 **made by an insurer or an agent of an insurer regarding a service**
38 **proposed by the treating health care provider.**

1 **Sec. 13. (a) An external grievance procedure established under**
 2 **section 12 of this chapter must:**

3 **(1) allow a covered individual or a covered individual's**
 4 **representative to file a written request with the insurer for an**
 5 **external grievance review of the insurer's appeal resolution**
 6 **under IC 27-8-28-17 not more than forty-five (45) days after**
 7 **the covered individual is notified of the resolution; and**

8 **(2) provide for:**

9 **(A) an expedited external grievance review for a grievance**
 10 **related to an illness, a disease, a condition, an injury, or a**
 11 **disability if the time frame for a standard review would**
 12 **seriously jeopardize the covered individual's:**

13 **(i) life or health; or**

14 **(ii) ability to reach and maintain maximum function; or**

15 **(B) a standard external grievance review for a grievance**
 16 **not described in clause (A).**

17 **A covered individual may file not more than one (1) external**
 18 **grievance of an insurer's appeal resolution under this chapter.**

19 **(b) Subject to the requirements of subsection (d), when a request**
 20 **is filed under subsection (a), the insurer shall:**

21 **(1) select a different independent review organization for each**
 22 **external grievance filed under this chapter from the list of**
 23 **independent review organizations that are certified by the**
 24 **department under section 19 of this chapter; and**

25 **(2) rotate the choice of an independent review organization**
 26 **among all certified independent review organizations before**
 27 **repeating a selection.**

28 **(c) The independent review organization chosen under**
 29 **subsection (b) shall assign a medical review professional who is**
 30 **board certified in the applicable specialty for resolution of an**
 31 **external grievance.**

32 **(d) The independent review organization and the medical review**
 33 **professional conducting the external review under this chapter**
 34 **may not have a material professional, familial, financial, or other**
 35 **affiliation with any of the following:**

36 **(1) The insurer.**

37 **(2) Any officer, director, or management employee of the**
 38 **insurer.**

1 **(3) The health care provider or the health care provider's**
2 **medical group that is proposing the service.**

3 **(4) The facility at which the service would be provided.**

4 **(5) The development or manufacture of the principal drug,**
5 **device, procedure, or other therapy that is proposed for use**
6 **by the treating health care provider.**

7 **However, the medical review professional may have an affiliation**
8 **under which the medical review professional provides health care**
9 **services to covered individuals of the insurer and may have an**
10 **affiliation that is limited to staff privileges at the health facility, if**
11 **the affiliation is disclosed to the covered individual and the insurer**
12 **before commencing the review and neither the covered individual**
13 **nor the insurer objects.**

14 **(e) A covered individual may be required to pay not more than**
15 **twenty-five dollars (\$25) of the costs associated with the services of**
16 **an independent review organization under this chapter. All**
17 **additional costs must be paid by the insurer.**

18 **Sec. 14. (a) A covered individual who files an external grievance**
19 **under this chapter:**

20 **(1) may not be subject to retaliation for exercising the covered**
21 **individual's right to an external grievance under this chapter;**

22 **(2) shall be permitted to use the assistance of other**
23 **individuals, including health care providers, attorneys,**
24 **friends, and family members throughout the review process;**

25 **(3) shall be permitted to submit additional information**
26 **relating to the proposed service throughout the review**
27 **process; and**

28 **(4) shall cooperate with the independent review organization**
29 **by:**

30 **(A) providing any requested medical information; or**

31 **(B) authorizing the release of necessary medical**
32 **information.**

33 **(b) An insurer shall cooperate with an independent review**
34 **organization selected under section 13(b) of this chapter by**
35 **promptly providing any information requested by the independent**
36 **review organization.**

37 **Sec. 15. (a) An independent review organization shall:**

38 **(1) for an expedited external grievance filed under section**

1 **13(a)(2)(A) of this chapter, within three (3) business days after**
 2 **the external grievance is filed; or**
 3 **(2) for a standard appeal filed under section 13(a)(2)(B) of this**
 4 **chapter, within fifteen (15) business days after the appeal is**
 5 **filed;**

6 **make a determination to uphold or reverse the insurer's appeal**
 7 **resolution under IC 27-8-28-17 based on information gathered**
 8 **from the covered individual or the covered individual's designee,**
 9 **the insurer, and the treating health care provider, and any**
 10 **additional information that the independent review organization**
 11 **considers necessary and appropriate.**

12 **(b) When making the determination under this section, the**
 13 **independent review organization shall apply:**

14 **(1) standards of decision making that are based on objective**
 15 **clinical evidence; and**

16 **(2) the terms of the covered individual's accident and sickness**
 17 **insurance policy.**

18 **(c) The independent review organization shall notify the insurer**
 19 **and the covered individual of the determination made under this**
 20 **section:**

21 **(1) for an expedited external grievance filed under section**
 22 **13(a)(2)(A) of this chapter, within twenty-four (24) hours**
 23 **after making the determination; and**

24 **(2) for a standard external grievance filed under section**
 25 **13(a)(2)(B) of this chapter, within seventy-two (72) hours after**
 26 **making the determination.**

27 **Sec. 16. A determination made under section 15 of this chapter**
 28 **is binding on the insurer.**

29 **Sec. 17. (a) If, at any time during an external review performed**
 30 **under this chapter, the covered individual submits information to**
 31 **the insurer that is relevant to the insurer's resolution of the**
 32 **covered individual's appeal of a grievance decision under**
 33 **IC 27-8-28-17 and that was not considered by the insurer under**
 34 **IC 27-8-28:**

35 **(1) the insurer may reconsider the resolution under**
 36 **IC 27-8-28-17; and**

37 **(2) if the insurer chooses to reconsider, the independent**
 38 **review organization shall cease the external review process**

- 1 **until the reconsideration under subsection (b) is completed.**
- 2 **(b) An insurer reconsidering the resolution of an appeal of a**
3 **grievance decision due to the submission of information under**
4 **subsection (a) shall reconsider the resolution under IC 27-8-28-17**
5 **based on the information and notify the covered individual of the**
6 **insurer's decision:**
- 7 **(1) within seventy-two (72) hours after the information is**
8 **submitted, for a reconsideration related to an illness, a**
9 **disease, a condition, an injury, or a disability that would**
10 **seriously jeopardize the covered individual's:**
- 11 **(A) life or health; or**
12 **(B) ability to reach and maintain maximum function; or**
- 13 **(2) within fifteen (15) days after the information is submitted,**
14 **for a reconsideration not described in subdivision (1).**
- 15 **(c) If the decision reached under subsection (b) is adverse to the**
16 **covered individual, the covered individual may request that the**
17 **independent review organization resume the external review under**
18 **this chapter.**
- 19 **(d) If an insurer to which information is submitted under**
20 **subsection (a) chooses not to reconsider the insurer's resolution**
21 **under IC 27-8-28-17, the insurer shall forward the submitted**
22 **information to the independent review organization not more than**
23 **two (2) business days after the insurer's receipt of the information.**
- 24 **Sec. 18. This chapter does not add to or otherwise change the**
25 **terms of coverage included in a policy, certificate, or contract**
26 **under which a covered individual receives health care benefits**
27 **under IC 27-8.**
- 28 **Sec. 19. (a) The department shall establish and maintain a**
29 **process for annual certification of independent review**
30 **organizations.**
- 31 **(b) The department shall certify a number of independent**
32 **review organizations determined by the department to be sufficient**
33 **to fulfill the purposes of this chapter.**
- 34 **(c) An independent review organization must meet the following**
35 **minimum requirements for certification by the department:**
- 36 **(1) Medical review professionals assigned by the independent**
37 **review organization to perform external grievance reviews**
38 **under this chapter:**

- 1 **(A) must be board certified in the specialty in which a**
 2 **covered individual's proposed service would be provided;**
 3 **(B) must be knowledgeable about a proposed service**
 4 **through actual clinical experience;**
 5 **(C) must hold an unlimited license to practice in a state of**
 6 **the United States; and**
 7 **(D) must not have any history of disciplinary actions or**
 8 **sanctions, including:**
 9 **(i) loss of staff privileges; or**
 10 **(ii) restriction on participation;**
 11 **taken or pending by any hospital, government, or**
 12 **regulatory body.**
- 13 **(2) The independent review organization must have a quality**
 14 **assurance mechanism to ensure:**
 15 **(A) the timeliness and quality of reviews;**
 16 **(B) the qualifications and independence of medical review**
 17 **professionals;**
 18 **(C) the confidentiality of medical records and other review**
 19 **materials; and**
 20 **(D) the satisfaction of covered individuals with the**
 21 **procedures utilized by the independent review**
 22 **organization, including the use of covered individual**
 23 **satisfaction surveys.**
- 24 **(3) The independent review organization must file with the**
 25 **department the following information on or before March 1**
 26 **of each year:**
 27 **(A) The number and percentage of determinations made in**
 28 **favor of covered individuals.**
 29 **(B) The number and percentage of determinations made in**
 30 **favor of insurers.**
 31 **(C) The average time to process a determination.**
 32 **(D) Any other information required by the department.**
- 33 **The information required under this subdivision must be**
 34 **specified for each insurer for which the independent review**
 35 **organization performed reviews during the reporting year.**
- 36 **(4) Any additional requirements established by the**
 37 **department.**
- 38 **(d) The department may not certify an independent review**

1 organization that is one (1) of the following:

2 (1) A professional or trade association of health care
3 providers or a subsidiary or an affiliate of a professional or
4 trade association of health care providers.

5 (2) An insurer, a health maintenance organization, or a health
6 plan association, or a subsidiary or an affiliate of an insurer,
7 health maintenance organization, or health plan association.

8 (e) The department may suspend or revoke an independent
9 review organization's certification if the department finds that the
10 independent review organization is not in substantial compliance
11 with the certification requirements under this section.

12 (f) The department shall make available to insurers a list of all
13 certified independent review organizations.

14 (g) The department shall make the information provided to the
15 department under subsection (c)(3) available to the public in a
16 format that does not identify individual covered individuals.

17 Sec. 20. Except as provided in section 19(g) of this chapter,
18 documents and other information created or received by the
19 independent review organization or the medical review
20 professional in connection with an external grievance review under
21 this chapter:

- 22 (1) are not public records;
- 23 (2) may not be disclosed under IC 5-14-3; and
- 24 (3) must be treated in accordance with confidentiality
25 requirements of state and federal law.

26 Sec. 21. (a) An insurer shall each year file with the
27 commissioner a description of the grievance procedure established
28 by the insurer under this chapter, including:

- 29 (1) the total number of external grievances handled through
30 the procedure during the preceding calendar year;
- 31 (2) a compilation of the causes underlying the grievances; and
- 32 (3) a summary of the final disposition of the grievances;

33 for each independent review organization used by the insurer
34 during the reporting year.

35 (b) The information required by subsection (a) must be filed
36 with the commissioner on or before March 1 of each year. The
37 commissioner shall:

- 38 (1) make the information required to be filed under this

1 section available to the public; and
 2 **(2) prepare an annual compilation of the data required under**
 3 **subsection (a) that allows for comparative analysis.**

4 **(c) The commissioner may require any additional reports that**
 5 **are necessary and appropriate for the commissioner to carry out**
 6 **the commissioner's duties under this article.**

7 **Sec. 22. (a) An independent review organization is immune from**
 8 **civil liability for actions taken in good faith in connection with an**
 9 **external review under this chapter.**

10 **(b) The work product or determination, or both, of an**
 11 **independent review organization under this chapter are admissible**
 12 **in a judicial or administrative proceeding. However, the work**
 13 **product or determination, or both, do not, without other**
 14 **supporting evidence, satisfy a party's burden of proof or**
 15 **persuasion concerning any material issue of fact or law.**

16 **Sec. 23. If a covered individual has the right to an external**
 17 **review of a grievance under Medicare, the covered individual may**
 18 **not request an external review of the same grievance under this**
 19 **chapter.**

20 **Sec. 24. The department may adopt rules under IC 4-22-2 to**
 21 **implement this chapter.**

22 SECTION 20. IC 27-13-2-3 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A foreign
 24 corporation, other than a foreign corporation defined under
 25 IC 27-1-2-3, may obtain a certificate of authority if the foreign
 26 corporation:

27 (1) is authorized to do business in Indiana under IC 23-1-49 or
 28 IC 23-17-26; and

29 (2) complies with this article.

30 (b) A foreign corporation (as defined in IC 27-1-2-3) may obtain a
 31 certificate of authority if the foreign corporation complies with this
 32 article.

33 **(c) A foreign or alien health maintenance organization granted**
 34 **a certificate of authority under this section has the same but no**
 35 **greater rights and privileges than a domestic health maintenance**
 36 **organization.**

37 SECTION 21. IC 27-13-2-6 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) An applicant

1 shall submit to the commissioner any modifications or amendments to
 2 the items of information required in an application under section 5 of
 3 this chapter.

4 (b) The commissioner may adopt rules under this section that
 5 provide that any modifications or amendments to the items of
 6 information in the application required of a health maintenance
 7 organization:

8 (1) must be submitted to the commissioner before the
 9 modification or amendment takes effect:

10 (A) for the approval of the commissioner; or

11 (B) for the information of the commissioner only; or

12 (2) must be indicated by the health maintenance organization to
 13 the commissioner at the time of the next succeeding site visit or
 14 examination of the organization by the department of insurance.

15 **(c) A health maintenance organization shall file any assumed**
 16 **corporate name with the department at least thirty (30) days**
 17 **before assuming the name.**

18 SECTION 22. IC 27-13-2-9 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2001]: **Sec. 9. (a) A health maintenance organization established**
 21 **under this article may not:**

22 (1) use as a part of its corporate name the words "United
 23 States", "Federal", "government", "official", or any word
 24 that would imply that the company is an administrative
 25 agency of the state of Indiana or of the United States, or that
 26 it is subject to supervision of any department other than the
 27 department of insurance; or

28 (2) take or assume a corporate name the same as, or
 29 confusingly similar to, an existing name of any other
 30 insurance company or other entity licensed or regulated
 31 under IC 27, unless at the same time:

32 (A) the other company changes its corporate name or
 33 withdraws from transacting business in Indiana; and

34 (B) the written consent of the other company, signed and
 35 verified under oath by its secretary, is filed with the
 36 department.

37 (b) This section does not affect the right of any health
 38 maintenance organization that:

- 1 **(1) exists under the laws of Indiana as of July 1, 2001;**
- 2 **(2) exists under the laws of Indiana as of July 1, 2001, and**
- 3 **reorganizes or reincorporates under this article at a later**
- 4 **date; or**
- 5 **(3) is authorized to transact business in Indiana as of July 1,**
- 6 **2001;**
- 7 **to continue the use of its corporate name.**

8 SECTION 23. IC 27-13-4-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Subject to section
 10 3 of this chapter, the powers of a health maintenance organization
 11 include the following:

- 12 (1) The purchase, lease, construction, renovation, operation, or
 13 maintenance of:
 - 14 (A) hospitals and medical facilities;
 - 15 (B) equipment for hospitals and medical facilities; and
 - 16 (C) other property reasonably required for the principal office
 17 of the health maintenance organization or for purposes
 18 necessary in the transaction of the business of the organization.
- 19 (2) Engaging in transactions between affiliated entities, including
 20 loans and the transfer of responsibility under any or all contracts:
 - 21 (A) between affiliates; or
 - 22 (B) between the health maintenance organization and the
 23 parent organization of the health maintenance organization.
- 24 (3) The furnishing of health care services through:
 - 25 (A) providers;
 - 26 (B) provider associations; and
 - 27 (C) agents for providers;
 28 who are under contract with or are employed by the health
 29 maintenance organization. The contracts with providers, provider
 30 associations, or agents of providers may include fee for service,
 31 cost plus, capitation, or other payment or risk-sharing
 32 arrangements.
- 33 (4) Contracting with any person for the performance on behalf of
 34 the health maintenance organization of certain functions,
 35 including:
 - 36 (A) marketing;
 - 37 (B) enrollment; and
 - 38 (C) administration.

- 1 (5) Contracting with:
 2 (A) an insurance company licensed in Indiana;
 3 (B) an authorized reinsurer; or
 4 (C) a hospital authorized to conduct business in Indiana;
 5 for the provision of insurance, indemnity, or reimbursement
 6 against the cost of health care services provided by the health
 7 maintenance organization.
 8 (6) The offering of point-of-service products.
 9 (7) The joint marketing of products with:
 10 (A) an insurance company that is licensed in Indiana; or
 11 (B) a hospital that is authorized to conduct business in Indiana;
 12 if the company that is offering each product is clearly identified.
 13 (8) Administration of the provision of health care services at the
 14 expense of a self-funded plan.
 15 (b) A health maintenance organization may offer any of the
 16 following:
 17 (1) Plans that include only basic health care services.
 18 (2) Plans that include basic health care services and other health
 19 care services.
 20 (3) Plans that include health care services other than basic health
 21 care services so long as at least one (1) of the plans offered by the
 22 health maintenance organization includes basic health care
 23 services.
 24 **(c) Notwithstanding subsection (a)(5), a health maintenance**
 25 **organization may not take credit for reinsurance unless the risk is**
 26 **ceded to a reinsurer qualified under IC 27-6-10.**
 27 SECTION 24. IC 27-13-4-3 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A **domestic**
 29 health maintenance organization must file notice with the
 30 commissioner, with supporting information that the commissioner
 31 deems adequate, before exercising any power granted in:
 32 (1) section 1(a)(1); or
 33 (2) section 1(a)(4);
 34 of this chapter if the proposed transaction is equal to or greater than ten
 35 percent (10%) of the health maintenance organization's admitted assets.
 36 (b) A **domestic** health maintenance organization must file notice
 37 with the commissioner, with the supporting information that the
 38 commissioner deems adequate, before exercising any power granted in

1 section 1(a)(2), if the proposed transaction is equal to or greater than
 2 three percent (3%) of the health maintenance organization's admitted
 3 assets.

4 (c) The commissioner may disapprove an exercise of power referred
 5 to in a notice received under subsection (a) or (b) only if, in the opinion
 6 of the commissioner, the exercise of the power would:

7 (1) substantially and adversely affect the financial soundness of
 8 the health maintenance organization; and

9 (2) endanger the ability of the health maintenance organization to
 10 meet its obligations.

11 (d) If the commissioner does not disapprove an exercise of power
 12 referred to in a notice received under subsection (a) or (b) within thirty
 13 (30) days after the notice is filed with the commissioner, the exercise
 14 of power is considered approved.

15 (e) The commissioner may adopt rules under IC 4-22-2 exempting
 16 from the filing requirement of this section certain activities that have
 17 a minimal effect on:

18 (1) the financial soundness of the health maintenance
 19 organization; and

20 (2) the ability of the health maintenance organization to meet its
 21 obligations.

22 SECTION 25. IC 27-13-8-1.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2001]: **Sec. 1.5. (a) Each health maintenance
 25 organization authorized to conduct business in Indiana and
 26 required to file an annual statement with the department under
 27 this chapter shall prepare the health maintenance organization's
 28 statement:**

29 **(1) on the National Association of Insurance Commissioners
 30 (NAIC) Annual Statement Blank;**

31 **(2) in accordance with NAIC Annual Statement Instructions;
 32 and**

33 **(3) following practices and procedures prescribed by the most
 34 recent NAIC Accounting Practices and Procedures Manual.**

35 **(b) To the extent that the NAIC Annual Statement Instructions
 36 require disclosure under subsection (a) of compensation paid to or
 37 on behalf of a health maintenance organization's officers, directors,
 38 or employees, the information may be filed with the department as**

1 **an exhibit separate from the annual statement blank. The**
 2 **compensation information described under this subsection shall be**
 3 **maintained by the department as confidential and may not be**
 4 **disclosed to the public under IC 5-14-3.**

5 SECTION 26. IC 27-13-8-2, AS AMENDED BY P.L.133-1999,
 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2001]: Sec. 2. (a) In addition to the report required by section
 8 1 of this chapter, a health maintenance organization shall each year file
 9 with the commissioner the following:

10 (1) Audited financial statements of the health maintenance
 11 organization for the preceding calendar year **prepared in**
 12 **conformity with statutory accounting practices prescribed or**
 13 **otherwise permitted by the department.**

14 (2) A list of participating providers who provide health care
 15 services to enrollees or subscribers of the health maintenance
 16 organization.

17 (3) A description of the grievance procedure of the health
 18 maintenance organization:

19 (A) established under IC 27-13-10, including:

20 (i) the total number of grievances handled through the
 21 procedure during the preceding calendar year;

22 (ii) a compilation of the causes underlying those grievances;
 23 and

24 (iii) a summary of the final disposition of those grievances;
 25 and

26 (B) established under IC 27-13-10.1, including:

27 (i) the total number of external grievances handled through
 28 the procedure during the preceding calendar year;

29 (ii) a compilation of the causes underlying those grievances;
 30 and

31 (iii) a summary of the final disposition of those grievances;
 32 for each independent review organization used by the health
 33 maintenance organization during the reporting year.

34 (4) The percentage of providers credentialed by the health
 35 maintenance organization according to the most current standards
 36 or guidelines, if any, developed by the National Committee on
 37 Quality Assurance or a successor organization.

38 (5) The health maintenance organization's Health Plan Employer

1 Data and Information Set (HEDIS) data.

2 (b) The information required by subsection (a)(2) through (a)(4)
3 must be filed with the commissioner on or before March 1 of each year.
4 The audited financial statements required by subsection (a)(1) must be
5 filed with the commissioner on or before June 1 of each year. The
6 health maintenance organization's HEDIS data required by subsection
7 (a)(5) must be filed with the commissioner on or before July 1 of each
8 year. The commissioner shall:

9 (1) make the information required to be filed under this section
10 available to the public; and

11 (2) prepare an annual compilation of the data required under
12 subsection (a)(3) through (a)(5) that allows for comparative
13 analysis.

14 (c) **Upon a determination by a health maintenance**
15 **organization's auditor that the health maintenance organization:**

16 **(1) does not meet the requirements of IC 27-13-12-3; or**

17 **(2) is in the condition described in IC 27-13-24-1(a)(5);**

18 **the health maintenance organization shall notify the commissioner**
19 **within five (5) business days after the auditor's determination.**

20 (d) The commissioner may require any additional reports as are
21 necessary and appropriate for the commissioner to carry out the
22 commissioner's duties under this article.

23 SECTION 27. IC 27-13-8-3 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2001]: **Sec. 3. (a) This section applies to a domestic health**
26 **maintenance organization that is authorized to transact business**
27 **in Indiana.**

28 (b) **As used in this section, "NAIC" refers to the National**
29 **Association of Insurance Commissioners.**

30 (c) **On or before March 1 of each year, a health maintenance**
31 **organization shall file with the National Association of Insurance**
32 **Commissioners and with the department a copy of the health**
33 **maintenance organization's annual statement convention blank**
34 **and additional filings prescribed by the commissioner for the**
35 **preceding year. A health maintenance organization shall also file**
36 **quarterly statements with the NAIC and with the department, on**
37 **or before May 15, August 15, and November 15 of each year, in a**
38 **form prescribed by the commissioner. The information filed with**

- 1 **the NAIC under this subsection:**
- 2 **(1) must be:**
- 3 **(A) in the same format; and**
- 4 **(B) of the same scope;**
- 5 **as is required by the commissioner under section 1 of this**
- 6 **chapter;**
- 7 **(2) to the extent required by the NAIC, must include the**
- 8 **signed jurat page and the actuarial certification; and**
- 9 **(3) must be filed electronically in accordance with NAIC**
- 10 **electronic filing specifications.**
- 11 **The commissioner may, for good cause shown, grant an exemption**
- 12 **from the requirement of this section to domestic health**
- 13 **maintenance organizations that operate only in Indiana. If a health**
- 14 **maintenance organization files any amendment or addendum to**
- 15 **the health maintenance organization's annual statement**
- 16 **convention blank or quarterly statement with the commissioner,**
- 17 **the health maintenance organization shall also file a copy of the**
- 18 **amendment or addendum with the NAIC. Annual and quarterly**
- 19 **financial statements are considered filed with the NAIC when**
- 20 **delivered to the address designated by the NAIC for the filings,**
- 21 **regardless of whether the filing is accompanied by any applicable**
- 22 **fee.**
- 23 **(d) The commissioner may, for good cause shown, grant a health**
- 24 **maintenance organization an extension of time for the filing**
- 25 **required by subsection (c).**
- 26 **(e) In the absence of actual malice:**
- 27 **(1) members of the NAIC;**
- 28 **(2) duly authorized committees, subcommittees, and task**
- 29 **forces of members of the NAIC;**
- 30 **(3) delegates of members of the NAIC;**
- 31 **(4) employees of the NAIC; and**
- 32 **(5) other persons responsible for collecting, reviewing,**
- 33 **analyzing, and disseminating information developed from the**
- 34 **filing of annual statement convention blanks under this**
- 35 **section;**
- 36 **shall be considered to be acting as agents of the commissioner**
- 37 **under the authority of this section and are not subject to civil**
- 38 **liability for libel, slander, or any other cause of action by virtue of**

1 the collection, review, analysis, or dissemination of the data and
2 information collected from the filings required by this section.

3 (f) The commissioner may suspend, revoke, or refuse to renew
4 the certificate of authority of a health maintenance organization
5 that fails to file the health maintenance organization's annual
6 statement convention blank or quarterly statements with the NAIC
7 or with the department within the time allowed by subsection (c)
8 or (d).

9 SECTION 28. IC 27-13-8-4 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2001]: Sec. 4. (a) The commissioner may impose a civil penalty
12 of five hundred dollars (\$500), after notice and hearing under
13 IC 4-21.5-3, on a health maintenance organization that fails to file
14 an annual statement under this chapter.

15 (b) A domestic health maintenance organization that fails to file
16 an audited annual financial statement under section 2(a)(1) of this
17 chapter before June 1 of each year without obtaining an extension
18 is subject to a civil penalty of fifty dollars (\$50) per day until the
19 report is received by the commissioner.

20 SECTION 29. IC 27-13-13-9 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) As used in this section,
23 "noncovered health care expenditures" means the costs to a health
24 maintenance organization for health care services:

25 (1) that are the obligation of the health maintenance
26 organization;

27 (2) for which the enrollee may be liable in the event of the
28 health maintenance organization's insolvency; and

29 (3) for which:

30 (A) no alternative arrangements have been made that are
31 acceptable to the commissioner; or

32 (B) statutory deposits and net worth of the health
33 maintenance organization are determined by the
34 commissioner to be inadequate.

35 (b) If noncovered health care expenditures exceed ten percent
36 (10%) of total health care expenditures, a health maintenance
37 organization shall deposit cash or securities that are acceptable to
38 the commissioner with:

- 1 **(1) the commissioner; or**
 2 **(2) an organization or trustee approved by the commissioner**
 3 **through which a custodial or controlled account is**
 4 **maintained.**

5 **(c) The deposit made under subsection (b) must have a fair**
 6 **market value:**

- 7 **(1) calculated on the first day of each month; and**
 8 **(2) maintained for the remainder of the month;**
 9 **of not less than one hundred twenty percent (120%) of the health**
 10 **maintenance organization's outstanding liability for noncovered**
 11 **health care expenditures for enrollees in Indiana, including**
 12 **incurred but not reported claims.**

13 **(d) The commissioner may require a health maintenance**
 14 **organization to file periodic reports, including reports on liability**
 15 **for noncovered health care expenditures and audit opinions, that**
 16 **the commissioner considers necessary to monitor compliance with**
 17 **this section.**

18 SECTION 30. IC 27-13-15-2 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. If:

- 20 (1) the contract between a health maintenance organization and
 21 a participating provider has not been reduced to writing as
 22 required by this chapter; or
 23 (2) the contract fails to contain the provision required by section
 24 ~~1(2)~~ **1(a)(4)** of this chapter;

25 the participating provider may not collect or attempt to collect from the
 26 subscriber or enrollee any sums that are owed by the health
 27 maintenance organization.

28 SECTION 31. IC 27-13-15-3 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. **(a) A:**

- 30 (1) participating provider; or
 31 (2) trustee, an agent, a representative, or an assignee of a
 32 participating provider;

33 may not **bring or** maintain any legal action against a subscriber or an
 34 enrollee of a health maintenance organization to collect sums owed by
 35 the health maintenance organization.

36 **(b) Except as provided in subsection (c), if a participating**
 37 **provider of a health maintenance organization brings or maintains**
 38 **a legal action against a subscriber or enrollee for an amount owed**

1 **to the participating provider by the health maintenance**
 2 **organization, the participating provider is liable to the subscriber**
 3 **or enrollee for costs and attorney's fees incurred by the subscriber**
 4 **or enrollee in defending the legal action.**

5 **(c) A participating provider may not be liable to the subscriber**
 6 **or enrollee for costs and attorney's fees described in subsection (b)**
 7 **if the participating provider can demonstrate a reasonable basis**
 8 **for believing at the time the legal action was brought and while the**
 9 **legal action was maintained that the health maintenance**
 10 **organization did not owe the sums the participating provider**
 11 **sought to collect from the subscriber or enrollee.**

12 SECTION 32. IC 27-13-18-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) In the event of
 14 receivership of a health maintenance organization, the commissioner
 15 may order all other carriers that participated in the enrollment process
 16 of the group covered by the organization in receivership at the last
 17 regular enrollment period of the group to offer the enrollees of the
 18 organization in receivership an enrollment period of thirty (30) days
 19 beginning on the date of receivership.

20 (b) Each carrier referred to in subsection (a) shall offer the enrollees
 21 of the health maintenance organization in receivership:

- 22 (1) the same coverage;
- 23 (2) under the same terms; and
- 24 (3) at the same rates;

25 as the carrier had offered at the last regular enrollment period of the
 26 group. The coverage required under this chapter shall begin on the date
 27 of receivership and end on the date the contract period would have
 28 ended had the health maintenance organization not gone into
 29 receivership.

30 **(c) If there is no carrier referred to in subsection (a), or the**
 31 **commissioner determines that there is no carrier referred to in**
 32 **subsection (a) that has adequate or accessible resources, the**
 33 **commissioner shall equitably allocate the:**

- 34 **(1) group contracts of the health maintenance organization in**
 35 **receivership; and**
- 36 **(2) individual contracts of the health maintenance**
 37 **organization in receivership belonging to enrollees who are**
 38 **unable to obtain other coverage;**

1 among all health maintenance organizations operating within a
 2 portion of the service area of the health maintenance organization
 3 in receivership. The commissioner shall not allocate individual
 4 contracts to a health maintenance organization that does not offer
 5 direct individual enrollment.

6 (d) A health maintenance organization to which the
 7 commissioner allocates a group contract under subsection (c)(1)
 8 shall offer to the group existing coverage that is most similar to the
 9 group's coverage with the health maintenance organization in
 10 receivership, at rates consistent with the successor health
 11 maintenance organization's existing rating methodology.

12 (e) A health maintenance organization to which the
 13 commissioner allocates individual contracts under subsection (c)(2)
 14 shall offer to the enrollee existing individual or conversion
 15 coverage that is most similar to the enrollee's coverage with the
 16 health maintenance organization in receivership, at rates consistent
 17 with the successor health maintenance organization's existing
 18 rating methodology.

19 SECTION 33. IC 27-13-22-1 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) **This section
 21 does not apply to a health maintenance organization granted a
 22 certificate of authority under this article before July 1, 2001.**

23 (b) A licensed insurer or a hospital authorized to conduct business
 24 in Indiana may, ~~either directly or~~ through a subsidiary or an affiliate,
 25 organize and operate a health maintenance organization under this
 26 article.

27 SECTION 34. IC 27-13-23-8 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2001]: **Sec. 8. A health maintenance
 30 organization shall file a copy of any examination report filed by the
 31 insurance commissioner of another state during the preceding
 32 calendar year with the annual statement required under
 33 IC 27-13-8-1.**

34 SECTION 35. IC 27-13-32-1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) This section does
 36 not apply to a health maintenance organization or a limited service
 37 health maintenance organization that is a foreign corporation. ~~or is
 38 owned by a foreign corporation.~~

1 (b) As used in this section, "foreign corporation" means a
2 corporation organized or reorganized under the law of a state or
3 jurisdiction other than Indiana.

4 (c) A person may not acquire control, as that term is defined in
5 IC 27-1-23-1, of a health maintenance organization or a limited service
6 health maintenance organization unless:

- 7 (1) that person complies with the requirements of IC 27-1-23-2;
- 8 and
- 9 (2) the acquisition is approved by the commissioner under the
10 procedure set forth in IC 27-1-23-2.

11 SECTION 36. IC 27-13-32.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2001]:

14 **Chapter 32.5. Voluntary Dissolution**

15 **Sec. 1. Upon authorization of voluntary dissolution by the board**
16 **of directors and any shareholders entitled to vote in respect of the**
17 **voluntary dissolution, the board of directors shall:**

- 18 (1) **cause a notice that the health maintenance organization is**
19 **about to be dissolved to be published at least once in a**
20 **newspaper of general circulation, printed and published in the**
21 **English language, in the county in which the principal office**
22 **of the health maintenance organization is located, and at least**
23 **once in a newspaper of general circulation, printed and**
24 **published in the English language in the city of Indianapolis,**
25 **Marion County, Indiana;**
- 26 (2) **cause a copy of the publication under subdivision (1) to be**
27 **mailed to each subscriber;**
- 28 (3) **file a copy of the publication under subdivision (1) with the**
29 **department;**
- 30 (4) **file a certified copy of the articles of dissolution with the**
31 **department; and**
- 32 (5) **present to the department the certificate of authority**
33 **issued or renewed under IC 27-13-3-1 for cancellation.**

34 **The department shall file the certified copy of the articles of**
35 **dissolution, cancel the certificate of authority, endorse the**
36 **cancellation on the certificate, and return the canceled certificate**
37 **of authority to the health maintenance organization or its**
38 **representatives.**

1 **Sec. 2. The dissolution of a health maintenance organization**
 2 **under this chapter does not alter the rights of an enrollee under**
 3 **IC 27-13-7-13.**

4 SECTION 37. IC 27-13-34-7 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) After December
 6 31, 1994, a person, corporation, partnership, limited liability company,
 7 or other entity may not operate a limited service health maintenance
 8 organization in Indiana without obtaining and maintaining a certificate
 9 of authority from the commissioner under this chapter.

10 (b) A for-profit or nonprofit corporation organized under the laws
 11 of another state, other than a foreign corporation defined under
 12 IC 27-1-2-3, may obtain a certificate of authority to operate a limited
 13 service health maintenance organization in Indiana if the foreign
 14 corporation is authorized to do business in Indiana under IC 23-1-49 or
 15 IC 23-17-26 and complies with this chapter.

16 (c) A foreign corporation (as defined in IC 27-1-2-3) may obtain a
 17 certificate of authority to operate a limited service health maintenance
 18 organization in Indiana if the foreign corporation complies with this
 19 chapter.

20 **(d) A foreign or alien limited service health maintenance**
 21 **organization granted a certificate of authority under this chapter**
 22 **has the same but not greater rights and privileges than a domestic**
 23 **limited service health maintenance organization.**

24 SECTION 38. IC 34-30-2-114.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2001]: **Sec. 114.5. IC 27-7-12-9 (Concerning**
 27 **communications regarding termination of a homeowner's**
 28 **insurance policy).**

29 SECTION 39. IC 34-30-2-116.7 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2001]: **Sec. 116.7. IC 27-8-29-22 (Concerning**
 32 **independent review organizations).**

33 SECTION 40. IC 34-30-2-119.3 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2001]: **Sec. 119.3. IC 27-13-8-3 (Concerning**
 36 **data and information collected from health maintenance**
 37 **organization filings).**

38 SECTION 41. IC 34-30-12-1, AS AMENDED BY P.L.1-1999,

1 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JANUARY 1, 2004]: Sec. 1. (a) This section does not apply to services
3 rendered by a health care provider (as defined in IC 34-18-2-14 or
4 IC 27-12-2-14 before its repeal) to a patient in a health care facility (as
5 defined in ~~IC 27-8-10-1~~ **IC 2-5-23-2.5**).

6 (b) Except as provided in subsection (c), a person who comes upon
7 the scene of an emergency or accident or is summoned to the scene of
8 an emergency or accident and, in good faith, gratuitously renders
9 emergency care at the scene of the emergency or accident is immune
10 from civil liability for any personal injury that results from:

11 (1) any act or omission by the person in rendering the emergency
12 care; or

13 (2) any act or failure to act to provide or arrange for further
14 medical treatment or care for the injured person;

15 except for acts or omissions amounting to gross negligence or willful
16 or wanton misconduct.

17 (c) This subsection applies to a person to whom IC 16-31-6.5
18 applies. A person who gratuitously renders emergency care involving
19 the use of an automatic external defibrillator is immune from liability
20 for any act or omission not amounting to gross negligence or willful or
21 wanton misconduct if the person fulfills the requirements set forth in
22 IC 16-31-6.5.

23 (d) This subsection applies to an individual, business, or
24 organization to which IC 16-31-6.5 applies. An individual, business, or
25 organization that allows a person who is an expected user to use an
26 automatic external defibrillator of the individual, business, or
27 organization to in good faith gratuitously render emergency care is
28 immune from civil liability for any damages resulting from an act or
29 omission not amounting to gross negligence or willful or wanton
30 misconduct by the user or for acquiring or providing the automatic
31 external defibrillator to the user for the purpose of rendering the
32 emergency care if the individual, business, or organization and the user
33 fulfill the requirements set forth in IC 16-31-6.5.

34 SECTION 42. [EFFECTIVE JULY 1, 2001] **(a) As used in this**
35 **SECTION, "waiver" means a Section 1115 demonstration waiver**
36 **under the federal Social Security Act (42 U.S.C. 1315).**

37 **(b) The office of Medicaid policy and planning may apply to the**
38 **United States Department of Health and Human Services for**

1 approval of a waiver to provide coverage to individuals with severe
2 chronic diseases.

3 (c) If a provision under this SECTION differs from the
4 requirements of a waiver, the office of Medicaid policy and
5 planning shall submit a waiver request in a manner that complies
6 with the requirements of the waiver. However, after the waiver is
7 approved, the office shall apply not more than one hundred twenty
8 (120) days after the waiver is approved for an amendment to the
9 approved waiver that contains the provisions of this SECTION
10 that were not included in the approved waiver.

11 (d) The office of Medicaid policy and planning may not
12 implement a waiver until the office files an affidavit with the
13 governor attesting that a federal waiver applied for under this
14 SECTION is in effect. The office shall file the affidavit under this
15 subsection not more than five (5) days after the office is notified
16 that a waiver is approved.

17 (e) If the office or Medicaid policy and planning receives a
18 waiver under this SECTION from the United States Department
19 of Health and Human services and the governor receives the
20 affidavit filed under subsection (d), the office shall implement the
21 waiver not more than sixty (60) days after the governor receives
22 the affidavit.

23 (f) The office of Medicaid policy and planning may adopt rules
24 under IC 4-22-2 that are necessary to implement this SECTION.

25 (g) This SECTION expires July 1, 2004.

26 SECTION 43. [EFFECTIVE JULY 1, 2001] (a) As used in this
27 SECTION, "commission" refers to the health finance commission
28 established under IC 2-5-23.

29 (b) As used in this SECTION, "association" refers to the
30 Indiana comprehensive health insurance association established
31 under IC 27-8-10-2.1.

32 (c) As used in this SECTION, "association policy" has the
33 meaning set forth in IC 27-8-10-1.

34 (d) The health finance advisory committee created under
35 IC 2-5-23-6 shall review the following issues and make
36 recommendations to the commission not later than May 1, 2002:

37 (1) The current program used by the association to provide
38 coverage for health care services provided to individuals who

- 1 are covered under an association policy.
- 2 **(2) Potential sources of funding coverage of association**
- 3 **policies and administrative expenses.**
- 4 **(3) Current criteria for determining eligibility and**
- 5 **methodology for establishing premiums.**
- 6 **(4) A plan for administration of the association program by**
- 7 **an existing state agency with review by the commission or**
- 8 **another legislative body not less than every two (2) years.**
- 9 **(5) Potential transfer of individuals who are covered under an**
- 10 **association policy to private insurance coverage.**

11 **(e) The commission shall make recommendations concerning the**

12 **issues specified in subsection (d) to the legislative council not later**

13 **than November 1, 2002.**

14 **(f) This SECTION expires December 1, 2002.**

15 SECTION 44. [EFFECTIVE JULY 1, 2001] **(a) Notwithstanding**

16 **IC 27-8-28-19 and IC 27-8-29-21, both as added by this act, the**

17 **information required under IC 27-8-28-19 and IC 27-8-29-21, both**

18 **as added by this act, must be filed beginning March 1, 2003.**

19 **(b) This SECTION expires June 30, 2005.**

20 SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) The**

21 **commissioner of the department of insurance shall, not later than**

22 **July 1, 2001, in consultation with representatives of the health**

23 **insurance industry, begin to study potential solutions to the**

24 **following issues:**

25 **(1) Accelerated rate increases for individual health insurance**

26 **policies that are not actively marketed.**

27 **(2) Consumer misunderstanding of precertification and**

28 **preauthorization requirements under preferred provider**

29 **plans.**

30 **(b) The commissioner of the department of insurance shall, not**

31 **later than July 1, 2002, report to the following individuals any**

32 **potential solutions that result from the study required under**

33 **subsection (a):**

34 **(1) The chairman of the insurance, corporations, and small**

35 **business committee of the Indiana house of representatives.**

36 **(2) The chairman of the insurance and financial institutions**

37 **committee of the Indiana senate.**

38 **(c) This SECTION expires June 30, 2003.**

1 SECTION 46. THE FOLLOWING ARE REPEALED [EFFECTIVE
2 JANUARY 1, 2004]: IC 27-8-10; IC 27-13-16-4; IC 34-30-2-116.

3 SECTION 47. IC 27-2-9 IS REPEALED [EFFECTIVE JULY 1,
4 2001].

5 SECTION 48. **An emergency is declared for this act."**

6 Renumber all SECTIONS consecutively.

(Reference is to SB 386 as printed February 9, 2001.)

and when so amended that said bill do pass.

Representative Crooks