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# HOUSE BILL No. 1226

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-1; IC 27-2-18-9; IC 27-5.1-2-8; IC 27-7-3; IC 27-8-29-15; IC 27-10-3-2; IC 27-13-10.1-2; IC 32-30-2-106.3.

**Synopsis:** Insurance matters. Makes various changes to the insurance law, including the law concerning: (1) derivatives transactions; (2) life insurance company filing requirements; (3) insurance producer education; (4) insurance company publications; (5) insurer response to department of insurance requests; (6) notice of individual health insurance market withdrawal; (7) confidentiality of certain insurer filings; (8) insurance holding company regulation; (9) health maintenance organization risk based capital requirements; (10) material transaction reports; (11) title insurer disclosures and filings; (12) external review of health coverage determinations; and (13) bail and recovery agent licensing. Provides for deposit of new civil penalties in the department of insurance fund. Repeals a provision requiring filing and publication of certain financial information of alien and foreign companies. Removes obsolete provisions. Makes conforming amendments.

**Effective:** July 1, 2012.

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## Lehman

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January 9, 2012, read first time and referred to Committee on Insurance.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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**HOUSE BILL No. 1226**



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

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

1 SECTION 1. IC 27-1-12-2.2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.2. (a) The following  
3 definitions apply to this section:  
4 (1) "Acceptable collateral" means, as to over-the-counter  
5 derivatives transactions and for the purpose of calculating  
6 counterparty exposure amounts:  
7 (A) cash;  
8 (B) cash equivalents;  
9 (C) letters of credit; and  
10 (D) direct obligations of, or securities that are fully guaranteed  
11 as to principal and interest by, the government of the United  
12 States or any agency of the United States, including the  
13 Federal National Mortgage Association and the Federal Home  
14 Loan Mortgage Corporation.  
15 (2) "Admitted assets" means the life insurance company's assets  
16 permitted to be reported as admitted assets on the statutory  
17 financial statement of the insurer most recently required to be



- 1 filed with the commissioner.  
2 (3) "Business entity" means:  
3 (A) a sole proprietorship;  
4 (B) a corporation;  
5 (C) a limited liability company;  
6 (D) an association;  
7 (E) a partnership;  
8 (F) a joint stock company;  
9 (G) a joint venture;  
10 (H) a mutual fund;  
11 (I) a trust;  
12 (J) a joint tenancy; or  
13 (K) another, similar form of business organization;  
14 whether organized for-profit or not-for-profit.  
15 (4) "Cap" means an agreement obligating the seller to make  
16 payments to the buyer, with each payment based on the amount  
17 by which a reference price or level or the performance or value of  
18 one (1) or more underlying interests exceeds a predetermined  
19 number, sometimes called the strike rate or strike price.  
20 (5) "Cash" means any of the following:  
21 (A) United States denominated paper currency and coins.  
22 (B) Negotiable money orders and checks.  
23 (C) Funds held in any time or demand deposit in any  
24 depository institution, the deposits of which are insured by the  
25 Federal Deposit Insurance Corporation.  
26 (6) "Cash equivalent" means any of the following:  
27 (A) A certificate of deposit issued by a depository institution,  
28 the deposits of which are insured by the Federal Deposit  
29 Insurance Corporation.  
30 (B) A banker's acceptance issued by a depository institution,  
31 the deposits of which are insured by the Federal Deposit  
32 Insurance Corporation.  
33 (C) A government money market mutual fund.  
34 (D) A class one money market mutual fund.  
35 (7) "Class one money market mutual fund" means a money  
36 market mutual fund that at all times qualifies for investment  
37 pursuant to the "Purposes and Procedures of the Securities  
38 Valuation Office" or any successor publication either using the  
39 bond class one reserve factor or because it is exempt from asset  
40 valuation reserve requirements.  
41 (8) "Collar" means two (2) derivatives transactions on the same  
42 underlying interest in which the insurer receives payments as the

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- 1 buyer of an option, cap, or floor in one (1) transaction and makes  
 2 payments as the seller of a different option, cap, or floor in the  
 3 second transaction.
- 4 (9) A. "Counterparty exposure amount" means the net amount of  
 5 credit risk attributable to a derivative instrument that a life  
 6 insurance company enters into with another business entity other  
 7 than through a qualified exchange or a qualified foreign  
 8 exchange, or cleared through a qualified clearing house ("over the  
 9 counter derivative instrument"). The amount of credit risk equals:  
 10 (1) the market value of the over-the-counter derivative  
 11 instrument, if the liquidation of the instrument would result in  
 12 a final cash payment to the insurer; or  
 13 (2) zero (0), if the liquidation of the over-the-counter  
 14 derivative instrument would not result in a final cash payment  
 15 to the insurer.
- 16 B. If a life insurance company enters into one (1) or more  
 17 over-the-counter derivative instruments with another business  
 18 entity under a written master agreement that provides for netting  
 19 of payments owed by the respective parties, and the domiciliary  
 20 jurisdiction of the counterparty is either within the United States  
 21 or a foreign jurisdiction listed in the "Purposes and Procedures of  
 22 the Securities Valuation Office" or any successor publication as  
 23 eligible for netting, the net amount of credit risk attributable to the  
 24 counterparty is the greater of zero (0) or the remainder of:  
 25 (1) the market value of the over-the-counter derivative  
 26 instruments entered into under the agreement, the liquidation  
 27 of which would result in a final cash payment to the insurer by  
 28 the business entity; minus  
 29 (2) the market value of the over-the-counter derivative  
 30 instruments entered into under the agreement, the liquidation  
 31 of which would result in a final cash payment by the insurer to  
 32 the business entity.
- 33 C. For open transactions involving over-the-counter derivative  
 34 instruments, market value:  
 35 (1) shall be determined not less frequently than at the end of  
 36 the most recent quarter of the insurer's fiscal year; and  
 37 (2) shall be reduced by the market value of acceptable  
 38 collateral that is:  
 39 (A) held by the insurer; or  
 40 (B) placed in escrow by one (1) or both parties.
- 41 (10) "Covered" means, in the case of a call option, that:  
 42 (A) the life insurance company owns the instrument

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1 underlying the call option it has written (a "written call")  
 2 during the entire period that the written call is outstanding; or  
 3 (B) pursuant to the exercise of options, warrants, or conversion  
 4 rights already owned when the call option is written and held  
 5 during the period that the written call is outstanding, the life  
 6 insurance company can immediately acquire the instrument  
 7 underlying the written call, if:

8 (1) the price at which the underlying instrument can be  
 9 acquired is less than or equal to the strike price of the  
 10 written call; or

11 (2) the life insurance company has placed in escrow or,  
 12 pursuant to a custodian agreement, has segregated during  
 13 the entire period that the written call is outstanding, cash,  
 14 cash equivalents, or securities with a market value equal to  
 15 the difference between the price at which the underlying  
 16 instrument can be acquired and the strike price of the written  
 17 call.

18 (11) "Covered" means, in the case of a put option, that the life  
 19 insurance company has placed in escrow or, pursuant to a  
 20 custodian agreement, has segregated during the entire period that  
 21 the put option it has sold (a "written put") is outstanding, cash,  
 22 cash equivalents, or securities with a market value equal to the  
 23 amount of the insurer's obligation under the written put.

24 (12) "Covered" means, in the case of a cap or floor, that the life  
 25 insurance company holds in its portfolio, during the entire period  
 26 that the cap or floor is outstanding, investments that generate  
 27 sufficient cash flow to make all required payments under the cap  
 28 or floor.

29 (13) "Derivative instrument" means an agreement (in the nature  
 30 of a bilateral contract, option, or otherwise), an instrument, or a  
 31 series or combination of agreements and instruments:

32 (A) to make or take delivery of, or assume or relinquish, a  
 33 specified amount of one (1) or more of the interests underlying  
 34 the derivative instrument, or to make a cash settlement in lieu  
 35 thereof; or

36 (B) that has a price, performance, value, or cash flow based  
 37 primarily upon the actual or expected price, level,  
 38 performance, value, or cash flow of one (1) or more of the  
 39 interests underlying the derivative instrument.

40 Derivative instruments include options, warrants used in a  
 41 hedging transaction and not attached to another financial  
 42 instrument, caps, floors, collars, swaps, swaptions, forwards,

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1 futures, and any other agreements (in the nature of bilateral  
 2 contracts, options, or otherwise) or substantially similar  
 3 instruments, or any series or combination thereof, and any  
 4 agreements (in the nature of bilateral contracts, options, or  
 5 otherwise) or instruments permitted under rules adopted by the  
 6 department.

7 (14) "Derivative transaction" means a transaction involving the  
 8 use of one (1) or more derivative instruments. For purposes of this  
 9 section, a derivative transaction may involve a requirement that  
 10 the insurer, a counterparty, or both, are required to post collateral  
 11 with the other party (or a designated third party) pursuant to an  
 12 agreement between the insurer and the counterparty.

13 (15) "Domestic jurisdiction" means the United States, any state,  
 14 territory, or possession of the United States, the District of  
 15 Columbia, Canada, or any province of Canada.

16 (16) "Floor" means an agreement obligating the seller to make  
 17 payments to the buyer, with each payment based on the amount  
 18 by which a predetermined number, sometimes called the floor rate  
 19 or price, exceeds a reference price or level or the performance or  
 20 value of one or more underlying interests.

21 (17) "Foreign currency" means a currency other than that of a  
 22 domestic jurisdiction.

23 (18) "Foreign jurisdiction" means a jurisdiction other than a  
 24 domestic jurisdiction.

25 (19) "Forward" means an agreement (other than a future) to make  
 26 or take delivery of, or effect a cash settlement based on the actual  
 27 or expected price, level, performance, or value of, one (1) or more  
 28 underlying interests.

29 (20) "Future" means an agreement, traded on a qualified exchange  
 30 or qualified foreign exchange, to make or take delivery of, or  
 31 effect a cash settlement based on the actual or expected price,  
 32 level, performance, or value of, one or more underlying interests.

33 (21) "Government money market mutual fund" means a money  
 34 market mutual fund that at all times:

35 (A) invests only in obligations issued, guaranteed, or insured  
 36 by the United States or collateralized repurchase agreements  
 37 composed of these obligations; and

38 (B) qualifies for investment without a reserve pursuant to the  
 39 "Purposes and Procedures of the Securities Valuation Office"  
 40 or any successor publication.

41 (22) "Guaranteed or insured," when used in connection with an  
 42 obligation acquired under this section, means that the guarantor

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- 1 or insurer has agreed to:
- 2 (A) perform or insure the obligation of the obligor or purchase
- 3 the obligation; or
- 4 (B) be unconditionally obligated until the obligation is repaid
- 5 to maintain in the obligor a minimum net worth, fixed charge
- 6 coverage, stockholders' equity, or sufficient liquidity to enable
- 7 the obligor to pay the obligation in full.
- 8 (23) "Hedging transaction" means a derivative transaction that is
- 9 entered into and maintained to manage:
- 10 (A) the risk of a change in the value, yield, price, cash flow, or
- 11 quantity of assets or liabilities (or a portfolio of assets,
- 12 liabilities, or assets and liabilities) that the insurer has
- 13 acquired or incurred or anticipates acquiring or incurring; or
- 14 (B) currency exchange rate risk or the degree of exposure to
- 15 assets or liabilities (or a portfolio of assets, liabilities, or assets
- 16 and liabilities) that the insurer has acquired or incurred or
- 17 anticipates acquiring or incurring.
- 18 (24) "Income generation transaction" means a derivative
- 19 transaction involving the writing of covered call options, covered
- 20 put options, covered caps, or covered floors.
- 21 (25) "Investment company" means an investment company as
- 22 defined in Section 3(a) of the Investment Company Act of 1940
- 23 (15 U.S.C. 80a-1 et seq.), as amended, and a person described in
- 24 Section 3(c) of the Investment Company Act of 1940.
- 25 (26) "Investment company series" means an investment portfolio
- 26 of an investment company that is organized as a series company
- 27 and to which assets of the investment company have been
- 28 specifically allocated.
- 29 (27) "Letter of credit" means a clean, irrevocable, and
- 30 unconditional letter of credit issued or confirmed by, and payable
- 31 and presentable at, a financial institution on the list of financial
- 32 institutions meeting the standards for issuing letters of credit
- 33 under the "Purposes and Procedures of the Securities Valuation
- 34 Office" or any successor publication.
- 35 (28) "Market value" means:
- 36 (A) as to cash, cash equivalents, and letters of credit, the
- 37 amounts thereof;
- 38 (B) as to a security (other than a security that is an
- 39 over-the-counter derivative instrument) as of any date, the
- 40 price for the security on that date obtained from a generally
- 41 recognized source or the most recent quotation from such a
- 42 source or, to the extent no generally recognized source exists,

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- 1 the price for the security as determined in good faith by the  
 2 parties to a transaction, plus accrued but unpaid income on the  
 3 security to the extent not included in the price as of that date;  
 4 and  
 5 (C) as to an over-the-counter derivative instrument as of any  
 6 date, the amount that a life insurance company would have to  
 7 pay or would receive for entering into an over-the-counter  
 8 derivative transaction on substantially identical terms with  
 9 another counterparty.
- 10 (29) "Money market mutual fund" means a mutual fund that  
 11 meets the conditions of 17 CFR 270.2a-7, under the Investment  
 12 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 13 (30) "Mutual fund" means:  
 14 (A) an investment company; or  
 15 (B) in the case of an investment company that is organized as  
 16 a series company, an investment company series;  
 17 that is registered with the United States Securities and Exchange  
 18 Commission under the Investment Company Act of 1940 (15  
 19 U.S.C. 80a-1 et seq.).
- 20 (31) "Obligation" means any of the following:  
 21 (A) A bond.  
 22 (B) A note.  
 23 (C) A debenture.  
 24 (D) Any other form of evidence of debt.
- 25 (32) "Option" means an agreement giving the buyer the right to  
 26 buy or receive (a "call option"), sell or deliver (a "put option"),  
 27 enter into, extend or terminate, or effect a cash settlement based  
 28 on the actual or expected price, level, performance, or value of  
 29 one or more underlying interests.
- 30 (33) "Qualified business entity" means a business entity that is:  
 31 (A) an issuer of obligations, preferred stock, or derivative  
 32 instruments that are rated 1 or 2 or are rated the equivalent of  
 33 1 or 2 by the Securities Valuation Office or by a nationally  
 34 recognized statistical rating organization recognized by the  
 35 Securities Valuation Office; or  
 36 (B) a primary dealer in United States government securities,  
 37 recognized by the Federal Reserve Bank of New York.
- 38 (34) "Qualified clearinghouse" means a clearinghouse:  
 39 (A) that is for, and subject to the rules of, a qualified exchange  
 40 or qualified foreign exchange; and  
 41 (B) that provides clearing services, including acting as a  
 42 counterparty to each of the parties to a transaction so that the

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- 1 parties no longer have credit risk as to each other.  
 2 (35) "Qualified exchange" means:  
 3 (A) a securities exchange registered as a national securities  
 4 exchange, or a securities market regulated under the Securities  
 5 Exchange Act of 1934 (15 U.S.C. 78 et seq.), as amended;  
 6 (B) a board of trade or commodities exchange designated as a  
 7 contract market by the Commodity Futures Trading  
 8 Commission (CFTC) or any successor of the CFTC;  
 9 (C) Private Offerings, Resales, and Trading through  
 10 Automated Linkages (PORTAL);  
 11 (D) a designated offshore securities market as defined in  
 12 Securities Exchange Commission Regulation S (17 C.F.R. Part  
 13 230), as amended; or  
 14 (E) a qualified foreign exchange.  
 15 (36) "Qualified foreign exchange" means a foreign exchange,  
 16 board of trade, or contract market located outside the United  
 17 States or its territories or possessions:  
 18 (A) that has received regulatory comparability relief under  
 19 CFTC Rule 30.10 (as set forth in Appendix C to Part 30 of the  
 20 CFTC's Regulations (17 C.F.R. Part 30));  
 21 (B) that is, or whose members are, subject to the jurisdiction  
 22 of a foreign futures authority that has received regulatory  
 23 comparability relief under CFTC Rule 30.10 (as set forth in  
 24 Appendix C to Part 30 of the CFTC's Regulations (17 C.F.R.  
 25 Part 30)) as to futures transactions in the jurisdiction where the  
 26 exchange, board of trade, or contract market is located; or  
 27 (C) upon which are listed foreign stock index futures contracts  
 28 that are the subject of no-action relief issued by the CFTC's  
 29 Office of the General Counsel, provided that an exchange,  
 30 board of trade, or contract market that qualifies as a qualified  
 31 foreign exchange only under this clause is a qualified foreign  
 32 exchange only as to foreign stock index futures contracts that  
 33 are the subject of no-action relief.  
 34 (37) "Replication transaction" means a derivative transaction that  
 35 is intended to replicate the investment in one (1) or more assets  
 36 that an insurer is authorized to acquire or sell under this section  
 37 or section 2 of this chapter. A derivative transaction that is  
 38 entered into as a hedging transaction shall not be considered a  
 39 replication transaction.  
 40 (38) "Securities Valuation Office" refers to:  
 41 (A) the Securities Valuation Office of the National Association  
 42 of Insurance Commissioners; or

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- 1 (B) any successor of the office referred to in Clause (A)  
 2 established by the National Association of Insurance  
 3 Commissioners.
- 4 (39) "Swap" means an agreement to exchange or to net payments  
 5 at one (1) or more times based on the actual or expected price,  
 6 level, performance, or value of one (1) or more underlying  
 7 interests.
- 8 (40) "Swaption" means an agreement giving the buyer the right  
 9 (but not the obligation) to enter into a swap at a specified time in  
 10 the future.
- 11 (41) "Underlying interest" means the assets, liabilities, other  
 12 interests or a combination thereof underlying a derivative  
 13 instrument, such as any one (1) or more securities, currencies,  
 14 rates, indices, commodities, or derivative instruments.
- 15 (42) "Warrant" means an instrument that gives the holder the right  
 16 to purchase an underlying financial instrument at a given price  
 17 and time or at a series of prices and times outlined in the warrant  
 18 agreement. Warrants may be issued alone or in connection with  
 19 the sale of other securities, for example, as part of a merger or  
 20 recapitalization agreement or to facilitate divestiture of the  
 21 securities of another business entity.
- 22 (b) ~~Before~~ A life insurance company engages in derivatives  
 23 transactions, the insurer's company's board of directors ~~must:~~ **shall do**  
 24 **all the following:**
- 25 (1) ~~adopt~~ **Before engaging in derivatives transactions, approve**  
 26 a written plan that specifies guidelines, systems, and objectives to  
 27 be followed, such as:
- 28 (A) investment or, if applicable, underwriting objectives and  
 29 risk constraints, such as credit risk limits;
- 30 (B) permissible transactions and the relationship of those  
 31 transactions to the insurer's operations;
- 32 (C) internal control procedures;
- 33 (D) a system for determining whether a derivative instrument  
 34 used for hedging has been effective;
- 35 (E) a credit risk management system for over-the-counter  
 36 ~~derivative~~ **derivatives** transactions that measures credit risk  
 37 exposure using the counterparty exposure amount; and
- 38 (F) a mechanism for reviewing and auditing compliance with  
 39 the guidelines, systems, and objectives specified in the written  
 40 plan. ~~and~~
- 41 (2) **Before engaging in derivatives transactions, make a**  
 42 determination that the insurer's investment managers have

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1 adequate professional personnel, technical expertise, and systems  
 2 to implement the insurer's intended investment practices  
 3 involving derivative instruments.

4 **(3) Review whether derivatives transactions have been made**  
 5 **in accordance with the approved guidelines and are consistent**  
 6 **with stated objectives.**

7 **(4) Take action to correct any deficiencies in internal controls**  
 8 **relating to derivatives transactions.**

9 (c) A life insurance company may use derivative instruments under  
 10 this section to engage in hedging transactions, certain income  
 11 generation transactions, and certain replication transactions, as these  
 12 terms may be further defined in rules adopted by the department. For  
 13 each hedging and replication transaction in which it engages, a life  
 14 insurance company must be able to demonstrate to the commissioner:

- 15 (1) the intended characteristics; and  
 16 (2) the ongoing effectiveness;

17 of the derivative transaction or combination of the derivatives  
 18 transactions through appropriate analyses.

19 (d) A life insurance company insurer may enter into a hedging  
 20 transaction under this section if, as a result of the transaction, and after  
 21 giving effect to the transaction:

- 22 (1) the aggregate statement value of options, caps, floors, and  
 23 warrants not attached to another financial instrument purchased  
 24 and used in hedging transactions does not exceed seven and one  
 25 half percent (7.5%) of the insurer's admitted assets;  
 26 (2) the aggregate statement value of options, caps, and floors  
 27 written in hedging transactions does not exceed three percent  
 28 (3%) of the insurer's admitted assets; and  
 29 (3) the aggregate potential exposure of collars, swaps, forwards,  
 30 and futures used in hedging transactions does not exceed six and  
 31 one-half percent (6.5%) of the insurer's admitted assets.

32 (e) A life insurance company may enter into the following types of  
 33 income generation transactions:

- 34 (1) sales of covered call options on:  
 35 (A) non-callable fixed income securities;  
 36 (B) callable fixed income securities if the option expires by its  
 37 terms before the end of the noncallable period; or  
 38 (C) derivative instruments based on fixed income securities or  
 39 yields;  
 40 (2) sales of covered call options on equity securities;  
 41 (3) sales of covered puts on investments that the insurer is  
 42 permitted to acquire under section 2 of this chapter; and

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1 (4) sales of covered caps or floors;  
 2 only if, as a result of the transactions and after giving effect to the  
 3 transactions, the aggregate statement value of the fixed income  
 4 securities that are subject to call or that generate the cash flows for  
 5 payments under the caps or floors, plus the face value of fixed income  
 6 securities underlying a derivative instrument subject to call, plus the  
 7 amount of the purchase obligations under the puts, does not exceed ten  
 8 percent (10%) of the insurer's admitted assets.

9 (f) A life insurance company may enter into replication transactions.  
 10 For the purposes of this subsection, a replication transaction is subject  
 11 to the limitations and restrictions set forth in section 2 of this chapter  
 12 to which the replicated investments are subject.

13 (g) An investment of a life insurance company that is:

14 (1) permitted under section 2(b)(17A) or 2(b)(17B) of this  
 15 chapter; and

16 (2) denominated in a foreign currency;

17 shall not be considered denominated in a foreign currency if the  
 18 acquiring insurer enters into one (1) or more contracts permitted under  
 19 this section in which the business entity counterparty agrees to  
 20 exchange, or grants to the insurer the option to exchange, all payments  
 21 made on the foreign currency denominated investment (or amounts  
 22 equivalent to the payments that are or will be due to the insurer in  
 23 accordance with the terms of such investment) for United States or  
 24 Canadian dollars during the period that the contract or contracts are in  
 25 effect, or other contracts with like effect, to insulate the insurer against  
 26 loss caused by diminution of the value of payments owed to the insurer  
 27 due to future changes in currency exchange rates.

28 (h) A life insurance company shall include all counterparty exposure  
 29 amounts in determining compliance with the limitations set forth in  
 30 section 2(b)(21) of this chapter.

31 (i) Upon the request of a life insurance company, the commissioner  
 32 may approve additional transactions involving the use of derivative  
 33 instruments that:

34 (1) exceed the limits set forth in subsections (d), (e), and (f); or

35 (2) are for other risk management purposes.

36 (j) A life insurance company shall maintain documentation and  
 37 records relating to each derivative transaction. The documentation and  
 38 records must record and include matters such as the following:

39 (1) The purpose or purposes of the transaction.

40 (2) The assets or liabilities to which the transaction relates.

41 (3) The specific derivative instrument used in the transaction.

42 (4) For collateralized derivatives transactions, a description of any

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- 1 collateral posted by the insurer or the counterparty, as well as
- 2 records documenting any subsequent variations in the amount of
- 3 the collateral.
- 4 (5) For over-the-counter derivative transactions, the name of the
- 5 counterparty and the counterparty exposure amount.
- 6 (6) For exchange traded derivative instruments, the name of the
- 7 exchange and the name of the firm that handled the trade.
- 8 (k) Each derivative instrument shall be:
- 9 (1) traded on a qualified exchange;
- 10 (2) entered into with, or guaranteed by, a business entity;
- 11 (3) issued or written by or entered into with the issuer of the
- 12 underlying interest on which the derivative instrument is based;
- 13 or
- 14 (4) entered into on a qualified foreign exchange.

15 SECTION 2. IC 27-1-12-11 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) After the  
 17 department has ascertained the net reserve value of all policies (as  
 18 defined in section 9 of this chapter) or the reserve liabilities (as defined  
 19 in section 10 of this chapter) of any life insurance company organized  
 20 and doing business in this state, the department shall notify said  
 21 company of the amount or amounts thereof. Within sixty (60) days after  
 22 the date of such notification, the officers of such company shall deposit  
 23 with the department, solely for the security and benefit of all its  
 24 policyholders, assets in an amount, invested in accordance with section  
 25 2 of this chapter (except paragraph 20 of section 2(b) of this chapter)  
 26 which together with the assets already deposited with the department  
 27 and such additional assets as may be deposited by said company with  
 28 other states or governments, pursuant to the requirements of the laws  
 29 of such other states or governments in which said company is doing  
 30 business, shall be not less than the lesser of the amount of such reserve  
 31 value or reserve liabilities or the amount provided under subsection (f).  
 32 No life insurance company organized under this article or any other law  
 33 of this state shall be required to make such deposit until the amount  
 34 prescribed by this subsection exceeds the amount deposited by said  
 35 company under IC 27-1-6-14 or IC 27-1-6-15. Investments in real  
 36 estate shall be deposited in the form of satisfactory evidences of  
 37 ownership. The deposit requirement in relation to policy loans and  
 38 bank deposits shall be considered fulfilled by the inclusion of such item  
 39 in the company's annual statement, but subject to the right of the  
 40 company at any time, and the obligation of the company on demand of  
 41 the department, to file with the department a certificate as to the  
 42 amount of such item.

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1 (b) If the department in the course of the year ascertains that the net  
 2 reserve value of a company's policies (as defined in section 9 of this  
 3 chapter) or its reserve liabilities (as defined in section 10 of this  
 4 chapter) exceeds such company's deposits as required by subsection  
 5 (a), it may require such company within sixty (60) days to increase its  
 6 deposit to the required amount.

7 (c) Nothing in this article shall prevent the deposit of bonds,  
 8 mortgages, or other securities which meet the investment requirements  
 9 of a foreign or alien state or country, to an amount not exceeding the  
 10 amount of the reserves on policies issued to residents of, and to  
 11 corporations doing business in, such state or country. If, pursuant to the  
 12 law of a foreign or alien state or country in which an Indiana life  
 13 insurance company is doing business, securities belonging to such a  
 14 company are required to be deposited within the boundaries of such  
 15 foreign or alien state or country, credit for the amount of such deposit,  
 16 not exceeding the amount of the reserves on policies issued to residents  
 17 of, and to corporations doing business in, such foreign or alien state or  
 18 country, may be taken by the company as an offset against its deposits  
 19 required under this article.

20 (d) If, pursuant to the law of a foreign or alien state or country, a life  
 21 insurance company domiciled therein is not permitted a reserve credit  
 22 for reserves maintained by a reinsurer foreign to such a state or  
 23 country, except on the condition that the amount of such reserve be  
 24 deposited with the insurance supervisory official of such state or  
 25 country, a deposit credit for the amount of such reserves so deposited  
 26 shall be allowed a domestic life insurance company accepting  
 27 reinsurance from companies domiciled in such state or country.

28 (e) Any deposit of assets with the department pursuant to any law  
 29 superseded by this chapter shall, prior to the first deposit date  
 30 contemplated in subsection (a), be continued with the department and  
 31 otherwise be subject to this section.

32 (f) The amount of the deposit, except as otherwise provided in  
 33 subsection (a), shall be one million dollars (\$1,000,000) excluding  
 34 policy loans and bank deposits, or such greater amount as the  
 35 department deems necessary to protect the interests of the  
 36 policyholders of a particular company by an order to the company to  
 37 deposit additional amounts under this section.

38 (g) **Except for a company that maintains a deposit in the amount**  
 39 **specified in subsection (f),** each company:

- 40 (1) must report to the department each new asset acquisition to  
 41 establish its eligibility for investment under the numbered  
 42 categories of permissible investments under section 2 of this

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1 chapter at such regular intervals, within the time limit following  
 2 each interval and on the forms as the department may require,  
 3 without complying with IC 4-22-2; and  
 4 (2) when ordered by the department, shall make any additional  
 5 report relating to:  
 6 (A) the category of eligibility, the characteristics, or the  
 7 amount of any investment; or  
 8 (B) the amount of the assets of the company in any category;  
 9 calculated under the rules applied for annual statement purposes.  
 10 SECTION 3. IC 27-1-13-3, AS AMENDED BY P.L.89-2011,  
 11 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2012]: Sec. 3. (a) The following definitions apply throughout  
 13 this section:  
 14 (1) "Acceptable collateral" means the following:  
 15 (A) As to securities lending transactions and for the purpose  
 16 of calculating counterparty exposure:  
 17 (i) cash;  
 18 (ii) cash equivalents;  
 19 (iii) letters of credit; and  
 20 (iv) direct obligations of, or securities that are fully  
 21 guaranteed as to principal and interest by, the government of  
 22 the United States or any agency of the United States,  
 23 including the Federal National Mortgage Association and  
 24 the Federal Home Loan Mortgage Corporation.  
 25 (B) As to lending foreign securities, sovereign debt rated 1 by  
 26 the Securities Valuation Office.  
 27 (C) As to repurchase transactions:  
 28 (i) cash;  
 29 (ii) cash equivalents; and  
 30 (iii) direct obligations of, or securities that are fully  
 31 guaranteed as to principal and interest by, the government of  
 32 the United States or any agency of the United States,  
 33 including the Federal National Mortgage Association and  
 34 the Federal Home Loan Mortgage Corporation.  
 35 (D) As to reverse repurchase transactions:  
 36 (i) cash; and  
 37 (ii) cash equivalents.  
 38 (2) "Admitted assets" means assets permitted to be reported as  
 39 admitted assets on the statutory financial statement of the insurer  
 40 most recently required to be filed with the commissioner.  
 41 (3) "Business entity" means any of the following:  
 42 (A) A sole proprietorship.

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- 1 (B) A corporation.  
 2 (C) A limited liability company.  
 3 (D) An association.  
 4 (E) A general partnership.  
 5 (F) A limited partnership.  
 6 (G) A limited liability partnership.  
 7 (H) A joint stock company.  
 8 (I) A joint venture.  
 9 (J) A trust.  
 10 (K) A joint tenancy.  
 11 (L) Any other similar form of business organization, whether  
 12 for profit or nonprofit.
- 13 (4) "Cash" means any of the following:  
 14 (A) United States denominated paper currency and coins.  
 15 (B) Negotiable money orders and checks.  
 16 (C) Funds held in any time or demand deposit in any  
 17 depository institution, the deposits of which are insured by the  
 18 Federal Deposit Insurance Corporation.
- 19 (5) "Cash equivalent" means any of the following:  
 20 (A) A certificate of deposit issued by a depository institution,  
 21 the deposits of which are insured by the Federal Deposit  
 22 Insurance Corporation.  
 23 (B) A banker's acceptance issued by a depository institution,  
 24 the deposits of which are insured by the Federal Deposit  
 25 Insurance Corporation.  
 26 (C) A government money market mutual fund.  
 27 (D) A class one (1) money market mutual fund.
- 28 (6) "Class one (1) money market mutual fund" means a money  
 29 market mutual fund that at all times qualifies for investment using  
 30 the bond class one (1) reserve factor pursuant to the Purposes and  
 31 Procedures of the Securities Valuation Office of the National  
 32 Association of Insurance Commissioners or any successor  
 33 publication.
- 34 **(7) "Derivative transaction" has the meaning set forth in**  
 35 **IC 27-1-12-2.2(a)(14).**
- 36 ~~(7)~~ **(8)** "Government money market mutual fund" means a money  
 37 market mutual fund that at all times:  
 38 (A) invests only in obligations issued, guaranteed, or insured  
 39 by the United States or collateralized repurchase agreements  
 40 composed of these obligations; and  
 41 (B) qualifies for investment without a reserve pursuant to the  
 42 Purposes and Procedures of the Securities Valuation Office of

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- 1 the National Association of Insurance Commissioners or any  
 2 successor publication.
- 3 ~~(8)~~ **(9)** "Money market mutual fund" means a mutual fund that  
 4 meets the conditions of 17 CFR 270.2a-7, under the Investment  
 5 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 6 ~~(9)~~ **(10)** "Mutual fund" means:  
 7 (A) an investment company; or  
 8 (B) in the case of an investment company that is organized as  
 9 a series company, an investment company series;  
 10 that is registered with the United States Securities and Exchange  
 11 Commission under the Investment Company Act of 1940 (15  
 12 U.S.C. 80a-1 et seq.).
- 13 ~~(10)~~ **(11)** "Obligation" means any of the following:  
 14 (A) A bond.  
 15 (B) A note.  
 16 (C) A debenture.  
 17 (D) Any other form of evidence of debt.
- 18 ~~(11)~~ **(12)** "Qualified business entity" means a business entity that  
 19 is:  
 20 (A) an issuer of obligations or preferred stock that is rated one  
 21 (1) or two (2) or is rated the equivalent of one (1) or two (2) by  
 22 the Securities Valuation Office or by a nationally recognized  
 23 statistical rating organization recognized by the Securities  
 24 Valuation Office; or  
 25 (B) a primary dealer in United States government securities,  
 26 recognized by the Federal Reserve Bank of New York.
- 27 ~~(12)~~ **(13)** "Securities Valuation Office" refers to the Securities  
 28 Valuation Office of the National Association of Insurance  
 29 Commissioners or any successor of the Office established by the  
 30 National Association of Insurance Commissioners.
- 31 (b) Any company, other than one organized as a life insurance  
 32 company, organized under the provisions of IC 27-1 or any other law  
 33 of this state and authorized to make any or all kinds of insurance  
 34 described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or  
 35 guaranty fund as follows and not otherwise:  
 36 (1) In cash.  
 37 (2) In:  
 38 (A) direct obligations of the United States; or  
 39 (B) obligations secured or guaranteed as to principal and  
 40 interest by the United States.  
 41 (3) In:  
 42 (A) direct obligations; or

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(B) obligations secured by the full faith and credit;  
of any state of the United States or the District of Columbia.

(4) In obligations of any county, township, city, town, village,  
school district, or other municipal district within the United States  
which are a direct obligation of the county, township, city, town,  
village, or district issuing the same.

(5) In obligations secured by mortgages or deeds of trust or  
unencumbered real estate or perpetual leases thereon in the  
United States not exceeding eighty percent (80%) of the fair value  
of the security determined in a manner satisfactory to the  
department, except that the percentage stated may be exceeded if  
and to the extent such excess is guaranteed or insured by the  
United States, any state, territory, or possession of the United  
States, the District of Columbia, Canada, any province of Canada,  
or by an administration, agency, authority, or instrumentality of  
any such governmental units. Where improvements on the land  
constitute a part of the value on which the loan is made, the  
improvements shall be insured against fire and tornado for the  
benefit of the mortgagee. For the purposes of this section, real  
estate may not be deemed to be encumbered by reason of the  
existence of taxes or assessments that are not delinquent,  
instruments creating or reserving mineral, oil, or timber rights,  
rights-of-way, joint driveways, sewer rights, rights-in-walls, nor  
by reason of building restrictions, or other restrictive covenants,  
nor when such real estate is subject to lease in whole or in part  
whereby rents or profits are reserved to the owner. The  
restrictions contained in this subdivision do not apply to loans or  
investments made under section 5 of this chapter.

(c) Any company organized under the provisions of this article or  
any other law of this state and authorized to make any or all of the  
kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall  
invest its funds over and above its required capital stock or required  
guaranty fund as follows, and not otherwise:

(1) In cash or cash equivalents. However, not more than ten  
percent (10%) of admitted assets may be invested in any single  
government money market mutual fund or class one (1) money  
market mutual fund.

(2) In direct obligations of the United States or obligations  
secured or guaranteed as to principal and interest by the United  
States.

(3) In obligations issued, guaranteed, or insured as to principal  
and interest by a city, county, drainage district, road district,

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1 school district, tax district, town, township, village or other civil  
2 administration, agency, authority, instrumentality or subdivision  
3 of a state, territory, or possession of the United States, the District  
4 of Columbia, Canada, or any province of Canada, providing such  
5 obligations are authorized by law and are either:

6 (A) direct and general obligations of the issuing, guaranteeing,  
7 or insuring governmental unit, administration, agency,  
8 authority, district, subdivision, or instrumentality;

9 (B) payable from designated revenues pledged to the payment  
10 of the principal and interest of the obligations; or

11 (C) improvement bonds or other obligations constituting a first  
12 lien, except for tax liens, against all of the real estate within  
13 the improvement district or on that part of such real estate not  
14 discharged from such lien through payment of the assessment.

15 The area to which the improvement bonds or other obligations  
16 under clause (C) relate must be situated within the limits of a  
17 town or city and at least fifty percent (50%) of the properties  
18 within that area must be improved with business buildings or  
19 residences.

20 (4) In:

21 (A) direct obligations; or

22 (B) obligations secured by the full faith and credit;  
23 of any state of the United States, the District of Columbia, or  
24 Canada or any province thereof.

25 (5) In obligations guaranteed, supported, or insured as to principal  
26 and interest by the United States, any state, territory, or  
27 possession of the United States, the District of Columbia, Canada,  
28 any province of Canada, or by an administration, agency,  
29 authority, or instrumentality of any of the political units listed in  
30 this subdivision. An obligation is "supported" for the purposes of  
31 this subdivision when repayment of the obligation is secured by  
32 real or personal property of value at least equal to the principal  
33 amount of the indebtedness by means of mortgage, assignment of  
34 vendor's interest in one (1) or more conditional sales contracts,  
35 other title retention device, or by means of other security interest  
36 in the property for the benefit of the holder of the obligation, and  
37 one (1) of the political units listed in this subdivision, or an  
38 administration, agency, authority, or instrumentality listed in this  
39 subdivision, has entered into a firm agreement to rent or use the  
40 property pursuant to which entity is obligated to pay money as  
41 rental or for the use of the property in amounts and at times that  
42 are sufficient, after provision for taxes upon and for other

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1 expenses of the use of the property, to repay in full the  
 2 indebtedness, both principal and interest, and when the firm  
 3 agreement and the money obligated to be paid under the  
 4 agreement are assigned, pledged, or secured for the benefit of the  
 5 holder of the obligation. However, where the security consists of  
 6 a first mortgage lien or deed of trust on a fee interest in real  
 7 property, the obligation may provide for the amortization, during  
 8 the initial fixed period of the lease or contract of less than one  
 9 hundred percent (100%) of the indebtedness if there is pledged or  
 10 assigned, as additional security for the obligation, sufficient  
 11 rentals payable under the lease, or of contract payments, to secure  
 12 the amortized obligation payments required during the initial,  
 13 fixed period of the lease or contract, including but not limited to  
 14 payments of principal, interest, and taxes other than the income  
 15 taxes of the borrower, and if there is to be left unamortized at the  
 16 end of the period an amount not greater than the original  
 17 appraised value of the land only, exclusive of all improvements,  
 18 as prescribed by law.

19 (6) In obligations secured by mortgages or deeds of trust or  
 20 unencumbered real estate or perpetual leases thereon, in any state  
 21 in the United States, the District of Columbia, Canada, or any  
 22 province of Canada, not exceeding eighty percent (80%) of the  
 23 fair value of the security determined in a manner satisfactory to  
 24 the department, except that the percentage stated may be  
 25 exceeded if and to the extent that the excess is guaranteed or  
 26 insured by the United States, any state, territory, or possession of  
 27 the United States, the District of Columbia, Canada, any province  
 28 of Canada, or by an administration, agency, authority, or  
 29 instrumentality of any of such governmental units. The value of  
 30 the real estate must be determined by a method and in a manner  
 31 satisfactory to the department. The restrictions contained in this  
 32 subdivision do not apply to loans or investments made under  
 33 section 5 of this chapter.

34 (7) In obligations issued under or pursuant to the Farm Credit Act  
 35 of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on  
 36 December 31, 1990, or the Federal Home Loan Bank Act (12  
 37 U.S.C. 1421 through 1449) as in effect on December 31, 1990,  
 38 interest bearing obligations of the FSLIC Resolution Fund and  
 39 shares of any institution that is insured by the Federal Deposit  
 40 Insurance Corporation to the extent that the shares are insured,  
 41 obligations issued or guaranteed by the International Bank for  
 42 Reconstruction and Development, obligations issued or

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1 guaranteed by the Inter-American Development Bank, and  
 2 obligations issued or guaranteed by the African Development  
 3 Bank.  
 4 (8) In any mutual fund that:  
 5 (A) has been registered with the Securities and Exchange  
 6 Commission for a period of at least five (5) years immediately  
 7 preceding the date of purchase;  
 8 (B) has net assets of at least twenty-five million dollars  
 9 (\$25,000,000) on the date of purchase; and  
 10 (C) invests substantially all of its assets in investments  
 11 permitted under this subsection.  
 12 The amount invested in any single mutual fund shall not exceed  
 13 ten percent (10%) of admitted assets. The aggregate amount of  
 14 investments under this subdivision may be limited by the  
 15 commissioner if the commissioner finds that investments under  
 16 this subdivision may render the operation of the company  
 17 hazardous to the company's policyholders, to the company's  
 18 creditors, or to the general public. This subdivision in no way  
 19 limits or restricts investments that are otherwise specifically  
 20 permitted under this section.  
 21 (9) In obligations payable in United States dollars and issued,  
 22 guaranteed, assumed, insured, or accepted by a foreign  
 23 government or by a solvent business entity existing under the laws  
 24 of a foreign government, if the obligations of the foreign  
 25 government or business entity meet at least one (1) of the  
 26 following criteria:  
 27 (A) The obligations carry a rating of at least A3 conferred by  
 28 Moody's Investor Services, Inc.  
 29 (B) The obligations carry a rating of at least A- conferred by  
 30 Standard & Poor's Corporation.  
 31 (C) The earnings available for fixed charges of the business  
 32 entity for a period of five (5) fiscal years preceding the date of  
 33 purchase have averaged at least three (3) times the average  
 34 fixed charges of the business entity applicable to the period,  
 35 and if during either of the last two (2) years of the period, the  
 36 earnings available for fixed charges were at least three (3)  
 37 times the fixed charges of the business entity for the year. As  
 38 used in this subdivision, the terms "earnings available for fixed  
 39 charges" and "fixed charges" have the meanings set forth in  
 40 IC 27-1-12-2(a).  
 41 Foreign investments authorized by this subdivision shall not  
 42 exceed twenty percent (20%) of the company's admitted assets.

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1 This subdivision in no way limits or restricts investments that are  
 2 otherwise specifically permitted under this section. Canada is not  
 3 a foreign government for purposes of this subdivision.

4 (10) In the obligations of any solvent business entity existing  
 5 under the laws of the United States, any state of the United States,  
 6 the District of Columbia, Canada, or any province of Canada,  
 7 provided that interest on the obligations is not in default.

8 (11) In the preferred or guaranteed shares of any solvent business  
 9 entity, so long as the business entity is not and has not been for  
 10 the preceding five (5) years in default in the payment of interest  
 11 due and payable on its outstanding debt or in arrears in the  
 12 payment of dividends on any issue of its outstanding preferred or  
 13 guaranteed stock.

14 (12) In the shares, other than those specified in subdivision (7), of  
 15 any solvent business entity existing under the laws of any state of  
 16 the United States, the District of Columbia, Canada, or any  
 17 province of Canada, and in the shares of any institution wherever  
 18 located which has the insurance protection provided by the  
 19 Federal Deposit Insurance Corporation. Except for the purpose of  
 20 mutualization or for the purpose of retirement of outstanding  
 21 shares of capital stock pursuant to amendment of its articles of  
 22 incorporation, or in connection with a plan approved by the  
 23 commissioner for purchase of such shares by the insurance  
 24 company's officers, employees, or agents, or for the elimination  
 25 of fractional shares, no company subject to the provisions of this  
 26 section may invest in its own stock.

27 (13) In loans upon the pledge of any mortgage, stocks, bonds, or  
 28 other evidences of indebtedness, acceptable as investments under  
 29 the terms of this chapter, if the current value of the mortgage,  
 30 stock, bond, or other evidences of indebtedness is at least  
 31 twenty-five percent (25%) more than the amount loaned on it.

32 (14) In real estate, subject to subsections (d) and (e).

33 (15) In securities lending, repurchase, and reverse repurchase  
 34 transactions with business entities, subject to the following  
 35 requirements:

36 (A) The company's board of directors shall adopt a written  
 37 plan that specifies guidelines and objectives to be followed,  
 38 such as:

- 39 (i) a description of how cash received will be invested or  
 40 used for general corporate purposes of the company;  
 41 (ii) operational procedures to manage interest rate risk,  
 42 counterparty default risk, and the use of acceptable collateral

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1 in a manner that reflects the liquidity needs of the  
2 transaction; and

3 (iii) the extent to which the company may engage in these  
4 transactions.

5 (B) The company shall enter into a written agreement for all  
6 transactions authorized in this subdivision. The written  
7 agreement shall require the termination of each transaction not  
8 more than one (1) year from its inception or upon the earlier  
9 demand of the company. The agreement shall be with the  
10 counterparty business entity but, for securities lending  
11 transactions, the agreement may be with an agent acting on  
12 behalf of the company if the agent is a qualified business entity  
13 and if the agreement:

14 (i) requires the agent to enter into separate agreements with  
15 each counterparty that are consistent with the requirements  
16 of this section; and

17 (ii) prohibits securities lending transactions under the  
18 agreement with the agent or its affiliates.

19 (C) Cash received in a transaction under this section shall be  
20 invested in accordance with this section and in a manner that  
21 recognizes the liquidity needs of the transaction or used by the  
22 company for its general corporate purposes. For as long as the  
23 transaction remains outstanding, the company or its agent or  
24 custodian shall maintain, as to acceptable collateral received  
25 in a transaction under this section, either physically or through  
26 book entry systems of the Federal Reserve, Depository Trust  
27 Company, Participants Trust Company, or other securities  
28 depositories approved by the commissioner:

29 (i) possession of the acceptable collateral;

30 (ii) a perfected security interest in the acceptable collateral;  
31 or

32 (iii) in the case of a jurisdiction outside the United States,  
33 title to, or rights of a secured creditor to, the acceptable  
34 collateral.

35 (D) For purposes of calculations made to determine  
36 compliance with this subdivision, no effect may be given to  
37 the company's future obligation to resell securities in the case  
38 of a repurchase transaction, or to repurchase securities in the  
39 case of a reverse repurchase transaction. A company shall not  
40 enter into a transaction under this subdivision if, as a result of  
41 and after giving effect to the transaction:

42 (i) the aggregate amount of securities then loaned, sold to,

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or purchased from any one (1) business entity pursuant to this subdivision would exceed five percent (5%) of its admitted assets (but, in calculating the amount sold to or purchased from a business entity pursuant to repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or (ii) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this subdivision would exceed forty percent (40%) of its admitted assets.

(E) In a securities lending transaction, the company shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of the market value of the loaned securities.

(F) In a reverse repurchase transaction, the company shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent (95%) of the market value of the securities so transferred, the business entity shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(G) In a repurchase transaction, the company shall receive as acceptable collateral transferred securities having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the company, the business entity shall be obligated to provide

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1 additional acceptable collateral, the market value of which,  
 2 together with the market value of all acceptable collateral then  
 3 held in connection with the transaction, equals at least one  
 4 hundred two percent (102%) of the purchase price. Securities  
 5 acquired by a company in a repurchase transaction shall not be  
 6 sold in a reverse repurchase transaction, loaned in a securities  
 7 lending transaction, or otherwise pledged.

8 (16) In mortgage backed securities, including collateralized  
 9 mortgage obligations, mortgage pass through securities, mortgage  
 10 backed bonds, and real estate mortgage investment conduits,  
 11 adequately secured by a pool of mortgages, which mortgages are  
 12 fully guaranteed or insured by the government of the United  
 13 States or any agency of the United States, including the Federal  
 14 National Mortgage Association or the Federal Home Loan  
 15 Mortgage Corporation.

16 (17) In mortgage backed securities, including collateralized  
 17 mortgage obligations, mortgage pass through securities, mortgage  
 18 backed bonds, and real estate mortgage investment conduits,  
 19 adequately secured by a pool of mortgages, if the securities carry  
 20 a rating of at least:

21 (A) A3 conferred by Moody's Investor Services, Inc.; or

22 (B) A- conferred by Standard & Poor's Corporation.

23 The amount invested in any one (1) obligation or pool of  
 24 obligations described in this subdivision shall not exceed five  
 25 percent (5%) of admitted assets. The aggregate amount of all  
 26 investments under this subdivision shall not exceed ten percent  
 27 (10%) of admitted assets.

28 (18) Any other investment acquired in good faith as payment on  
 29 account of existing indebtedness or in connection with the  
 30 refinancing, restructuring, or workout of existing indebtedness, if  
 31 taken to protect the interests of the company in that investment.

32 (19) In obligations or interests in trusts or partnerships in which  
 33 a life insurance company may invest as described in paragraph 31  
 34 of IC 27-1-12-2(b). Investments authorized by this paragraph may  
 35 not exceed ten percent (10%) of the company's admitted assets.

36 (20) In any other investment. The total of all investments under  
 37 this subdivision, except for investments in subsidiary companies  
 38 under IC 27-1-23-2.6, may not exceed an aggregate amount of ten  
 39 percent (10%) of the insurer's admitted assets. Investments are not  
 40 permitted under this subdivision:

41 (A) if expressly prohibited by statute; or

42 (B) in an insolvent organization or an organization in default

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1 with respect to the payment of principal or interest on its  
2 obligations.

3 (d) Any company subject to the provisions of this section shall have  
4 power to acquire, hold, or convey real estate, or an interest therein, as  
5 described below, and no other:

6 (1) Leaseholds, provided the mortgage term shall not exceed  
7 four-fifths (4/5) of the unexpired lease term, including  
8 enforceable renewable options, remaining at the time of the loan,  
9 such real estate or leaseholds to be located in the United States,  
10 any territory or possession of the United States, or Canada, the  
11 value of such leasehold for statement purposes shall be  
12 determined in a manner and form satisfactory to the department.  
13 At the time the leasehold is acquired and approved by the  
14 department, a schedule of annual depreciation shall be set up by  
15 the department in which the value of said leasehold is to be  
16 depreciated, and said depreciation is to be averaged out over not  
17 exceeding a period of fifty (50) years.

18 (2) The building in which it has its principal office and the land  
19 on which it stands.

20 (3) Such as shall be necessary for the convenient transaction of its  
21 business.

22 (4) Such as shall have been acquired for the accommodation of its  
23 business.

24 (5) Such as shall have been mortgaged to it in good faith by way  
25 of security for loans previously contracted or for money due.

26 (6) Such as shall have been conveyed to it in connection with its  
27 investments in real estate contracts or its investments in real  
28 estate under lease or for the purpose of leasing or such as shall  
29 have been acquired for the purpose of investment under any law,  
30 order, or regulation authorizing such investment, for statement  
31 purposes, the value of such real estate shall be determined in a  
32 manner satisfactory to the department.

33 (7) Such as shall have been conveyed to it in satisfaction of debts  
34 previously contracted in the course of its dealings, or in exchange  
35 for real estate so conveyed to it.

36 (8) Such as it shall have purchased at sales on judgments, decrees,  
37 or mortgages obtained or made for such debts.

38 (e) All real estate described in subsection (d)(4) through (d)(8)  
39 which is not necessary for the convenient transaction of its business  
40 shall be sold by said company and disposed of within ten (10) years  
41 after it acquired title to the same, or within five (5) years after the same  
42 has ceased to be necessary for the accommodation of its business,

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1 unless the company procures the certificate of the commissioner that  
 2 its interests will suffer materially by a forced sale of the real estate, in  
 3 which event the time for the sale may be extended to such time as the  
 4 commissioner directs in the certificate.

5 **(f) The board of directors of a company, other than a company**  
 6 **organized as a life insurance company, shall do all the following:**

7 **(1) Before engaging in derivatives transactions, approve a**  
 8 **written plan that specifies guidelines, systems, and objectives**  
 9 **to be followed, such as:**

10 **(A) investment of or, if applicable, underwriting objectives**  
 11 **and risk constraints, such as credit risk limits;**

12 **(B) permissible transactions and the relationship of those**  
 13 **transactions to the insurer's operations;**

14 **(C) internal control procedures;**

15 **(D) a system for determining whether a derivative**  
 16 **instrument used for hedging has been effective;**

17 **(E) a credit risk management system for over-the-counter**  
 18 **derivatives transactions that measures credit risk exposure**  
 19 **using the counterparty exposure amount; and**

20 **(F) a mechanism for reviewing and auditing compliance**  
 21 **with the guidelines, systems, and objectives specified in the**  
 22 **written plan.**

23 **(2) Before engaging in derivatives transactions, make a**  
 24 **determination that the insurer's investment managers have**  
 25 **adequate professional personnel, technical expertise, and**  
 26 **systems to implement the insurer's intended investment**  
 27 **practices involving derivative instruments.**

28 **(3) Review whether derivatives transactions have been made**  
 29 **in accordance with the approved guidelines and are consistent**  
 30 **with stated objectives.**

31 **(4) Take action to correct any deficiencies in internal controls**  
 32 **relating to derivatives transactions.**

33 SECTION 4. IC 27-1-15.7-2, AS AMENDED BY P.L.11-2011,  
 34 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2012]: Sec. 2. (a) Except as provided in subsection (b), to  
 36 renew a license issued under IC 27-1-15.6, a resident insurance  
 37 producer must complete at least twenty-four (24) hours of credit in  
 38 continuing education courses. An attorney in good standing who is  
 39 admitted to the practice of law in Indiana and holds a license issued  
 40 under IC 27-1-15.6 may complete all or any number of hours of  
 41 continuing education required by this subsection by completing an  
 42 equivalent number of hours in continuing legal education courses that

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1 are related to the business of insurance.

2 (b) Except as provided in subsection (c), to renew a license issued  
3 under IC 27-1-15.6, a limited lines producer with a title qualification  
4 under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of  
5 credit in continuing education courses related to the business of title  
6 insurance with at least one (1) hour of instruction in a structured setting  
7 or comparable self-study in each of the following:

- 8 (1) Ethical practices in the marketing and selling of title  
9 insurance.  
10 (2) Title insurance underwriting.  
11 (3) Escrow issues.  
12 (4) Principles of the federal Real Estate Settlement Procedures  
13 Act (12 U.S.C. 2608).

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

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

- 23 (1) A limited lines producer who is licensed without examination  
24 under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).  
25 (2) A limited line credit insurance producer.  
26 (3) A nonresident limited lines producer with a title qualification:  
27 (A) whose home state requires continuing education for a title  
28 qualification; and  
29 (B) who has met the continuing education requirements  
30 described in clause (A).

31 (d) To satisfy the requirements of subsection (a) or (b), a licensee  
32 may use only those credit hours earned in continuing education courses  
33 completed by the licensee:

- 34 (1) after the effective date of the licensee's last renewal of a  
35 license under this chapter; or  
36 (2) if the licensee is renewing a license for the first time, after the  
37 date on which the licensee was issued the license under this  
38 chapter.

39 (e) If an insurance producer receives qualification for a license in  
40 more than one (1) line of authority under IC 27-1-15.6, the insurance  
41 producer may not be required to complete a total of more than  
42 twenty-four (24) hours of credit in continuing education courses to

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1 renew the license.

2 (f) Except as provided in subsection (g), a licensee may receive  
3 credit only for completing continuing education courses that have been  
4 approved by the commissioner under section 4 of this chapter.

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

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

10 (1) a continuing education statement that:

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

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

13 (C) lists the continuing education courses completed by the  
14 licensee to satisfy the continuing education requirements of  
15 this section; and

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

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

19 (j) A licensee shall retain a copy of the original certificate of  
20 completion received by the licensee for completion of a continuing  
21 education course.

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

23 (1) is approved by the commissioner under section 4 of this  
24 chapter;

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

26 (3) concerns ethics;

27 shall receive continuing education credit ~~for the number of hours for~~  
28 ~~which the course is approved plus additional hours;~~ not to exceed two  
29 ~~(2) four (4) hours in a renewal period. equal to the number of hours for~~  
30 ~~which the course is approved.~~

31 SECTION 5. IC 27-1-15.7-3 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The  
33 commissioner may grant an extension for complying with the  
34 continuing education requirement set forth in section 2 of this chapter.

35 (b) To receive an extension under this section, a licensee must:

36 (1) file a request with the commissioner on a form provided by the  
37 commissioner; and

38 (2) **submit with the request an extension fee of twenty-five**  
39 **dollars (\$25) for deposit in the department of insurance fund**  
40 **under IC 27-1-3-28.**

41 (c) After a licensee files a request for an extension, the license of the  
42 licensee remains in effect until the commissioner makes a decision on

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- 1 the request.
- 2 (d) If the commissioner denies a licensee's request for an extension,  
3 the licensee must complete continuing education requirements set forth  
4 in section 2 of this chapter within ninety (90) days after the  
5 commissioner notifies the licensee of the denial.
- 6 SECTION 6. IC 27-1-15.7-5, AS AMENDED BY P.L.115-2011,  
7 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2012]: Sec. 5. (a) To qualify as a certified prelicensing course  
9 of study for purposes of IC 27-1-15.6-6, an insurance producer program  
10 of study must meet all of the following criteria:
- 11 (1) Be conducted or developed by an:
- 12 (A) insurance trade association;
- 13 (B) accredited college or university;
- 14 (C) educational organization certified by the insurance  
15 producer education and continuing education advisory council;  
16 or
- 17 (D) insurance company licensed to do business in Indiana.
- 18 (2) Provide for self-study or instruction provided by an approved  
19 instructor in a structured setting, as follows:
- 20 (A) For life insurance producers, not less than twenty (20)  
21 hours of instruction in a structured setting or comparable  
22 self-study on:
- 23 (i) ethical practices in the marketing and selling of  
24 insurance;
- 25 (ii) requirements of the insurance laws and administrative  
26 rules of Indiana; and
- 27 (iii) principles of life insurance.
- 28 (B) For health insurance producers, not less than twenty (20)  
29 hours of instruction in a structured setting or comparable  
30 self-study on:
- 31 (i) ethical practices in the marketing and selling of  
32 insurance;
- 33 (ii) requirements of the insurance laws and administrative  
34 rules of Indiana; and
- 35 (iii) principles of health insurance.
- 36 (C) For life and health insurance producers, not less than forty  
37 (40) hours of instruction in a structured setting or comparable  
38 self-study on:
- 39 (i) ethical practices in the marketing and selling of  
40 insurance;
- 41 (ii) requirements of the insurance laws and administrative  
42 rules of Indiana;

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- 1 (iii) principles of life insurance; and
- 2 (iv) principles of health insurance.
- 3 (D) For property and casualty insurance producers, not less
- 4 than forty (40) hours of instruction in a structured setting or
- 5 comparable self-study on:
- 6 (i) ethical practices in the marketing and selling of
- 7 insurance;
- 8 (ii) requirements of the insurance laws and administrative
- 9 rules of Indiana;
- 10 (iii) principles of property insurance; and
- 11 (iv) principles of liability insurance.
- 12 (E) For personal lines producers, a minimum of twenty (20)
- 13 hours of instruction in a structured setting or comparable
- 14 self-study on:
- 15 (i) ethical practices in the marketing and selling of
- 16 insurance;
- 17 (ii) requirements of the insurance laws and administrative
- 18 rules of Indiana; and
- 19 (iii) principles of property and liability insurance applicable
- 20 to coverages sold to individuals and families for primarily
- 21 noncommercial purposes.
- 22 (F) For title insurance producers, not less than ten (10) hours
- 23 of instruction in a structured setting or comparable self-study
- 24 on:
- 25 (i) ethical practices in the marketing and selling of title
- 26 insurance;
- 27 (ii) requirements of the insurance laws and administrative
- 28 rules of Indiana;
- 29 (iii) principles of title insurance, including underwriting and
- 30 escrow issues; and
- 31 (iv) principles of the federal Real Estate Settlement
- 32 Procedures Act (12 U.S.C. 2608).
- 33 (G) For annuity product producers, not less than four (4) hours
- 34 of instruction in a structured setting or comparable self-study
- 35 on:
- 36 (i) types and classifications of annuities;
- 37 (ii) identification of the parties to an annuity;
- 38 (iii) the manner in which fixed, variable, and indexed
- 39 annuity contract provisions affect consumers;
- 40 (iv) income taxation of qualified and non-qualified
- 41 annuities;
- 42 (v) primary uses of annuities; and

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1 (vi) appropriate sales practices, replacement, and disclosure  
 2 requirements.  
 3 (3) Instruction provided in a structured setting must be provided  
 4 only by individuals who meet the qualifications established by the  
 5 commissioner under subsection (b).  
 6 (b) The commissioner, after consulting with the insurance producer  
 7 education and continuing education advisory council, shall adopt rules  
 8 under IC 4-22-2 prescribing the criteria that a person must meet to  
 9 render instruction in a certified preclicensing course of study.  
 10 (c) The commissioner shall adopt rules under IC 4-22-2 prescribing  
 11 the subject matter that an insurance producer program of study must  
 12 cover to qualify for certification as a certified preclicensing course of  
 13 study under this section.  
 14 (d) The commissioner may make recommendations that the  
 15 commissioner considers necessary for improvements in course  
 16 materials.  
 17 (e) The commissioner shall designate a program of study that meets  
 18 the requirements of this section as a certified preclicensing course of  
 19 study for purposes of IC 27-1-15.6-6.  
 20 (f) The commissioner may, after notice and opportunity for a  
 21 hearing, **do the following:**  
 22 (1) Withdraw the certification of a course of study that does not  
 23 maintain reasonable standards, as determined by the  
 24 commissioner for the protection of the public.  
 25 (2) **Disqualify a person that is currently qualified under**  
 26 **subsection (b) to render instruction in a certified preclicensing**  
 27 **course of study from rendering the instruction if less than**  
 28 **forty-five percent (45%) of the individuals who take the**  
 29 **person's certified preclicensing course of study pass the**  
 30 **examination required by IC 27-1-15.6-5.**  
 31 (g) Current course materials for a preclicensing course of study that  
 32 is certified under this section must be submitted to the commissioner  
 33 upon request, but not less frequently than once every three (3) years.  
 34 SECTION 7. IC 27-1-18-2 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Every insurance  
 36 company not organized under the laws of this state, and each domestic  
 37 company electing to be taxed under this section, and doing business  
 38 within this state shall, on or before March 1 of each year, report to the  
 39 department, under the oath of the president and secretary, the gross  
 40 amount of all premiums received by it on policies of insurance  
 41 covering risks within this state, or in the case of marine or  
 42 transportation risks, on policies made, written, or renewed within this

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1 state during the twelve (12) month period ending on December 31 of  
 2 the preceding calendar year. From the amount of gross premiums  
 3 described in this subsection shall be deducted:

4 (1) considerations received for reinsurance of risks within this  
 5 state from companies authorized to transact an insurance business  
 6 in this state;

7 (2) the amount of dividends paid or credited to resident insureds,  
 8 or used to reduce current premiums of resident insureds;

9 (3) the amount of premiums actually returned to residents on  
 10 account of applications not accepted or on account of policies not  
 11 delivered; and

12 (4) the amount of unearned premiums returned on account of the  
 13 cancellation of policies covering risks within the state.

14 (b) A domestic company shall be taxed under this section only in  
 15 each calendar year with respect to which it files a notice of election.  
 16 The notice of election shall be filed with the insurance commissioner  
 17 and the commissioner of the department of state revenue on or before  
 18 November 30 in each year and shall state that the domestic company  
 19 elects to submit to the tax imposed by this section with respect to the  
 20 calendar year commencing January 1 next following the filing of the  
 21 notice. The exemption from license fees, privilege, or other taxes  
 22 accorded by this section to insurance companies not organized under  
 23 the laws of this state and doing business within this state which are  
 24 taxed under this chapter shall be applicable to each domestic company  
 25 in each calendar year with respect to which it is taxed under this  
 26 section. In each calendar year with respect to which a domestic  
 27 company has not elected to be taxed under this section it shall be taxed  
 28 without regard to this section.

29 (c) For the privilege of doing business in this state, every insurance  
 30 company required to file the report provided in this section shall pay  
 31 into the treasury of this state an amount equal to the excess, if any, of  
 32 the gross premiums over the allowable deductions multiplied by ~~the~~  
 33 following rate for the year that the report covers:

34 (1) For 2000, two percent (2%);

35 (2) For 2001, one and nine-tenths percent (1.9%);

36 (3) For 2002, one and eight-tenths percent (1.8%);

37 (4) For 2003, one and seven-tenths percent (1.7%);

38 (5) For 2004, one and five-tenths percent (1.5%);

39 (6) For 2005 and thereafter, one and three-tenths percent (1.3%).

40 (d) Payments of the tax imposed by this section shall be made on a  
 41 quarterly estimated basis. The amounts of the quarterly installments  
 42 shall be computed on the basis of the total estimated tax liability for the

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1 current calendar year and the installments shall be due and payable on  
 2 or before April 15, June 15, September 15, and December 15, of the  
 3 current calendar year.

4 (e) Any balance due shall be paid in the next succeeding calendar  
 5 year at the time designated for the filing of the annual report with the  
 6 department.

7 (f) Any overpayment of the estimated tax during the preceding  
 8 calendar year shall be allowed as a credit against the liability for the  
 9 first installment of the current calendar year.

10 (g) In the event a company subject to taxation under this section  
 11 fails to make any quarterly payment in an amount equal to at least:

12 (1) twenty-five percent (25%) of the total tax paid during the  
 13 preceding calendar year; or

14 (2) twenty per cent (20%) of the actual tax for the current  
 15 calendar year;

16 the company shall be liable, in addition to the amount due, for interest  
 17 in the amount of one percent (1%) of the amount due and unpaid for  
 18 each month or part of a month that the amount due, together with  
 19 interest, remains unpaid. This interest penalty shall be exclusive of and  
 20 in addition to any other fee, assessment, or charge made by the  
 21 department.

22 (h) The taxes under this article shall be in lieu of all license fees or  
 23 privilege or other tax levied or assessed by this state or by any  
 24 municipality, county, or other political subdivision of this state. No  
 25 municipality, county, or other political subdivision of this state shall  
 26 impose any license fee or privilege or other tax upon any insurance  
 27 company or any of its agents for the privilege of doing an insurance  
 28 business therein, except the tax authorized by IC 22-12-6-5. However,  
 29 the taxes authorized under IC 22-12-6-5 shall be credited against the  
 30 taxes provided under this chapter. This section shall not be construed  
 31 to prohibit the levy and collection of state, county, or municipal taxes  
 32 upon real and tangible personal property of such company, or to  
 33 prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by  
 34 law. However, all insurance companies, foreign or domestic, paying  
 35 taxes in this state predicated in part on their premium income from  
 36 policies sold and premiums received in Indiana, shall have the same  
 37 rights and privileges from further taxation and shall be given the same  
 38 credits wherever applicable, as those set out for those companies  
 39 paying only a tax on premiums as set out in this section.

40 (i) Any insurance company failing or refusing, for more than thirty  
 41 (30) days, to render an accurate account of its premium receipts as  
 42 provided in this section and pay the tax due thereon shall be subject to

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1 a penalty of one hundred dollars (\$100) for each additional day such  
 2 report and payment shall be delayed, not to exceed a maximum penalty  
 3 of ten thousand dollars (\$10,000). The penalty may be ordered by the  
 4 commissioner after a hearing under IC 4-21.5-3. The commissioner  
 5 may revoke all authority of such defaulting company to do business  
 6 within this state, or suspend such authority during the period of such  
 7 default, in the discretion of the commissioner.

8 SECTION 8. IC 27-1-18-5 IS REPEALED [EFFECTIVE JULY 1,  
 9 2012]. Sec. 5. At the time of filing its annual statement, an alien or  
 10 foreign company shall submit, on a form prescribed by the department,  
 11 a condensed statement of its assets and liabilities as of December 31 of  
 12 the preceding year. If the department, on examination of such  
 13 statement, determines from information available to it that it is true and  
 14 correct, it shall cause such statement to be published in a newspaper in  
 15 this state selected by the department. In the event the department  
 16 determines that the statement submitted by a company is inaccurate or  
 17 incorrect, it shall, after giving the company notice of the proposed  
 18 changes and an opportunity to be heard, certify the corrected statement  
 19 and proceed with its publication as above provided. The company shall  
 20 bear the expenses of the publication, but in no event shall an amount  
 21 exceeding forty dollars (\$40) be charged for such publication. Any cost  
 22 of publication that exceeds forty dollars (\$40) must be borne by the  
 23 newspaper publishing the statement.

24 SECTION 9. IC 27-1-20-35 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 26 1, 2012]: Sec. 35. (a) Except as otherwise provided in this title, a  
 27 company shall respond to a written inquiry or request from the  
 28 department not more than twenty (20) business days after the date  
 29 the written inquiry or request is received by the company.

30 (b) The commissioner may, upon request of a company for  
 31 extenuating circumstances, grant a company an extension of the  
 32 period specified in subsection (a).

33 (c) The commissioner may assess against a company that does  
 34 not comply with subsection (a) a civil penalty of one hundred  
 35 dollars (\$100) per day of noncompliance. The commissioner shall  
 36 deposit a civil penalty collected under this subsection in the  
 37 department of insurance fund established by IC 27-1-3-28.

38 SECTION 10. IC 27-1-20-36 IS ADDED TO THE INDIANA  
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 2012]: Sec. 36. (a) As used in this section,  
 41 "health insurance" means the kind of coverage provided under a  
 42 health insurance plan.

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1 (b) As used in this section, "health insurance plan" means any  
2 of the following:

3 (1) An individual policy of accident and sickness insurance (as  
4 defined in IC 27-8-5-1).

5 (2) An individual contract (as defined in IC 27-13-1-21).

6 (c) As used in this section, "insurer" is limited to a person that  
7 enters into, issues, or delivers a health insurance plan on an  
8 individual basis in Indiana.

9 (d) An insurer shall, at least one hundred eighty (180) days  
10 before withdrawing from the individual health insurance market  
11 in Indiana, provide to the department written notice of the  
12 insurer's intent to withdraw.

13 SECTION 11. IC 27-1-22-4, AS AMENDED BY P.L.173-2007,  
14 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2012]: Sec. 4. (a) Every insurer shall file with the  
16 commissioner every manual of classifications, rules, and rates, every  
17 rating schedule, every rating plan, and every modification of any of the  
18 foregoing which it proposes to use.

19 (b) The following types of insurance are exempt from the  
20 requirements of subsections (a) and ~~(j)~~: **(k)**:

21 (1) Inland marine risks, which by general custom of the business  
22 are not written according to manual rates or rating plans.

23 (2) Insurance that is:

24 (A) written by an insurer that:

25 (i) complies with subsection ~~(m)~~ **(n)** and maintains at least  
26 a B rating by A.M. Best or an equivalent rating by another  
27 independent insurance rating organization; or

28 (ii) is approved for an exemption by the commissioner; and

29 (B) issued to commercial policyholders.

30 (c) Every such filing shall indicate the character and extent of the  
31 coverage contemplated and shall be accompanied by the information  
32 upon which the filer supports such filing.

33 (d) The information furnished in support of a filing may include:

34 (1) the experience and judgment of the insurer or rating  
35 organization making the filing;

36 (2) its interpretation of any statistical data it relies upon;

37 (3) the experience of other insurers or rating organizations; or

38 (4) any other relevant factors.

39 The commissioner shall have the right to request any additional  
40 relevant information.

41 **(e) The following apply to a filing and any supporting information  
42 filed under this section:**

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1 (1) If the filer marks the filing or supporting information  
 2 "confidential", "trade secret", or "proprietary", the filer  
 3 shall, upon the request of the commissioner, provide a  
 4 sufficient basis on which the commissioner may determine  
 5 that the filing or supporting information is confidential.

6 (2) If the commissioner does not, less than thirty (30) days  
 7 after receiving the filing or information, notify the filer that  
 8 the commissioner disapproves the confidentiality of the filing  
 9 or supporting information, the filing and supporting  
 10 information is considered to have been determined to be  
 11 confidential.

12 (3) The commissioner shall do the following:

13 (A) Upon the request of the filer before the filing or  
 14 supporting information is open to public inspection:

15 (i) return the filing or supporting information to the  
 16 filer; and

17 (ii) make a notation in the policy filing retained by the  
 18 commissioner that the filing or supporting information  
 19 was returned to the filer.

20 (B) If the commissioner determines that a filing or  
 21 supporting information is not confidential under this  
 22 subsection, upon the request of the filer before the filing or  
 23 supporting information is open to public inspection, return  
 24 the entire filing to the filer.

25 (C) Adopt rules under IC 4-22-2 to establish a process for  
 26 a determination under this subsection that a filing or  
 27 supporting information is confidential.

28 (4) Except for information determined by the commissioner  
 29 to be confidential under this subsection, the filing and  
 30 supporting information that has not been returned to the filer  
 31 under subdivision (3) shall be open to public inspection as soon  
 32 as stamped "filed" within a reasonable time after receipt by the  
 33 commissioner, and copies may be obtained by any person on  
 34 request and upon payment of a reasonable charge therefor.

35 **The work product of the commissioner in making a determination**  
 36 **under this subsection is confidential. The department, the**  
 37 **commissioner, and employees of the department are immune from**  
 38 **civil and criminal liability for the good faith performance of their**  
 39 **duties under this subsection.**

40 (e) (f) Filings shall become effective upon the date of filing by  
 41 delivery or upon date of mailing by registered mail to the  
 42 commissioner, or on a later date specified in the filing.

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1           ~~(f)~~ (g) Specific inland marine rates on risks specially rated, made by  
2 a rating organization, shall be filed with the commissioner.

3           ~~(g)~~ (h) Any insurer may satisfy its obligation to make any such  
4 filings by becoming a member of, or a subscriber to, a licensed rating  
5 organization which makes such filings and by authorizing the  
6 commissioner to accept such filings on its behalf, provided that nothing  
7 contained in this chapter shall be construed as requiring any insurer to  
8 become a member of or a subscriber to any rating organization or as  
9 requiring any member or subscriber to authorize the commissioner to  
10 accept such filings on its behalf.

11           ~~(h)~~ (i) Every insurer which is a member of or a subscriber to a rating  
12 organization shall be deemed to have authorized the commissioner to  
13 accept on its behalf all filings made by the rating organization which  
14 are within the scope of its membership or subscribership, provided:

- 15           (1) that any subscriber may withdraw or terminate such  
16 authorization, either generally or for individual filings, by written  
17 notice to the commissioner and to the rating organization and may  
18 then make its own independent filings for any kinds of insurance,  
19 or subdivisions, or classes of risks, or parts or combinations of  
20 any of the foregoing, with respect to which it has withdrawn or  
21 terminated such authorization, or may request the rating  
22 organization, within its discretion, to make any such filing on an  
23 agency basis solely on behalf of the requesting subscriber; and  
24 (2) that any member may proceed in the same manner as a  
25 subscriber unless the rating organization shall have adopted a  
26 rule, with the approval of the commissioner:

27           (A) requiring a member, before making an independent filing,  
28 first to request the rating organization to make such filing on  
29 its behalf and requiring the rating organization, within thirty  
30 (30) days after receipt of such request, either:

- 31           (i) to make such filing as a rating organization filing;  
32           (ii) to make such filing on an agency basis solely on behalf  
33 of the requesting member; or  
34           (iii) to decline the request of such member; and

35           (B) excluding from membership any insurer which elects to  
36 make any filing wholly independently of the rating  
37 organization.

38           ~~(i)~~ (j) Under such rules as the commissioner shall adopt, the  
39 commissioner may, by written order, suspend or modify the  
40 requirement of filing as to any kinds of insurance, or subdivision, or  
41 classes of risk, or parts or combinations of any of the foregoing, the  
42 rates for which can not practicably be filed before they are used. Such

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1 orders and rules shall be made known to insurers and rating  
 2 organizations affected thereby. The commissioner may make such  
 3 examination as the commissioner may deem advisable to ascertain  
 4 whether any rates affected by such order are excessive, inadequate, or  
 5 unfairly discriminatory.

6 ~~(j)~~ **(k)** Upon the written application of the insured, stating the  
 7 insured's reasons therefor, filed with the commissioner, a rate in excess  
 8 of that provided by a filing otherwise applicable may be used on any  
 9 specific risk.

10 ~~(k)~~ **(l)** An insurer shall not make or issue a policy or contract except  
 11 in accordance with filings which are in effect for that insurer or in  
 12 accordance with the provisions of this chapter. Subject to the  
 13 provisions of section 6 of this chapter, any rates, rating plans, rules,  
 14 classifications, or systems in effect on May 31, 1967, shall be  
 15 continued in effect until withdrawn by the insurer or rating  
 16 organization which filed them.

17 ~~(l)~~ **(m)** The commissioner shall have the right to make an  
 18 investigation and to examine the pertinent files and records of any  
 19 insurer, insurance producer, or insured in order to ascertain compliance  
 20 with any filing for rate or coverage which is in effect. The  
 21 commissioner shall have the right to set up procedures necessary to  
 22 eliminate noncompliance, whether on an individual policy, or because  
 23 of a system of applying charges or discounts which results in failure to  
 24 comply with such filing.

25 ~~(m)~~ **(n)** This subsection applies to an insurer that issues a  
 26 commercial property or commercial casualty insurance policy to a  
 27 commercial policyholder. Not more than thirty (30) days after the  
 28 insurer begins using a commercial property or commercial casualty  
 29 insurance:

- 30 (1) rate;
- 31 (2) rating plan;
- 32 (3) manual of classifications;
- 33 (4) form; or
- 34 (5) modification of an item specified in subdivision (1), (2), (3),  
 35 or (4);

36 the insurer shall file with the department, for informational purposes  
 37 only, the item specified in subdivision (1), (2), (3), (4), or (5). Use of  
 38 an item specified in subdivision (1), (2), (3), (4), or (5) is not  
 39 conditioned on review or approval by the department. This subsection  
 40 does not require filing of an individual policy rate if the original  
 41 manuals, rates, and rules for the insurance plan or program to which the  
 42 individual policy conforms has been filed with the department.



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1           ~~(n)~~ **(o)** An insurer that issues a commercial property or commercial  
 2 casualty insurance policy form, endorsement, or rider that is prepared  
 3 to provide or exclude coverage for an unusual or extraordinary risk of  
 4 a particular commercial policyholder must maintain the policy form,  
 5 endorsement, or rider in the insurer's Indiana office and provide the  
 6 policy form, endorsement, or rider to the commissioner at the  
 7 commissioner's request.

8           ~~(o)~~ **(p)** If coverage under a commercial property or commercial  
 9 casualty insurance policy is changed, upon renewal of the policy, the  
 10 insurer shall provide to the policyholder and insurance producer  
 11 through which the policyholder obtains the coverage a written notice  
 12 that the policy has been changed.

13           SECTION 12. IC 27-1-22-11 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) Any subscriber  
 15 which has authorized a rating organization to making filings on its  
 16 behalf and any member thereof which does not wish to act under  
 17 sections ~~4(g) and 4(h)~~ **and 4(i)** of this chapter may appeal to the  
 18 commissioner from the action or decision of such rating organization  
 19 in approving or rejecting any proposed change in or addition to the  
 20 filings of such rating organization and the commissioner shall, after a  
 21 hearing held upon not less than ten (10) days written notice to the  
 22 appellant and to such rating organization, issue an order approving the  
 23 action or decision of such rating organization or directing it to give  
 24 further consideration to such proposal, or, if such appeal is from the  
 25 action or decision of the rating organization in rejecting a proposed  
 26 addition to its filings, ~~he the commissioner~~ **may**, in the event ~~he the~~ **the**  
 27 **commissioner** finds that such action or decision was unreasonable,  
 28 issue an order directing the rating organization to make an addition to  
 29 its filings in a manner consistent with ~~his the commissioner's~~ **findings**  
 30 within a reasonable time after the issuance of such order.

31           (b) If such appeal is based upon the failure of the rating organization  
 32 to make a filing on behalf of such member or subscriber which is based  
 33 on a system of expense provisions which differs, in accordance with the  
 34 right granted in section 3(a)(3) of this chapter from the system of  
 35 expense provisions included in a filing made by the rating organization,  
 36 the commissioner shall, if ~~he the commissioner~~ **grants** the appeal,  
 37 order the rating organization to make the requested filing for use by the  
 38 appellant. In deciding such appeal the commissioner shall apply the  
 39 standards set forth in section 3 of this chapter.

40           SECTION 13. IC 27-1-23-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this  
 42 chapter, the following terms shall have the respective meanings set

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1 forth in this section, unless the context shall otherwise require:

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

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

11 (c) A "beneficial owner" of a voting security includes any person  
12 who, directly or indirectly, through any contract, arrangement,  
13 understanding, relationship, revocable or irrevocable proxy, or  
14 otherwise has or shares:

15 (1) voting power including the power to vote, or to direct the  
16 voting of, the security; or

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

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

20 (e) "Control" (including the terms "controlling", "controlled by", and  
21 "under common control with") means the possession, direct or indirect,  
22 of the power to direct or cause the direction of the management and  
23 policies of a person, whether through the beneficial ownership of  
24 voting securities, by contract other than a commercial contract for  
25 goods or nonmanagement services, or otherwise, unless the power is  
26 the result of an official position or corporate office. Control shall be  
27 presumed to exist if any person beneficially owns ten percent (10%) or  
28 more of the voting securities of any other person. The commissioner  
29 may determine this presumption has been rebutted only by a showing  
30 made in the manner provided by section 3(k) of this chapter that  
31 control does not exist in fact, after giving all interested persons notice  
32 and an opportunity to be heard. Control shall be presumed again to  
33 exist upon the acquisition of beneficial ownership of each additional  
34 five percent (5%) or more of the voting securities of the other person.  
35 The commissioner may determine, after furnishing all persons in  
36 interest notice and opportunity to be heard, that control exists in fact,  
37 notwithstanding the absence of a presumption to that effect.

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

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

42 (h) "Earned surplus" means an amount equal to the unassigned

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1 funds of an insurer as set forth in the most recent annual statement of  
 2 an insurer that is submitted to the commissioner, excluding surplus  
 3 arising from unrealized capital gains or revaluation of assets.

4 **(i) "Enterprise risk" means an activity, circumstance, event, or**  
 5 **series of events that involves at least one (1) affiliate of an insurer**  
 6 **that, if not remedied promptly, is likely to have a material adverse**  
 7 **effect upon the financial condition or liquidity of the insurer or the**  
 8 **insurer's insurance holding company system as a whole, including**  
 9 **an activity, circumstance, event, or series of events that would**  
 10 **cause the:**

11 **(1) insurer's risk based capital to fall into company action**  
 12 **level under IC 27-1-36; or**

13 **(2) insurer to be in hazardous financial condition subject to**  
 14 **IC 27-1-3-7 and rules adopted under IC 27-1-3-7.**

15 ~~(j)~~ **(j)** An "insurance holding company system" consists of two (2)  
 16 or more affiliated persons, one (1) or more of which is an insurer.

17 ~~(k)~~ **(k)** "Insurer" has the same meaning as set forth in IC 27-1-2-3,  
 18 except that it does not include:

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

23 ~~(2)~~ **(2)** fraternal benefit societies; or

24 ~~(3)~~ **(3)** nonprofit medical and hospital service associations.

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

28 **(l) "NAIC" refers to the National Association of Insurance**  
 29 **Commissioners.**

30 **(m) "Supervisory college" means a temporary or permanent**  
 31 **forum:**

32 **(1) comprised of regulators, including other state, federal, and**  
 33 **international regulators, responsible for the supervision of a**  
 34 **domestic insurer that is part of an insurance holding company**  
 35 **system that has international operations; and**

36 **(2) established to facilitate communication and cooperation**  
 37 **between the regulators described in subdivision (1).**

38 ~~(n)~~ **(n)** A "person" is an individual, a corporation, a limited liability  
 39 company, a partnership, an association, a joint stock company, a trust,  
 40 an unincorporated organization, any similar entity or any combination  
 41 of the foregoing acting in concert, but shall not include any securities  
 42 broker performing no more than the usual and customary broker's

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1 function.

2 ~~(t)~~ **(o)** A "policyholder" of a domestic insurer includes any person  
3 who owns an insurance policy or annuity contract issued by the  
4 domestic insurer, any person reinsured by the domestic insurer under  
5 a reinsurance contract or treaty between the person and the domestic  
6 insurer, and any health maintenance organization with which the  
7 domestic insurer has contracted to provide services or protection  
8 against the cost of care.

9 ~~(m)~~ **(p)** A "subsidiary" of a specified person is an affiliate controlled  
10 by that person directly or indirectly through one or more  
11 intermediaries.

12 ~~(n)~~ **(q)** "Surplus" means the total of gross paid in and contributed  
13 surplus, special surplus funds, and unassigned surplus, less treasury  
14 stock at cost.

15 ~~(o)~~ **(r)** "Voting security" includes any security convertible into or  
16 evidencing a right to acquire a voting security.

17 SECTION 14. IC 27-1-23-2 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) No person other  
19 than the issuer shall commence a tender offer for or a request or  
20 invitation for tenders of, or enter into any agreement to purchase or  
21 exchange securities for, or otherwise seek to acquire, or acquire, in the  
22 open market or otherwise, or solicit proxies relating to, any voting  
23 security of a domestic insurer or of any corporation controlling a  
24 domestic insurer if, after the consummation thereof, such person  
25 would, directly or indirectly (or by conversion or by exercise of any  
26 right to acquire), be in control of such insurer, and no person shall enter  
27 into an agreement to acquire control of a domestic insurer or of any  
28 corporation controlling a domestic insurer unless, at the time any such  
29 offer, request, or invitation is commenced or any such agreement is  
30 entered into, or any such solicitation is begun, or prior to the  
31 acquisition of such securities if no offer or agreement is involved:

32 (1) each acquiring party has filed with the commissioner and has  
33 sent to such insurer and any such controlling corporation a  
34 statement containing the information required by this section;

35 (2) the offer, request, invitation, agreement, solicitation, or  
36 acquisition has been approved by the commissioner; and

37 (3) two (2) business days have elapsed following the  
38 commissioner's determination approving the offer, request,  
39 invitation, agreement, solicitation, or acquisition;

40 all in the manner prescribed in this section.

41 **(b) Unless a statement described in subsection (a) is otherwise**  
42 **filed, the following apply to an acquisition or a divestiture of a**

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**person's controlling interest in a domestic insurer:**

**(1) If a controlling person of a domestic insurer seeks to divest the person's controlling interest, the person shall:**

**(A) file with the commissioner a confidential notice of the person's proposed divestiture at least thirty (30) days before the person ceases control; and**

**(B) send a copy of the filing required by clause (A) to the insurer.**

**(2) The commissioner shall determine whether a person:**

**(A) described in subdivision (1); or**

**(B) that seeks to acquire a controlling interest in a domestic insurer;**

**is required to obtain from the commissioner approval of the divestiture or acquisition.**

**(3) Information obtained by the commissioner under this subsection is confidential until the conclusion of the divestiture or acquisition unless the commissioner determines that maintaining confidentiality of the information interferes with enforcement of this section.**

~~(b)~~ **(c) A statement to be filed with the commissioner under this section shall be made under oath or affirmation and shall contain the following information:**

**(1) The name and address of the acquiring party.**

**(2) If the acquiring party is an individual, his the individual's principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years.**

**(3) If the acquiring party is not an individual, a report of the nature of its business operations during the past five (5) years or for such lesser period as the acquiring party and any predecessors thereof shall have been in existence, including, but not limited to:**

**(A) information relating to the acquisition or disposition of control by the acquiring party of any other person and any subsequent material change in the financial condition, management, organization, or operations of such other person;**

**(B) an informative description of the business intended to be done by the acquiring party and its affiliates;**

**(C) any plans or proposals for the conduct of the business or employment of the assets and surplus of the domestic insurer and any corporation controlling such insurer;**

**(D) an informative description of any transaction in which the acquiring party received, employed, or used any affiliate's**

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assets;  
(E) an informative description of any transaction or presently proposed transaction between the acquiring party and any of its affiliates in which either such acquiring party or such affiliate has a direct or indirect material interest; however, no information need be given as to any such transaction where the amount involved in the transaction or series of similar transactions, including all periodic payments or installments in the case of any lease or agreement providing for periodic payments or installments, does not or would not exceed one hundred thousand dollars (\$100,000); and  
(F) a list of all individuals who are or who have been selected to become directors or officers of the acquiring party, or who perform or will perform functions appropriate to such positions, such list to include for each such individual the information required by ~~clause subdivision (2) of this subsection.~~  
(4) The source, nature, and amount of the consideration to be used in effecting the acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose (including any pledge of the insurer's stock, or the stock of any of the insurer's subsidiaries or controlling affiliates), all documents evidencing, supporting, referring to, or relating to any such transaction and the identity of persons who are furnishing or who will furnish such consideration.  
(5) Fully audited financial information as to the earnings and financial condition of the acquiring party for its preceding five (5) fiscal years (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement.  
(6) Any plans or proposals which the acquiring party may have to liquidate such domestic insurer or such controlling corporation, to sell its assets or merge or consolidate it with any person, or to make any other material change in its investment policy, business, corporate structure, or management.  
(7) The number of shares of any security referred to in subsection (a) which the acquiring party proposes to acquire, the terms of the proposed offer, request, invitation, agreement, or acquisition referred to in subsection (a), and a statement as to the method by which the terms of the proposal were arrived at.  
(8) The amount of each class of any security referred to in

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- 1 subsection (a) which is beneficially owned or concerning which  
2 there is a right to acquire beneficial ownership by the acquiring  
3 party.
- 4 (9) A full description of any contracts, arrangements, or  
5 understandings with respect to any security referred to in  
6 subsection (a) in which the acquiring party proposes to be or is  
7 involved, including but not limited to transfer of any of the  
8 securities, joint ventures, loan or option arrangements, puts or  
9 calls, guarantees of loans, guarantees against loss or guarantees  
10 of profits, division of losses or profits, or the giving or  
11 withholding of proxies. Such description shall identify the persons  
12 with whom such contracts, arrangements, or understandings have  
13 been or will be entered into.
- 14 (10) A description of the purchase of any security referred to in  
15 subsection (a) during the twelve (12) calendar months preceding  
16 the filing of the statement by the acquiring party, including the  
17 dates of purchase, names of the purchasers, and consideration  
18 paid or agreed to be paid therefor.
- 19 (11) A description of any recommendations to purchase any  
20 security referred to in subsection (a) made during the twelve (12)  
21 calendar months preceding the filing of the statement by the  
22 acquiring party, or by anyone, based upon interviews or at the  
23 suggestion of such acquiring party.
- 24 (12) Copies of the proposed forms of all tender offers for, requests  
25 or invitations for tenders of, exchange offers for, and agreements  
26 to acquire or exchange any securities referred to in subsection (a),  
27 and of the proposed form of additional soliciting material relating  
28 thereto.
- 29 (13) The terms of any agreement, contract, or understanding made  
30 or proposed to be made with any broker-dealer as to solicitation  
31 of securities referred to in subsection (a) for tender, and the  
32 amount of any fees, commissions, or other compensation paid or  
33 to be paid to broker-dealers with regard thereto.
- 34 (14) A full description of any existing or proposed contracts,  
35 arrangements, or understandings between the acquiring party and  
36 any present or former director, officer, or employee of the  
37 domestic insurer or of any corporation controlling such insurer.  
38 Such description shall identify the persons with whom such  
39 contracts, arrangements, or understandings have been or will be  
40 entered into.
- 41 (15) Copies of all studies, analyses, and reports which were  
42 prepared by or for the acquiring party or any affiliate of the

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1 acquiring party for the purpose of evaluating or analyzing the  
 2 proposed acquisition of control with respect to market shares,  
 3 competition, competitors, markets, and potential for growth or  
 4 expansion into product or geographic markets.

5 (16) If the acquiring party or any affiliate of the acquiring party is  
 6 an insurer:

7 (A) the amount of any premiums, deposits, or annuity  
 8 considerations received by the insurer during each of the last  
 9 five (5) fiscal years (calculated on an accrual basis) for each  
 10 line of insurance business conducted in any section of this  
 11 state, and copies of annual statements for each of the last five  
 12 (5) fiscal years filed by any such insurer with the insurance  
 13 regulatory authority of its domiciliary jurisdiction;

14 (B) a full and complete description of any direct or indirect  
 15 reinsurance relationship between the acquiring party or any  
 16 affiliate of the acquiring party and the domestic insurer or any  
 17 affiliate of the domestic insurer, together with copies of any  
 18 treaties or contracts relating to that relationship; and

19 (C) such additional information as the commissioner may by  
 20 rule or order prescribe as necessary or appropriate to enable  
 21 **him the commissioner** to make the determination required by  
 22 subsection ~~(e)(2)~~: **(f)(2)**.

23 **(17) An agreement that a person required to obtain the**  
 24 **commissioner's approval of a statement described in**  
 25 **subsection (a) will file an annual enterprise risk report**  
 26 **described in section 3(l) of this chapter as long as the person**  
 27 **continues to hold a controlling interest in the domestic**  
 28 **insurer.**

29 **(18) An acknowledgment that:**

30 **(A) a person described in subdivision (17); and**

31 **(B) any subsidiary in the insurance holding company**  
 32 **system that is within the person's control;**

33 **will, upon the commissioner's request, provide to the**  
 34 **commissioner information that the commissioner considers**  
 35 **necessary to evaluate enterprise risk to the domestic insurer.**

36 ~~(17)~~ **(19)** Such additional information as the commissioner may  
 37 by rule or order prescribe as necessary or appropriate for the  
 38 protection of policyholders or in the public interest.

39 If any material change occurs in the facts set forth in a statement filed  
 40 with the commissioner and sent to the insurer and any controlling  
 41 corporation under this section, an amendment made under oath or  
 42 affirmation setting forth the change, together with copies of all

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1 documents and other material relevant to the change, shall be filed with  
 2 the commissioner and sent to the insurer and any controlling  
 3 corporation within two (2) business days after any acquiring party  
 4 learns of this change.

5 ~~(c)~~ (d) If any acquiring party is a partnership, limited partnership,  
 6 syndicate, or other group, the commissioner may require that the  
 7 information called for by ~~subdivisions (1) through (17)~~ (19) of  
 8 subsection ~~(b)~~ (c)(1) through (c)(19) shall be given with respect to  
 9 each partner of such partnership or limited partnership, each member  
 10 of such syndicate or group, and each person who controls such partner  
 11 or member. If any such partner, member, person, or acquiring party is  
 12 a corporation, the commissioner may require that the information  
 13 called for by ~~subdivisions (1) through (17)~~ subsection (c)(1) through  
 14 (c)(19) shall be given with respect to all individuals who are or have  
 15 been selected to become directors or officers of any such corporation  
 16 or who perform or will perform functions appropriate to these  
 17 positions.

18 ~~(d)~~ (e) If the proposed acquisition of control referred to in  
 19 subsection (a) requires the filing of a registration statement under the  
 20 federal Securities Act of 1933 (15 U.S.C. 77a-15 U.S.C. 77aa) or  
 21 requires the disclosure of similar information under the federal  
 22 Securities Exchange Act of 1934 (15 U.S.C. 78a-15 U.S.C. 78kk) or  
 23 under a state law requiring similar registration or disclosure, an  
 24 acquiring party may utilize such documents in furnishing the  
 25 information called for by the statement.

26 ~~(e)~~ (f) The commissioner shall hold a public hearing on the  
 27 proposed acquisition of control referred to in subsection (a) and shall  
 28 thereafter approve such acquisition of control only if ~~he~~ **the**  
 29 **commissioner** finds, by a preponderance of the evidence, that:

- 30 (1) the acquisition of control would not tend to affect adversely  
 31 the contractual obligations of the domestic insurer or its ability  
 32 and tendency to render service in the future to its policyholders  
 33 and the public;
- 34 (2) the effect of the acquisition of control would not be  
 35 substantially to lessen competition in any line of insurance  
 36 business in any section of this state or tend to create a monopoly  
 37 therein;
- 38 (3) the financial condition of any acquiring party is not such as  
 39 might jeopardize the financial stability of the domestic insurer or  
 40 of any corporation controlling such insurer, or prejudice the  
 41 interest of its policyholders;
- 42 (4) the plans or proposals which any acquiring party has to

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1 liquidate the domestic insurer or any such controlling corporation,  
 2 sell its assets or consolidate or merge it with any person, or to  
 3 make any other material change in its investment policy, business,  
 4 corporate structure, or management are fair and reasonable to  
 5 policyholders of the domestic insurer and in the public interest;  
 6 and

7 (5) the competence, experience, and integrity of those persons  
 8 who would control the operation of the domestic insurer are such  
 9 that the acquisition of control would not tend to affect adversely  
 10 the general capacity or intention of the domestic insurer to  
 11 transact the business of insurance in a safe and prudent manner.

12 ~~(f)~~ (g) For the purposes of the commissioner's application of the  
 13 competitive standard set forth in subsection ~~(e)(2)~~ (f)(2) to a proposed  
 14 acquisition:

15 (1) the acquiring person must file a pre-acquisition notification  
 16 that meets the requirements set forth in section 2.5(e) of this  
 17 chapter;

18 (2) the commissioner shall apply the provisions of section 2.5(h)  
 19 of this chapter; and

20 (3) the commissioner may not disapprove the acquisition based  
 21 upon the application of subsection ~~(e)(2)~~ (f)(2) if the  
 22 commissioner finds that either of the conditions set forth in  
 23 section 2.5(i) of this chapter applies to the proposed acquisition.

24 ~~(g)~~ (h) The public hearing referred to in subsection ~~(e)~~ (f) shall be  
 25 held within sixty (60) days after all statements required by subsection  
 26 (a) are filed, or within such longer period after the statements are filed  
 27 as the commissioner determines upon a showing of good cause  
 28 therefor, in the city of Indianapolis at such place, date, and time as the  
 29 commissioner shall specify. At least thirty (30) days written notice of  
 30 the hearing shall be given by the commissioner to each acquiring party,  
 31 the domestic insurer, any corporation controlling such insurer, and to  
 32 other persons as the commissioner may designate. In the event that an  
 33 amendment to any such statement is filed, the hearing shall be  
 34 postponed for a further period not to exceed sixty (60) days after the  
 35 filing of such amendment, or for such longer period after the  
 36 amendment is filed as the commissioner determines upon a showing of  
 37 good cause therefor. **If the proposed acquisition of control requires  
 38 the approval of the commissioners of more than one (1) state, the  
 39 public hearing may be held on a consolidated basis upon the  
 40 request of the person that files the statement described in  
 41 subsection (a). The person shall file the statement with the NAIC  
 42 not more than five (5) days after the person makes the request for**



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1 a public hearing. The commissioner of a state may opt out of a  
 2 consolidated hearing by notifying the person not more than ten  
 3 (10) days after receiving the statement described in subsection (a).  
 4 A hearing conducted on a consolidated basis must be public and  
 5 held in the United States before the commissioners of the  
 6 domiciliary states of the insurers. The commissioners shall hear  
 7 and receive evidence and may attend in person or by  
 8 telecommunication.

9 (h) (i) The commissioner shall give notice of the hearing by  
 10 publication in a newspaper of general circulation in the city of  
 11 Indianapolis, and in the city wherein is located the principal office of  
 12 the domestic insurer, and in such other city or cities as ~~he~~ **the**  
 13 **commissioner** may deem appropriate. Any policyholder of the  
 14 domestic insurer who makes a written request to the commissioner is  
 15 entitled to a copy of all statements, amendments, or other material filed  
 16 with the commissioner by any acquiring party.

17 (i) (j) The commissioner may retain at the acquiring party's expense  
 18 any attorneys, actuaries, accountants, and other experts not otherwise  
 19 a part of the commissioner's staff as may be reasonably necessary to  
 20 assist the commissioner in reviewing the proposed acquisition of  
 21 control. All hearing expenses, including transcript costs, expenses of  
 22 publication and of preparing and mailing material to policyholders,  
 23 shall be borne equally by each acquiring party. As security for the  
 24 payment of such expenses, each acquiring party shall file with the  
 25 commissioner an acceptable bond or other deposit in an amount to be  
 26 determined by the commissioner.

27 (j) (k) At such hearing, each acquiring party, the domestic insurer,  
 28 any corporation controlling such insurer, policyholders of the domestic  
 29 insurer, and any other person whose interests may be affected by the  
 30 proposed acquisition of control shall have the right to appear and  
 31 become party to the proceeding. Each such person shall have the right  
 32 to present evidence, examine and cross-examine witnesses, and offer  
 33 oral and written arguments and in connection therewith shall be  
 34 entitled to conduct discovery proceedings in the same manner as  
 35 provided in the Indiana Rules of Trial Procedure. The commissioner  
 36 may employ any sanction or power granted courts in the Indiana Rules  
 37 of Trial Procedure, excluding the power of contempt, to enforce ~~his~~ **the**  
 38 **commissioner's** discovery rulings or orders. The commissioner shall  
 39 make a determination within thirty (30) days after the conclusion of  
 40 such hearing and shall immediately upon making that determination  
 41 notify all persons who appeared and became parties to the proceeding  
 42 of that determination. To permit an aggrieved party to perfect an appeal

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1 under IC 27-1-23-12, no offer, request, invitation, agreement, or  
 2 acquisition referred to in subsection (a) may be commenced, entered  
 3 into, or consummated until two (2) business days have elapsed  
 4 following the commissioner's determination approving an acquisition  
 5 of control.

6 **(l) If the commissioner determines that a person acquiring**  
 7 **control of a domestic insurer is required to maintain or restore the**  
 8 **capital of the insurer to the level required by Indiana law, the**  
 9 **person shall, not later than sixty (60) days after the closing date of**  
 10 **the acquisition, file with the commissioner evidence that the capital**  
 11 **has been maintained or restored to that level.**

12 ~~(k)~~ **(m)** Except as otherwise provided in this section, the hearing and  
 13 the determination made therein shall be subject to IC 4-21.5-3.

14 ~~(j)~~ **(n)** The provisions of this section shall not apply to the following:

15 ~~(1)~~ Any merger, consolidation, or plan of exchange to be  
 16 consummated with the approval of the commissioner under the  
 17 laws of this state.

18 ~~(2)~~ **(1)** Any transaction to be undertaken under a statutory  
 19 procedure for the purchase of dissenting shareholder's stock.

20 ~~(3)~~ **(2)** Any transaction to be undertaken under a judicially  
 21 approved reorganization.

22 ~~(4)~~ **(3)** Any offer, request, invitation, agreement, solicitation, or  
 23 acquisition respecting any security of a domestic insurer or of any  
 24 corporation controlling such insurer if any acquiring party,  
 25 immediately prior to such offer, request, invitation, agreement,  
 26 solicitation, or acquisition being commenced, entered into, begun,  
 27 or consummated, beneficially owns more than fifty percent (50%)  
 28 of all the outstanding voting securities of such domestic insurer  
 29 or corporation controlling such insurer.

30 ~~(5)~~ **(4)** Any solicitation of proxies respecting any security of a  
 31 domestic insurer or of any corporation controlling a domestic  
 32 insurer that is undertaken by the management or the board of  
 33 directors of the issuer of the security for purposes other than  
 34 effecting, directly or indirectly, a transaction that would otherwise  
 35 be subject to the requirements of this section.

36 ~~(6)~~ **(5)** Any offer, request, invitation, agreement, solicitation, or  
 37 acquisition respecting a security of a non-insurance corporation  
 38 controlling one (1) or more domestic insurers if all of the  
 39 following conditions are met:

40 (A) the offer, request, invitation, agreement, solicitation, or  
 41 acquisition has been approved by the insurance regulatory  
 42 authority of any state or territory of the United States of

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America other than Indiana, and the insurance regulatory authority of the state or territory has been accredited by the National Association of Insurance Commissioners;

(B) the domestic insurer or insurers meet all of the following conditions, determined in accordance with generally accepted accounting principles:

(i) the investments in and advances to the domestic insurer or insurers by the controlling non-insurance corporation and its other subsidiaries equal less than ten percent (10%) of the total assets of the controlling non-insurance corporation and all of its subsidiaries consolidated as of the end of the most recently completed fiscal year;

(ii) the proportionate share of the controlling non-insurance corporation and its other subsidiaries in the total assets (after intercompany eliminations) of the domestic insurer or insurers equals less than ten percent (10%) of the total assets of the controlling non-insurance corporation and all of its subsidiaries consolidated as of the end of the most recently completed fiscal year; and

(iii) the equity of the controlling non-insurance corporation and its other subsidiaries in the income from continuing operations before income taxes, extraordinary items, and the cumulative effect of a change in accounting principle of the domestic insurer or insurers is less than ten percent (10%) of the income of that corporation and all of its subsidiaries consolidated for the end of the most recently completed fiscal year; and

(C) the commissioner has not determined that the application of this section to the offer, request, invitation, agreement, solicitation, or acquisition is necessary or appropriate for the protection of policyholders of the domestic insurer or insurers.

~~(7)~~ (6) Any acquisition of stock of a former mutual by a parent company, as those terms are defined in IC 27-15-1, that occurs in connection with the conversion of a mutual insurance company to a stock insurance company under IC 27-15, provided that no person acquires control of the parent company.

~~(m)~~ (o) The courts of this state are hereby vested with jurisdiction over every acquiring party not resident, domiciled, or authorized to do business in this state, and over all actions involving each such acquiring party arising out of violations of this section, and each such acquiring party shall be deemed to have performed acts equivalent to and constituting an appointment by the acquiring party of the

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1 commissioner to be **his the acquiring party's** true and lawful attorney  
 2 upon whom may be served all lawful process in any action, suit, or  
 3 proceeding arising out of violations of this section. Copies of all such  
 4 lawful process shall be served on the commissioner and transmitted by  
 5 registered or certified mail by the commissioner to such acquiring party  
 6 at **his the acquiring party's** last known address.

7 SECTION 15. IC 27-1-23-3 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Every insurer  
 9 which is authorized to do business in this state and which is a member  
 10 of an insurance holding company system shall register with the  
 11 commissioner, except a foreign insurer subject to disclosure  
 12 requirements and standards adopted by statute or regulation in the  
 13 jurisdiction of its domicile which are substantially similar to those  
 14 contained in:

- 15 (1) this section;  
 16 (2) section 4(a) and 4(c) of this chapter; and  
 17 (3) section 4(b) of this chapter or a provision such as the  
 18 following:

19 Each registered insurer shall keep current the information  
 20 required to be disclosed in its registration statement by  
 21 reporting all material changes or additions within fifteen  
 22 **(15)** days after the end of the month in which it learns of  
 23 each such change or addition.

24 Any insurer which is subject to registration under this section shall  
 25 register within fifteen (15) days after it becomes subject to registration,  
 26 and annually thereafter by March 15 of each year for the previous  
 27 calendar year, unless the commissioner for good cause shown extends  
 28 the time for registration, and then within such extended time. The  
 29 commissioner may require any authorized insurer which is a member  
 30 of an insurance holding company system but not subject to registration  
 31 under this section to furnish a copy of the registration statement or  
 32 other information filed by such insurer with the insurance regulatory  
 33 authority of its domiciliary jurisdiction.

34 (b) Every insurer subject to registration shall file a registration  
 35 statement on a form prescribed by the commissioner, which shall  
 36 contain current information about **all of the following**:

- 37 (1) The capital structure, general financial condition, ownership  
 38 and management of the insurer and any person controlling the  
 39 insurer.  
 40 (2) The identity of every member of the insurance holding  
 41 company system.  
 42 (3) The following agreements in force, relationships subsisting,

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1 and transactions that are currently outstanding or that have  
 2 occurred during the last calendar year between such insurer and  
 3 its affiliates:

4 (i) loans, other investments, or purchases, sales or exchanges  
 5 of securities of the affiliates by the insurer or of the insurer by  
 6 its affiliates;

7 (ii) purchases, sales, or exchanges of assets;

8 (iii) transactions not in the ordinary course of business;

9 (iv) guarantees or undertakings for the benefit of an affiliate  
 10 which result in an actual contingent exposure of the insurer's  
 11 assets to liability, other than insurance contracts entered into  
 12 in the ordinary course of the insurer's business;

13 (v) all management and service contracts and all cost-sharing  
 14 arrangements, other than cost allocation arrangements based  
 15 upon generally accepted accounting principles; and

16 (vi) reinsurance agreements covering all or substantially all of  
 17 one or more lines of insurance of the ceding insurer;

18 (vii) dividends and other distributions to shareholders; and

19 (viii) consolidated tax allocation agreements.

20 (4) Any pledge of the insurer's stock, including stock of any  
 21 subsidiary or controlling affiliate, for a loan made to any member  
 22 of the insurance holding company system. ~~and~~

23 **(5) If requested by the commissioner, financial statements of**  
 24 **the insurance holding company system, the parent**  
 25 **corporation of the insurer, or all affiliates, including annual**  
 26 **audited financial statements filed with the federal Securities**  
 27 **and Exchange Commission under the Securities Act of 1933**  
 28 **or the federal Securities Exchange Act of 1934, both as**  
 29 **amended.**

30 **(6) Statements reflecting that the insurer's:**

31 **(A) board of directors oversees corporate governance and**  
 32 **internal controls; and**

33 **(B) officers or senior management have approved and**  
 34 **implemented and maintain and monitor corporate**  
 35 **governance and internal control procedures.**

36 ~~(5)~~ (7) Other matters concerning transactions between registered  
 37 insurers and any affiliates as may be included from time to time  
 38 in any registration forms prescribed by the commissioner.

39 **(8) Other information that the commissioner requires under**  
 40 **rules adopted under IC 4-22-2.**

41 (c) Every registration statement must contain a summary outlining  
 42 all items in the current registration statement representing changes

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1 from the prior registration statement.

2 (d) No information need be disclosed on the registration statement  
3 filed pursuant to subsection (b) if such information is not material for  
4 the purposes of this section. Unless the commissioner by rule or order  
5 provides otherwise, sales, purchases, exchanges, loans or extensions of  
6 credit, or investments, involving one per cent (1%) or less of an  
7 insurer's admitted assets as of the 31st day of December next preceding  
8 shall not be deemed material for purposes of this section.

9 (e) Each registered insurer shall keep current the information  
10 required to be disclosed in its registration statement by reporting all  
11 material changes or additions on amendment forms prescribed by the  
12 commissioner within fifteen (15) days after the end of the month in  
13 which it learns of each such change or addition.

14 (f) A person within an insurance holding company system subject  
15 to registration under this chapter shall provide complete and accurate  
16 information to an insurer when that information is reasonably necessary  
17 to enable the insurer to comply with this chapter.

18 (g) The commissioner shall terminate the registration of any insurer  
19 which demonstrates that it no longer is subject to the provisions of this  
20 section.

21 (h) The commissioner may require or allow two (2) or more  
22 affiliated insurers subject to registration under this section to file a  
23 consolidated registration statement or consolidated reports amending  
24 their consolidated registration statement or their individual registration  
25 statements.

26 (i) The commissioner may allow an insurer which is authorized to  
27 do business in this state and which is a member of an insurance holding  
28 company system to register on behalf of any affiliated insurer which is  
29 required to register under subsection (a) and to file all information and  
30 material required to be filed under this section.

31 (j) The provisions of this section shall not apply to any insurer,  
32 information, or transaction if and to the extent that the commissioner  
33 by rule or order shall exempt the same from the provisions of this  
34 section.

35 (k) Any person may file with the commissioner a disclaimer of  
36 affiliation with any authorized insurer or such a disclaimer may be filed  
37 by such insurer or any member of an insurance holding company  
38 system. The disclaimer shall fully disclose all material relationships  
39 and bases for affiliation between such person and such insurer as well  
40 as the basis for disclaiming such affiliation. After a disclaimer has been  
41 filed, the insurer shall be relieved of any duty to register or report under  
42 this section which may arise out of the insurer's relationship with such

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1 person unless and until the commissioner disallows such disclaimer. A  
 2 **disclaimer of affiliation is considered to have been granted unless**  
 3 **the commissioner, less than thirty (30) days after receiving a**  
 4 **disclaimer, notifies the person filing the disclaimer that the**  
 5 **disclaimer is disallowed.** The commissioner shall disallow such  
 6 disclaimer only after furnishing all parties in interest with notice and  
 7 opportunity to be heard.

8 **(l) The person that ultimately controls an insurer that is subject**  
 9 **to registration shall file with the lead state commissioner of the**  
 10 **insurance holding company system (as determined by the**  
 11 **procedures in the Financial Analysis Handbook adopted by the**  
 12 **NAIC) an annual enterprise risk report that identifies, to the best**  
 13 **of the person's knowledge, the material risks within the insurance**  
 14 **holding company system that could pose enterprise risk to the**  
 15 **insurer.**

16 **(m) The commissioner may impose on a person a civil penalty**  
 17 **of one hundred dollars (\$100) per day that the person fails to file,**  
 18 **within the period specified, a:**

19 **(1) registration statement; or**

20 **(2) summary of a registration statement or enterprise risk**  
 21 **filing;**

22 **in violation of this section. The commissioner shall deposit a civil**  
 23 **penalty collected under this subsection in the department of**  
 24 **insurance fund established by IC 27-1-3-28.**

25 SECTION 16. IC 27-1-23-4, AS AMENDED BY P.L.11-2011,  
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2012]: Sec. 4. (a) Material transactions within an insurance  
 28 holding company system to which an insurer subject to registration is  
 29 a party shall be subject to the following standards:

30 (1) The terms shall be fair and reasonable.

31 **(2) Agreements concerning cost sharing services and**  
 32 **management must include provisions required by the**  
 33 **commissioner in rules adopted under IC 4-22-2.**

34 ~~(2)~~ **(3) The charges or fees for services performed shall be**  
 35 **reasonable.**

36 ~~(3)~~ **(4) The expenses incurred for any and payment received shall**  
 37 **be allocated to the insurer in conformity with customary insurance**  
 38 **accounting practices consistently applied.**

39 ~~(4)~~ **(5) The books, accounts, and records of each party as to all**  
 40 **transactions described in this subsection shall be so maintained as**  
 41 **to clearly and accurately disclose the precise nature and details of**  
 42 **the transactions, including accounting information necessary to**

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1 support the reasonableness of the charges or fees to the respective  
2 parties.

3 ~~(5)~~ **(6)** The insurer's surplus as regards policyholders following  
4 any transactions with affiliates or shareholder dividend shall be  
5 reasonable in relation to the insurer's outstanding liabilities and  
6 adequate to its financial needs.

7 (b) The following transactions involving a domestic insurer and any  
8 person in its insurance holding company system **(including**  
9 **amendments or modifications to affiliate agreements previously**  
10 **filed under this chapter)** that are subject to any materiality  
11 **standards described in subdivisions (1) through (5)** may not be  
12 entered into unless the insurer has notified the commissioner in writing  
13 of its intention to enter into such transaction at least thirty (30) days  
14 prior thereto, or such shorter period as the commissioner may permit,  
15 and the commissioner has not disapproved it within that period:

16 (1) Sales, purchases, exchanges, loans or extensions of credit,  
17 guarantees, or investments, provided those transactions are equal  
18 to or exceed:

19 (A) with respect to nonlife insurers, the lesser of three percent  
20 (3%) of the insurer's admitted assets or twenty-five percent  
21 (25%) of surplus as regards policyholders; and

22 (B) with respect to life insurers, three percent (3%) of the  
23 insurer's admitted assets;

24 each as of December 31 next preceding.

25 (2) Loans or extensions of credit to any person who is not an  
26 affiliate, where the insurer makes those loans or extensions of  
27 credit with the agreement or understanding that the proceeds of  
28 such transactions, in whole or in substantial part, are to be used  
29 to make loans or extensions of credit to, to purchase assets of, or  
30 to make investments in, any affiliate of the insurer making such  
31 loans or extensions of credit, provided those transactions are  
32 equal to or exceed:

33 (A) with respect to nonlife insurers, the lesser of three percent  
34 (3%) of the insurer's admitted assets or twenty-five percent  
35 (25%) of surplus as regards policyholders; and

36 (B) with respect to life insurers, three percent (3%) of the  
37 insurer's admitted assets;

38 each as of December 31 next preceding.

39 (3) Reinsurance agreements or modifications thereto, **in which the**  
40 **amount of cash or invested assets transferred by the insurer**  
41 **including:**

42 **(A) reinsurance pooling agreements; and**

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**(B) agreements under which:****(i) a reinsurance premium;****(ii) a change in the insurer's liabilities; or****(iii) the projected reinsurance premium;**

**in any of the immediately succeeding three (3) years** equals or exceeds five percent (5%) of the insurer's surplus as regards policyholders, as of December 31 next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one (1) or more affiliates of the insurer.

(4) Management agreements, service contracts, cost-sharing arrangements, lease agreements, and tax allocation agreements.

(5) Material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the insurer's policyholders.

This subsection does not authorize or permit any transactions that, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law. **Notice concerning amendments or modifications of a transaction must include the reasons for the change and the financial impact on the domestic insurer. Not more than thirty (30) days after the termination of an agreement previously filed under this section, written notice must be given to the commissioner requesting a determination concerning the type of filing required, if any.**

(c) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise.

(d) The commissioner, in reviewing transactions pursuant to subsection (b), shall consider whether the transactions comply with the standards set forth in subsection (a) and whether the transactions may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within thirty (30) days of any investment of the domestic insurer in any one (1) corporation if the total investment in that corporation by the insurance holding company system exceeds ten percent (10%) of the corporation's voting securities.

(f) For purposes of this chapter, in determining whether an insurer's surplus is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others,

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- 1 shall be considered:
- 2 (1) The size of the insurer as measured by its assets, capital and
- 3 surplus, reserves, premium writings, insurance in force and other
- 4 appropriate criteria.
- 5 (2) The extent to which the insurer's business is diversified among
- 6 the several lines of insurance.
- 7 (3) The number and size of risks insured in each line of business.
- 8 (4) The extent of the geographical dispersion of the insurer's
- 9 insured risks.
- 10 (5) The nature and extent of the insurer's reinsurance program.
- 11 (6) The quality, diversification, and liquidity of the insurer's
- 12 investment portfolio.
- 13 (7) The recent past and projected future trend in the size of the
- 14 insurer's surplus as regards policyholders.
- 15 (8) The surplus as regards policyholders maintained by other
- 16 comparable insurers in respect of the factors described in
- 17 subdivisions (1) through (7).
- 18 (9) The adequacy of the insurer's reserves.
- 19 (10) The quality and liquidity of investments in subsidiaries,
- 20 except that the commissioner may discount or treat any such
- 21 investment in subsidiaries as a disallowed asset for purposes of
- 22 determining the adequacy of surplus whenever in ~~his~~ **the**
- 23 **commissioner's** judgment such investment so warrants.
- 24 (11) The quality of the earnings of the insurer and the extent to
- 25 which the reported earnings of the insurer include extraordinary
- 26 items.
- 27 (g) No domestic insurer subject to registration under section 3 of
- 28 this chapter shall pay an extraordinary dividend or make any other
- 29 extraordinary distribution to its security holders until:
- 30 (1) thirty (30) days after the commissioner has received notice of
- 31 the declaration thereof and has not within such period
- 32 disapproved such payment; or
- 33 (2) the commissioner shall have approved such payment within
- 34 such thirty (30) day period.
- 35 (h) For purposes of subsection (g), an extraordinary dividend or
- 36 distribution is any dividend or distribution of cash or other property
- 37 whose fair market value, together with that of other dividends or
- 38 distributions made within the twelve (12) consecutive months ending
- 39 on the date on which the proposed dividend or distribution is scheduled
- 40 to be made, exceeds the greater of:
- 41 (1) ten percent (10%) of such insurer's surplus as regards
- 42 policyholders as of the most recently preceding December 31; or

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1 (2) the net gain from operations of such insurer, if such insurer is  
 2 a life insurer, or the net income, if such insurer is not a life  
 3 insurer, for the twelve (12) month period ending on the most  
 4 recently preceding December 31.

5 (i) Notwithstanding any other provision of law, a domestic insurer  
 6 may declare an extraordinary dividend or distribution which is  
 7 conditional upon the commissioner's approval thereof, but such a  
 8 declaration shall confer no rights upon shareholders until:

9 (1) the commissioner has approved the payment of such dividend  
 10 or distribution; or

11 (2) the commissioner has not disapproved the payment within the  
 12 thirty (30) day period referred to in subsection (g).

13 **(j) The commissioner may impose a civil penalty of five**  
 14 **thousand dollars (\$5,000) on a person who fails to file a transaction**  
 15 **in violation of this section. The commissioner shall deposit a civil**  
 16 **penalty collected under this subsection in the department of**  
 17 **insurance fund established by IC 27-1-3-28.**

18 SECTION 17. IC 27-1-23-5 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) Subject to the  
 20 limitations contained in this section and in addition to the powers  
 21 which the commissioner has under the insurance laws of this state  
 22 relating to the examination of insurers, the commissioner shall have the  
 23 power to **do the following:**

24 **(1) Examine an insurer registered under section 3 of this**  
 25 **chapter, and affiliates of the insurer, to ascertain the financial**  
 26 **condition of the insurer, including the enterprise risk to the**  
 27 **insurer by:**

28 **(A) the person who ultimately controls the insurer;**

29 **(B) one (1) or more other persons within the insurance**  
 30 **holding company system; or**

31 **(C) the insurance holding company system;**

32 **on a consolidated basis.**

33 **(2) Order any insurer registered under section 3 of this chapter to**  
 34 **produce such records, books, or other information papers in the**  
 35 **possession of the insurer or its affiliates as are reasonably**  
 36 **necessary to ascertain the financial condition or legality of**  
 37 **conduct of such insurer. In the event such insurer fails to comply**  
 38 **with such order, the commissioner shall have the power to**  
 39 **examine such insurer or affiliates to obtain such information.**

40 (b) The commissioner shall exercise ~~his~~ **the commissioner's** power  
 41 under subsection (a) only if the examination of the insurer under the  
 42 insurance laws of this state is deemed inadequate for the purposes of

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1 this chapter or if the interests of the policyholders of such insurer may  
2 be adversely affected.

3 **(c) The commissioner may order an insurer registered under**  
4 **section 3 of this chapter to produce information that is not in the**  
5 **possession of the insurer if the insurer is able to obtain the**  
6 **information under contractual relationships, statutory obligations,**  
7 **or another method. If the insurer is unable to obtain the**  
8 **information, the insurer shall provide to the commissioner a**  
9 **detailed explanation of the reason for the insurer's inability and**  
10 **the identity of the person that holds the information. If the**  
11 **commissioner determines that the detailed explanation is without**  
12 **merit, the commissioner may:**

13 **(1) after notice and hearing, impose on the insurer a civil**  
14 **penalty of not more than one thousand dollars (\$1,000) for**  
15 **each day that the insurer does not produce the information;**  
16 **or**

17 **(2) suspend or revoke the insurer's certificate of authority.**

18 **The commissioner shall deposit a civil penalty collected under this**  
19 **subsection in the department of insurance fund established by**  
20 **IC 27-1-3-28.**

21 ~~(c)~~ **(d)** The commissioner may retain at the registered insurer's  
22 expense such attorneys, actuaries, accountants, and other experts not  
23 otherwise a part of the commissioner's staff as shall be reasonably  
24 necessary to assist in the conduct of the examination under subsection  
25 (a). Any persons so retained shall be under the direction and control of  
26 the commissioner and shall act in a purely advisory capacity.

27 ~~(d)~~ **(e)** Each registered insurer producing for examination records,  
28 books, and papers pursuant to subsection (a) shall be liable for and  
29 shall pay the expense of such examination.

30 **(f) If an insurer fails to comply with an order under this section,**  
31 **the commissioner may:**

32 **(1) examine affiliates of the insurer to obtain information;**

33 **(2) issue subpoenas;**

34 **(3) administer oaths; and**

35 **(4) examine under oath any person;**

36 **to determine compliance with this section. The commissioner may**  
37 **petition a court with jurisdiction for an order to compel a person**  
38 **that refuses to comply with a subpoena to testify or produce**  
39 **evidence. A witness who testifies under this section is entitled to the**  
40 **same compensation as the compensation to which a witness is**  
41 **entitled under IC 34, which must be paid by the insurer that is**  
42 **under examination.**



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1 SECTION 18. IC 27-1-23-5.1 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2012]: **Sec. 5.1. (a) The commissioner may**  
 4 **participate in a supervisory college for a domestic insurer that is**  
 5 **part of an insurance holding company system that has**  
 6 **international operations, and any affiliate of the insurer, to do the**  
 7 **following:**

8 (1) **Determine whether the insurer or affiliate is in compliance**  
 9 **with this chapter.**

10 (2) **Assess the business strategy, financial position, legal and**  
 11 **regulatory position, risk exposure, risk management, and**  
 12 **governance processes that apply to the insurer or affiliate.**

13 (3) **Examine the insurer or affiliate.**

14 (b) **The powers of the commissioner under subsection (a) include**  
 15 **the following:**

16 (1) **Initiation of the establishment of the supervisory college.**

17 (2) **Clarification of the membership and participation of other**  
 18 **supervisors in the supervisory college.**

19 (3) **Clarification of the functions of the supervisory college**  
 20 **and the role of other regulators, including the establishment**  
 21 **of a group supervisor.**

22 (4) **Coordination of the activities of the supervisory college,**  
 23 **including planning meetings and information sharing**  
 24 **procedures.**

25 (5) **Establishment of a crisis management plan.**

26 (c) **An insurer that is described in subsection (a) shall pay the**  
 27 **commissioner's reasonable expenses of participation in a**  
 28 **supervisory college, including travel expenses. The commissioner**  
 29 **may establish a regular assessment to the insurer for payment of**  
 30 **the expenses.**

31 (d) **The commissioner may enter into agreements in accordance**  
 32 **with the requirements that apply to an agreement entered into with**  
 33 **the NAIC under section 6(c)(4) of this chapter to specify the**  
 34 **activities of the commissioner and other regulators participating**  
 35 **in the supervisory college.**

36 (e) **This section does not delegate to a supervisory college a**  
 37 **commissioner's authority to regulate or supervise the insurer**  
 38 **described in subsection (a) or the insurer's affiliates within the**  
 39 **commissioner's jurisdiction.**

40 SECTION 19. IC 27-1-23-6 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 6. All information, (a)**  
 42 **Documents, and copies thereof materials, and other information in**

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1 **the possession or control of the department that are** obtained by or  
 2 disclosed to the commissioner or any other person in the course of an  
 3 examination or investigation made pursuant to section 5 of this chapter  
 4 and all information reported pursuant to ~~section 2.5 and section~~  
 5 **sections 2(c)(17), 2(c)(18), 3, and 4** of this chapter ~~shall be given~~ are  
 6 confidential ~~treatment~~ and shall not be subject to subpoena, and shall  
 7 ~~not be made public by the commissioner, the National Association of~~  
 8 ~~Insurance Commissioners, or any other person, except to insurance~~  
 9 ~~departments of other states; discoverable, or admissible in evidence~~  
 10 **in a private civil action. However, the commissioner may use the**  
 11 **documents, materials, and other information in the performance**  
 12 **of the commissioner's duties as described in subsection (c). The**  
 13 **commissioner shall not make the materials, documents, or other**  
 14 **information public** without the prior written consent of the insurer to  
 15 which it pertains unless the commissioner, after giving the insurer and  
 16 its affiliates who would be affected thereby notice and opportunity to  
 17 be heard, determines that the interests of policyholders or the public  
 18 will be served by the publication thereof, in which event ~~he~~ **the**  
 19 **commissioner** may publish all or any part thereof in such manner as ~~he~~  
 20 ~~may deem the commissioner considers~~ appropriate.

21 **(b) The commissioner and any other person acting under the**  
 22 **authority of the commissioner:**

- 23 (1) who receives documents, materials, or other information;  
 24 or  
 25 (2) with whom the documents, materials, or other information  
 26 are shared;

27 under this chapter is not permitted or required to testify in a  
 28 private civil action concerning any documents, materials, or other  
 29 information that is confidential under subsection (a).

30 **(c) The commissioner may do the following:**

- 31 (1) Except as provided in subdivision (2), share documents,  
 32 materials, and other information described in this section with  
 33 the following if the recipient agrees in writing, and provides  
 34 written verification that the recipient has the legal authority  
 35 to maintain the confidential status of the documents,  
 36 materials, and other information:

- 37 (A) Other state, federal, and international regulatory  
 38 agencies.  
 39 (B) The NAIC and affiliates and subsidiaries of the NAIC.  
 40 (C) State, federal, and international law enforcement  
 41 authorities.  
 42 (D) Members of a supervisory college described in section



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- 1                   **5.1 of this chapter.**  
 2                   **(2) With respect to confidential documents, materials, and**  
 3                   **other information reported under section 3(l) of this chapter,**  
 4                   **share the documents, materials, and other information with**  
 5                   **commissioners who:**  
 6                   **(A) regulate insurance in states with a law that is**  
 7                   **substantially similar to subsection (a); and**  
 8                   **(B) have agreed in writing not to disclose the documents,**  
 9                   **materials, or other information.**  
 10                  **(3) Receive documents, materials, or other information from:**  
 11                  **(A) the NAIC and affiliates and subsidiaries of the NAIC;**  
 12                  **(B) regulatory and law enforcement officials of domestic or**  
 13                  **foreign jurisdictions;**  
 14                  **if the commissioner maintains the privileged and confidential**  
 15                  **status of the documents, materials, and other information that**  
 16                  **are received with notice or the understanding that the**  
 17                  **documents, materials, and other information are confidential**  
 18                  **or privileged under the laws of the jurisdiction that is the**  
 19                  **source of the documents, materials, and other information.**  
 20                  **(4) Enter into written agreements with the NAIC governing**  
 21                  **sharing and use of information provided under this chapter,**  
 22                  **including the following:**  
 23                  **(A) Procedures and protocols concerning the**  
 24                  **confidentiality and security of information shared:**  
 25                       **(i) with the NAIC and affiliates and subsidiaries of the**  
 26                       **NAIC under this chapter; and**  
 27                       **(ii) by the NAIC with other state, federal, and**  
 28                       **international regulators.**  
 29                  **(B) A statement that, with respect to information shared**  
 30                  **with and used by the NAIC and affiliates and subsidiaries**  
 31                  **of the NAIC under this chapter:**  
 32                       **(i) the commissioner maintains ownership of the**  
 33                       **information; and**  
 34                       **(ii) the use of the information is subject to the direction**  
 35                       **of the commissioner.**  
 36                  **(C) A requirement that, if confidential information of an**  
 37                  **insurer that is in the possession of the NAIC under this**  
 38                  **chapter is subject to a request or subpoena to the NAIC for**  
 39                  **production or disclosure, the NAIC will provide prompt**  
 40                  **notice to the insurer.**  
 41                  **(D) A requirement that the NAIC and affiliates and**  
 42                  **subsidiaries of the NAIC will allow intervention by an**

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1 insurer in a judicial or administrative action under which  
 2 the NAIC or affiliates or subsidiaries of the NAIC may be  
 3 required to disclose confidential information concerning  
 4 the insurer that has been shared with the NAIC or  
 5 affiliates or subsidiaries of the NAIC under this chapter.

6 (d) The sharing of information by the commissioner under this  
 7 chapter is not considered to be a delegation of regulatory  
 8 authority. The commissioner is solely responsible for the  
 9 administration, implementation, and enforcement of this chapter.

10 (e) Disclosure to or sharing by the commissioner of documents,  
 11 materials, or other information under this chapter is not a waiver  
 12 of any applicable privilege or claim of confidentiality in the  
 13 documents, materials, or other information.

14 (f) Documents, materials, and other information in the  
 15 possession or control of the NAIC under this section are:

- 16 (1) confidential;
- 17 (2) not subject to IC 5-14-3;
- 18 (3) not subject to subpoena; and
- 19 (4) not discoverable or admissible in evidence in a private civil  
 20 action.

21 SECTION 20. IC 27-1-36-29, AS AMENDED BY P.L.11-2011,  
 22 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2012]: Sec. 29. As used in this chapter, "company action level  
 24 event" means any of the following events:

- 25 (1) The filing of an RBC report by an insurer that indicates that:
  - 26 (A) the insurer's total adjusted capital is:
    - 27 (i) greater than or equal to its regulatory action level RBC;
    - 28 but
    - 29 (ii) less than its company action level RBC;
  - 30 (B) if a life and health insurer, the insurer:
    - 31 (i) has total adjusted capital that is greater than or equal to
    - 32 its company action level RBC but less than the product of
    - 33 two and five-tenths (2.5) multiplied by its authorized control
    - 34 level RBC; and
    - 35 (ii) has a negative trend; or
  - 36 (C) if a property and casualty insurer, a **health maintenance**  
 37 **organization, or a limited service health maintenance**  
 38 **organization**, the insurer:
    - 39 (i) has total adjusted capital that is greater than or equal to
    - 40 its company action level RBC but less than the product of
    - 41 three (3) multiplied by its authorized control level RBC; and
    - 42 (ii) has a negative trend.

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- 1 (2) The notification by the commissioner to the insurer of an
- 2 adjusted RBC report that indicates that:
- 3 (A) the insurer's total adjusted capital is:
- 4 (i) greater than or equal to its regulatory action level RBC;
- 5 but
- 6 (ii) less than its company action level RBC;
- 7 (B) if a life and health insurer, the insurer:
- 8 (i) has total adjusted capital that is greater than or equal to
- 9 its company action level RBC but less than the product of
- 10 two and five-tenths (2.5) multiplied by its authorized control
- 11 level RBC; and
- 12 (ii) has a negative trend; or
- 13 (C) if a property and casualty insurer, **a health maintenance**
- 14 **organization, or a limited service health maintenance**
- 15 **organization**, the insurer:
- 16 (i) has total adjusted capital that is greater than or equal to
- 17 its company action level RBC but less than the product of
- 18 three (3) multiplied by its authorized control level RBC; and
- 19 (ii) has a negative trend;
- 20 unless the insurer challenges the adjusted RBC report under
- 21 section 44 of this chapter.
- 22 (3) The notification by the commissioner to the insurer that the
- 23 commissioner has, after a hearing under section 44 of this chapter,
- 24 rejected the insurer's challenge to an adjusted RBC report
- 25 described in subdivision (2).
- 26 SECTION 21. IC 27-2-18-9 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. One (1) complete
- 28 copy of the report, including any exhibits or other attachments filed
- 29 with the report, shall be filed with the
- 30 ~~(+) department. and~~
- 31 ~~(2) National Association of Insurance Commissioners.~~
- 32 SECTION 22. IC 27-5.1-2-8, AS AMENDED BY P.L.162-2006,
- 33 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2012]: Sec. 8. The following provisions apply to standard
- 35 companies and extended companies:
- 36 (1) IC 27-1-3.
- 37 (2) IC 27-1-3.1.
- 38 (3) IC 27-1-5-3.
- 39 (4) IC 27-1-7-14 through IC 27-1-7-16.
- 40 (5) IC 27-1-7-21 through IC 27-1-7-23.
- 41 (6) IC 27-1-9.
- 42 (7) IC 27-1-10.

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- 1 (8) IC 27-1-13-3 through IC 27-1-13-4.  
 2 (9) IC 27-1-13-6 through IC 27-1-13-9.  
 3 (10) IC 27-1-15.6.  
 4 (11) IC 27-1-18-2.  
 5 (12) IC 27-1-20-1.  
 6 (13) IC 27-1-20-4.  
 7 (14) IC 27-1-20-6.  
 8 (15) IC 27-1-20-9 through IC 27-1-20-11.  
 9 (16) IC 27-1-20-14.  
 10 (17) IC 27-1-20-19 through IC 27-1-20-21.3.  
 11 (18) IC 27-1-20-23.  
 12 (19) IC 27-1-20-30.  
 13 **(20) IC 27-1-20-35.**  
 14 ~~(20)~~ **(21)** IC 27-1-22.  
 15 ~~(21)~~ **(22)** IC 27-4-1.  
 16 ~~(22)~~ **(23)** Except as provided in IC 27-6-1.1-6, IC 27-6-1.1-2.  
 17 ~~(23)~~ **(24)** IC 27-6-2.  
 18 ~~(24)~~ **(25)** IC 27-7-2.  
 19 ~~(25)~~ **(26)** IC 27-9.  
 20 ~~(26)~~ **(27)** IC 34-30-17.

21 SECTION 23. IC 27-7-3-13.5 IS ADDED TO THE INDIANA  
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2012]: **Sec. 13.5. A company doing business**  
 24 **in Indiana shall file with the commissioner every:**

- 25 **(1) policy form;**  
 26 **(2) rider;**  
 27 **(3) endorsement; and**  
 28 **(4) rate;**

29 **that the company proposes to use in Indiana.**

30 SECTION 24. IC 27-7-3-15.6 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2012]: **Sec. 15.6. (a) Except as provided in**  
 33 **subsection (b), a company doing business in Indiana shall, not more**  
 34 **than two (2) business days after the company receives a request to**  
 35 **conduct the closing of a transaction described in section 15.5(a) of**  
 36 **this chapter, disclose to each person that is a party to the**  
 37 **transaction that the closing agent is not an agent of the person for**  
 38 **purposes of escrow.**

39 **(b) Subsection (a) does not apply to a person that:**

- 40 **(1) is a party to a transaction described in section 15.5(a) of**  
 41 **this chapter; and**  
 42 **(2) has received from the company conducting the closing of**

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1           **the transaction a closing protection letter.**

2           SECTION 25. IC 27-8-29-15, AS AMENDED BY P.L.3-2008,  
3           SECTION 218, IS AMENDED TO READ AS FOLLOWS  
4           [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) An independent review  
5           organization shall:

6           (1) for an expedited external grievance filed under section  
7           13(a)(2)(A) of this chapter, within ~~three (3) business days~~

8           **seventy-two (72) hours** after the external grievance is filed; or

9           (2) for a standard ~~appeal~~ **external grievance** filed under section  
10           13(a)(2)(B) of this chapter, within fifteen (15) business days after  
11           the ~~appeal~~ **external grievance** is filed;

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

18           (b) When making the determination under this section, the  
19           independent review organization shall apply:

20           (1) standards of decision making that are based on objective  
21           clinical evidence; and

22           (2) the terms of the covered individual's accident and sickness  
23           insurance policy.

24           (c) In an external grievance described in ~~section 12(4)~~ **section**  
25           **12(1)(D)** of this chapter, the insurer bears the burden of proving that  
26           the insurer properly denied coverage for a condition, complication,  
27           service, or treatment because the condition, complication, service, or  
28           treatment is directly related to a condition for which coverage has been  
29           waived under IC 27-8-5-2.5(e) (expired July 1, 2007, and removed) or  
30           IC 27-8-5-19.2 (expired July 1, 2007, and repealed).

31           (d) The independent review organization shall notify the insurer and  
32           the covered individual of the determination made under this section:

33           (1) for an expedited external grievance filed under section  
34           13(a)(2)(A) of this chapter, within twenty-four (24) hours after  
35           making the determination; and

36           (2) for a standard external grievance filed under section  
37           13(a)(2)(B) of this chapter, within seventy-two (72) hours after  
38           making the determination.

39           SECTION 26. IC 27-10-3-2, AS AMENDED BY P.L.102-2005,  
40           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41           JULY 1, 2012]: Sec. 2. (a) All licenses issued expire two (2) years after  
42           the end of the month of issue. ~~based on the schedule set forth in~~

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1 subsection (b) unless the licensee is on probation or the licensee's  
 2 license was revoked or suspended before that date by the commissioner  
 3 or upon notice served upon the commissioner that the insurer or  
 4 employer of any recovery agent has canceled the licensee's authority to  
 5 act for the insurer or employer.

6 (b) A license must be renewed under this article according to the  
 7 following schedule:

8 (1) A licensee whose last name commences with the letters A  
 9 through H shall renew a license before the last day of August  
 10 every other calendar year beginning August 1993.

11 (2) A licensee whose last name commences with the letters I  
 12 through R shall renew a license before the last day of September  
 13 every other calendar year beginning September 1993.

14 (3) A licensee whose last name commences with the letters S  
 15 through Z shall renew a license before the last day of October  
 16 every other calendar year beginning October 1993.

17 (c) A licensee who is issued a new license with not more than one  
 18 (1) year remaining shall pay fifty percent (50%) of the fee set forth in  
 19 section 4 of this chapter.

20 (d) (b) A license that has expired may be reinstated if:

21 (1) the licensee:

22 (A) applies for reinstatement not more than ninety (90) days  
 23 after the expiration date;

24 (B) is not on probation;

25 (C) has not previously been denied a license;

26 (D) pays:

27 (i) a ~~pro rata part~~ of the license fee required under section 7  
 28 of this chapter; based on the renewal schedule set forth in  
 29 subsection (b); plus

30 (ii) to the commissioner a license reinstatement fee of one  
 31 hundred dollars (\$100); and

32 (E) meets all other requirements for licensure; and

33 (2) the license was not revoked or suspended at the time that the  
 34 license expired.

35 SECTION 27. IC 27-13-10.1-2, AS AMENDED BY P.L.160-2011,  
 36 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2012]: Sec. 2. (a) An external grievance procedure established  
 38 under section 1 of this chapter must:

39 (1) allow an enrollee or the enrollee's representative to file a  
 40 written request with the health maintenance organization for an  
 41 appeal of the health maintenance organization's grievance  
 42 resolution under IC 27-13-10-8 not later than one hundred twenty

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- 1 (120) days after the enrollee is notified of the resolution under
- 2 IC 27-13-10-8; and
- 3 (2) provide for:
- 4 (A) an expedited appeal for a grievance related to an illness,
- 5 a disease, a condition, an injury, or a disability that would
- 6 seriously jeopardize the enrollee's:
- 7 (i) life or health; or
- 8 (ii) ability to reach and maintain maximum function; or
- 9 (B) a standard appeal for a grievance not described in clause
- 10 (A).

11 An enrollee may file not more than one (1) appeal of a health  
 12 maintenance organization's grievance resolution under this chapter.

13 (b) Subject to the requirements of subsection (d), when a request is  
 14 filed under subsection (a), the health maintenance organization shall:

- 15 (1) select a different independent review organization for each
- 16 appeal filed under this chapter from the list of independent review
- 17 organizations that are certified by the department under section 8
- 18 of this chapter; and
- 19 (2) rotate the choice of an independent review organization
- 20 among all certified independent review organizations before
- 21 repeating a selection.

22 (c) The independent review organizations shall assign a medical  
 23 review professional who is board certified in the applicable specialty  
 24 for resolution of an appeal.

25 (d) The independent review organization and the medical review  
 26 professional conducting the external review under this chapter may not  
 27 have a material professional, familial, financial, or other affiliation with  
 28 any of the following:

- 29 (1) The health maintenance organization.
- 30 (2) Any officer, director, or management employee of the health
- 31 maintenance organization.
- 32 (3) The physician or the physician's medical group that is
- 33 proposing the service.
- 34 (4) The facility at which the service would be provided.
- 35 (5) The development or manufacture of the principal drug, device,
- 36 procedure, or other therapy that is proposed by the treating
- 37 physician.

38 However, the medical review professional may have an affiliation  
 39 under which the medical review professional provides health care  
 40 services to enrollees of the health maintenance organization and may  
 41 have an affiliation that is limited to staff privileges at the health facility  
 42 if the affiliation is disclosed to the enrollee and the health maintenance

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1 organization before commencing the review and neither the enrollee  
2 nor the health maintenance organization objects.

3 (e) The enrollee ~~may be required to pay~~ **shall not more than**  
4 ~~twenty-five dollars (\$25)~~ **pay any** of the costs associated with the  
5 services of an independent review organization under this chapter. All  
6 ~~additional~~ costs must be paid by the health maintenance organization.

7 SECTION 28. IC 32-30-2-106.3 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE JULY 1, 2012]: **Sec. 106.3. IC 27-1-22-4 (Concerning**  
10 **the department of insurance, and the department's commissioner**  
11 **and employees in the exercise of powers and performance of duties**  
12 **related to confidentiality of filings and supporting information).**

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