First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1341

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 12-15-39.6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "asset disregard" means one (1) of the following:

(1) A one dollar ($1) increase in the amount of assets an individual who:

(A) purchases a qualified long term care policy; and

(B) meets the requirements under section 8 of this chapter;

may retain under IC 12-15-3 for each one dollar ($1) of benefit paid out under the individual's long term care policy for long term care services.

(2) The total assets an individual owns and may retain under IC 12-15-3 and still qualify for benefits under IC 12-15 at the time the individual applies for benefits if the individual:

(A) is the beneficiary of a qualified long term care policy that provides maximum benefits at time of purchase of at least one hundred forty thousand dollars ($140,000) and includes a provision under which the daily benefit increases by at least five percent (5%) per year, compounded at least annually;

(B) meets the requirements under section 8 of this chapter; and

(C) has exhausted the benefits of the qualified long term care policy.

(b) When the office determines whether an individual is eligible for

Medicaid under IC 12-15-3, the office shall:

(1) make an asset disregard adjustment for any individual who purchases a qualified long term care policy; **and**

(2) if the assets owned by the individual's spouse are included in the individual's eligibility determination, include the assets of the individual's spouse in the asset disregard adjustment.

The asset disregard must be available after benefits of the long term care policy have been applied to the cost of long term care as required under this chapter.

(c) The qualified long term care policy an individual must purchase to be eligible for the asset disregard under subsection (a)(2) must have maximum benefits at time of purchase equal to at least one hundred forty thousand dollars ($140,000) plus five percent (5%) interest compounded annually beginning January 1, 1999.

SECTION 2. IC 27-1-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. All taxes provided by this article and all fees accruing to the department as provided in this article shall be paid into the state treasury monthly. ~~All expenses incurred and all compensation paid by the department in the administration of this article shall be paid out of the general fund, in the same manner as other state expense and compensation are paid.~~

SECTION 3. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 0.5. (a) As used in this chapter, "audit committee" means a body established by the board of directors of a domestic insurer or group of insurers for the purpose of overseeing:**

(1) the accounting and financial reporting processes;

(2) external audits of financial statements; and

(3) the internal audit function;

of a domestic insurer or group of insurers.

(b) For purposes of this chapter, the audit committee of an insurance holding company system is considered to be the audit committee of a group of insurers that are members of the insurance holding company system, at the election of the insurance holding company system.

(c) For purposes of this chapter, if a board of directors does not establish an audit committee, the entire board of directors constitutes the audit committee.

SECTION 4. IC 27-1-3.5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 2.6. As used in this chapter, "group of insurers" means two (2) or more insurers that are part of an insurance holding company system.**

SECTION 5. IC 27-1-3.5-3.1 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.1. As used in this chapter, "insurance holding company system" has the meaning set forth in IC 27-1-23-1.**

SECTION 6. IC 27-1-3.5-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.2. As used in this chapter, "internal audit function" means a process that provides independent, objective, and reasonable assurance that is designed to:**

(1) add value to and improve a domestic insurer's or group of insurers' operations; and

(2) accomplish the domestic insurer's or group of insurers' objectives;

through introduction of a systematic, disciplined approach to the evaluation and improvement of the effectiveness of risk management, control, and governance processes.

SECTION 7. IC 27-1-3.5-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.3. As used in this chapter, "internal control over financial reporting" means a process effected by a domestic insurer's board of directors, management, or other personnel that is designed to provide reasonable assurance regarding the reliability of financial statements of the domestic insurer, including the following:**

(1) The items specified in section 7(c)(2) through section 7(c)(6) and section 7(d) of this chapter.

(2) Policies and procedures that do the following:

(A) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect transactions and deposit of assets.

(B) Provide reasonable assurance that:

(i) transactions are recorded as necessary to permit preparation of the financial statements; and

(ii) receipts and expenditures are made only in accordance with the authorization of management and the board of directors.

(C) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of assets that may have a material effect on the financial statements.

SECTION 8. IC 27-1-3.5-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.4. As used in this chapter, "Section 404" refers to Section 404 of the federal Sarbanes-Oxley**

Act of 2002 (Public Law 107-204).

SECTION 9. IC 27-1-3.5-3.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 3.5. As used in this chapter, "significant deficiency" means a reportable condition described in the Professional Standards of the American Institute of Certified Public Accountants.~~

SECTION 10. IC 27-1-3.5-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.6. As used in this chapter, "Section 404 report" means a domestic insurer's or group of insurers' management's report on internal control over financial reporting (as defined by the federal Securities and Exchange Commission) and the related attestation report of an independent auditor.**

SECTION 11. IC 27-1-3.5-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3.7. As used in this chapter, "SOX compliant entity" means an entity that is required to be compliant, or is voluntarily compliant, with all of the following provisions of the federal Sarbanes-Oxley Act of 2002 (Public Law 107-204):**

(1) The preapproval requirements of Section 201.

(2) The audit committee independence requirements of Section 301.

(3) The internal control over financial reporting requirements of Section 404.

SECTION 12. IC 27-1-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Except as provided in subsections (b) and (c), this chapter applies to all domestic insurers.

(b) A domestic insurer that has:

(1) direct written premiums of less than one million dollars ($1,000,000) in any calendar year; ~~and~~

(2) less than one thousand (1,000) policyholders or certificate holders of directly written policies nationwide at the end of a calendar year; **and**

(3) assumed premiums under contracts or treaties of reinsurance of less than one million dollars ($1,000,000);

is exempt from this chapter with respect to that year. However, the commissioner may require compliance with this chapter upon a finding that compliance with this chapter is necessary for the commissioner to carry out a statutory responsibility.

(c) A foreign or an alien insurer that files an audited financial report in another state or country pursuant to that state's or country's requirement for audited financial reports is exempt, with respect to the year of that audited financial report, from the requirement to file an

audited financial report with the commissioner under this chapter, if:

(1) the commissioner has found the other state's or country's requirement for audited financial reports to be substantially similar to the requirements of this chapter;

(2) copies of the audited financial report, ~~the report on significant deficiencies in internal controls,~~ **a communication of internal control related matters noted in an audit,** and the accountant's letter of qualifications filed with the other state or country are filed with the commissioner in accordance with the filing ~~dates~~ **requirements** set forth in sections **6,** 8, **and** 12 ~~and 12.5~~ of this chapter; and

(3) a copy of a notification of an adverse financial condition report that is filed with the other state is filed with the commissioner within the time specified in section 11 of this chapter.

This subsection does not prevent the commissioner from ordering, conducting, or performing examinations of foreign or alien insurers under the rules, regulations, and practices of the department.

SECTION 13. IC 27-1-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The annual audited financial report filed by a domestic insurer under this chapter shall report:

(1) the financial position of the domestic insurer as of the end of the most recently ended calendar year; and

(2) the results of the domestic insurer's operations, cash flow, and changes in capital and surplus for that year;

in conformity with statutory accounting practices prescribed, or otherwise permitted, by the department of insurance.

(b) The financial statements included in the annual audited financial report filed by a domestic insurer under this chapter shall be examined by an independent auditor. The independent auditor shall conduct its examination of the domestic insurer's financial statements in accordance with generally accepted auditing standards, and shall consider such other procedures illustrated in the Financial Condition Examiner's Handbook published by the National Association of Insurance Commissioners as the independent auditor considers necessary.

(c) An annual audited financial report filed by a domestic insurer under this chapter must include the following:

(1) The report of the insurer's independent auditor.

(2) A balance sheet reporting admitted assets, liabilities, capital, and surplus.

(3) A statement of operations.

(4) A statement of cash flow.

(5) A statement of changes in capital and surplus.

(6) Notes to financial statements. The notes must be those required by the National Association of Insurance Commissioners' annual statement instructions and any other notes required by statutory accounting practices, which must include ~~the following:~~

~~(A)~~ a reconciliation of differences, if any, between the financial statements included in the audited financial report and the annual statement filed by the insurer under IC 27-1-20-21, including a written description of the nature of these differences.

~~(B) A summary of the ownership and relationships of the domestic insurer and all affiliated companies.~~

(d) The financial statements included in a domestic insurer's audited financial report shall be prepared in the same form, and using language and groupings substantially the same, as the relevant sections of the annual statement of the insurer filed with the commissioner under IC 27-1-20-21.

(e) The financial statements included in a domestic insurer's audited financial report must be comparative, presenting the amounts as of December 31 of the year of the report and comparative amounts as of the immediately preceding December 31. However, in the first year in which an insurer is required to file an audited financial report under this chapter, the comparative data may be omitted.

SECTION 14. IC 27-1-3.5-9, AS AMENDED BY P.L.11-2011, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) For the purposes of this chapter, the commissioner may not recognize as an independent auditor any individual or firm that is not:

(1) a certified public accountant (if an individual) or made up of certified public accountants (if a firm); or

(2) in good standing with:

(A) the American Institute of Certified Public Accountants; and

(B) all of the authorities that license certified public accountants and certified public accounting firms in the states in which the individual or firm is licensed to practice.

(b) A partner or other individual responsible for rendering a report may not act in that capacity for more than five (5) consecutive years. An individual who has been responsible for rendering a report for five (5) years is disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for five (5) years. A domestic insurer may apply to the commissioner and request to be exempted from the five (5) year rotation requirement on the basis of unusual circumstances. The commissioner may consider the

following factors in determining if relief should be granted:

(1) The number of partners, expertise of the partners, or number of insurance clients in the currently registered firm.

(2) The premium volume of the domestic insurer.

(3) The number of jurisdictions in which the domestic insurer transacts business.

(c) The commissioner may not recognize as an independent auditor or accept an annual audited financial report prepared in whole or part by a person who:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act under federal law (18 U.S.C. 1961 through 1968) or state law (IC 35-45-6) or any dishonest conduct or practices under federal or state law;

(2) has been found to have violated the insurance law of this state with respect to any previous reports submitted under this chapter; or

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under this chapter.

(d) The commissioner shall not recognize as a qualified independent certified public accountant, or accept an annual audited financial report prepared in whole or in part by an accountant that provides to a domestic insurer, contemporaneously with the audit, any of the following nonaudit services:

(1) Bookkeeping or other services related to the accounting records or financial statements of the domestic insurer.

(2) Financial information systems design or implementation.

(3) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports.

(4) Actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. This does not include the following:

(A) The accountant assisting the domestic insurer to understand the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement if it is reasonable to conclude that the assistance provided is not subject to audit procedures during an audit of the domestic insurer's financial statements.

(B) An accountant's actuary issuing an actuarial opinion or certification concerning the domestic insurer's reserves if the following apply:

(i) The accountant and the accountant's actuary have not performed any management functions or made any management decisions.

(ii) The domestic insurer has competent personnel, or engages a third party actuary, to estimate the reserves for which management takes responsibility.

(iii) The accountant's actuary tests the reasonableness of the reserves after the domestic insurer's management has determined the amount of the reserves.

(5) Internal audit outsourcing services.

(6) Management or human resources functions.

(7) Broker, dealer, investment adviser, or investment banking services.

(8) Legal services or expert services unrelated to the audit.

(9) Any other services that the commissioner determines to be impermissible in rules adopted under IC 4-22-2.

(e) In making a determination under subsection (d), the commissioner shall generally consider whether the accountant's independence has been impaired by any of the following, in which case the commissioner shall not recognize the accountant or accept the annual audited financial report from the accountant:

(1) Functioning in the role of management for the domestic insurer.

(2) Auditing the accountant's own work.

(3) Serving as an advocate for the domestic insurer.

~~(d)~~ **(f)** The commissioner may conduct a hearing under IC 4-21.5 to determine whether an independent auditor engaged by a domestic insurer is sufficiently independent of that domestic insurer to be capable of exercising independent judgment and expressing an objective opinion on the financial statements in the annual financial report filed by the insurer under this chapter. If the commissioner determines that the auditor is not sufficiently independent of the insurer, the commissioner shall require the insurer to replace the auditor with another that is sufficiently independent of the insurer.

SECTION 15. IC 27-1-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) A domestic insurer required by this chapter to file an **annual** audited financial report with the commissioner shall also furnish the commissioner with

~~(1)~~ a written ~~report (or a letter on reportable conditions)~~ **communication** describing ~~the significant deficiencies~~ **any unremediated material weaknesses (as defined by the NAIC Statement on Auditing Standard 60, Communication of Internal Control Related Matters Noted in an Audit)** in the **domestic** insurer's internal control ~~structure, if internal control deficiencies were~~ **over financial reporting as of the December 31 immediately preceding the audit (coinciding with the domestic insurer's annual audited financial report),** noted ~~by the domestic insurer's independent auditor in connection with its~~

during the audit. ~~and~~

~~(2) a written discussion of any remedial action taken or proposed in connection with the written report.~~ **If no unremediated material weaknesses are noted during the audit, the communication must reflect that fact.**

(b) The written ~~report~~ **communication** ~~and written discussion~~ required under subsection (a) must be ~~filed~~ **prepared** not later than sixty (60) days after the filing of the annual audited financial ~~statements.~~ **report.**

(c) If a description of remedial actions taken or proposed to correct unremediated material weaknesses described under subsection (a) is not provided by the independent auditor, the domestic insurer shall provide a description of the remedial actions.

SECTION 16. IC 27-1-3.5-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 12.1. (a) As used in this section, "independent", with respect to a member of an audit committee, means that the member, other than in the member's capacity as a member of the audit committee, the board of directors, or another board committee:**

(1) does not accept a consulting fee, an advisory fee, or another compensatory fee from the domestic insurer or group of insurers; and

(2) is not an affiliate of the domestic insurer or group of insurers.

(b) This section does not apply to any of the following:

(1) A foreign insurer or an alien insurer that possesses a certificate of authority.

(2) A domestic insurer that is a SOX compliant entity.

(3) A wholly-owned subsidiary of a SOX compliant entity.

(c) The audit committee of a domestic insurer or group of insurers is directly responsible for the:

(1) appointment;

(2) compensation; and

(3) oversight of the work;

of the domestic insurer's or group of insurers' accountant, including resolution of disagreements between management and the accountant concerning financial reporting, for the purpose of preparing or issuing an annual audited financial report or related work under this chapter. Each accountant reports directly to the audit committee.

(d) The audit committee of a domestic insurer or group of insurers is responsible for:

(1) oversight of the domestic insurer's or group of insurers'

internal audit function; and

(2) granting the person that performs the internal audit function suitable authority and resources to fulfill the person's responsibilities if required by section 12.3 of this chapter.

(e) The following apply to the membership of an audit committee:

(1) Each member shall be:

(A) a member of the board of directors of the domestic insurer; or

(B) if the audit committee of the entity that controls a group of insurers serves as the audit committee of the domestic insurer or group of insurers, a member of the audit committee of the entity that controls the group of insurers.

(2) The percentage of independent members must meet the following minimum requirements:

(A) If the domestic insurer had direct written and assumed premiums during the immediately preceding calendar year of less than three hundred million dollars ($300,000,000), no minimum requirement applies.

(B) If the domestic insurer had direct written and assumed premiums during the immediately preceding calendar year of at least three hundred million dollars ($300,000,000) and less than five hundred million dollars ($500,000,000), at least fifty percent (50%) of the members must be independent members.

(C) If the domestic insurer had direct written and assumed premiums during the immediately preceding calendar year of at least five hundred million dollars ($500,000,000), at least seventy-five percent (75%) of the members must be independent members.

(f) If:

(1) state or federal law requires that a board of directors of a domestic insurer or group of insurers include otherwise nonindependent members; and

(2) an otherwise nonindependent member is not an officer or employee of the domestic insurer, group of insurers, or an affiliate of the domestic insurer or group of insurers;

the nonindependent member may serve as a member of an audit committee and be considered to be independent for audit committee purposes.

(g) If:

(1) a member of an audit committee of a domestic insurer ceases to be independent for reasons beyond the member's

reasonable control; and

(2) the domestic insurer notifies the department of the cessation of independence;

the member may continue to serve as an audit committee member until the next annual meeting of the domestic insurer or one (1) year after the date on which the member's independence ceased, whichever occurs first.

(h) The ultimate controlling person of a domestic insurer may designate the audit committee of the domestic insurer by providing written notice to each commissioner responsible for regulation of each affected insurer. The written notice must:

(1) be timely provided before the issuance of the annual audited financial report; and

(2) include a description of the basis for the designation.

(i) A designation:

(1) under subsection (h) may be changed with written notice from the domestic insurer to the commissioner, including a description of the basis for the designation; and

(2) under subsection (h) or this subsection remains in effect unless rescinded or changed.

(j) A domestic insurer's audit committee shall require the accountant that performs an audit required by this chapter to report to the audit committee in accordance with the requirements of AICPA Statements on Auditing Standards (SAS) 61, Communication with Audit Committees, or its replacement, including the following:

(1) All significant accounting policies and material permitted practices.

(2) All:

(A) material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the domestic insurer; and

(B) ramifications of the use of the alternative disclosures and treatments.

(3) The treatment described in subdivision (2) that is preferred by the accountant.

(4) Any other material written communication between the accountant and the management of the domestic insurer, including any management letter or schedule of unadjusted differences.

(k) If:

(1) a domestic insurer is a member of an insurance holding company system; and

(2) any substantial differences among insurers in the

insurance holding company system are identified to the audit committee;

the reports required by subsection (j) may be provided to the audit committee on an aggregate basis for insurers in the holding company system.

(l) If a domestic insurer has direct written and assumed premiums (excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than five hundred million dollars ($500,000,000), the domestic insurer may apply to the commissioner for a waiver from the audit committee requirements of this section based on hardship.

(m) A domestic insurer that receives a waiver under subsection (l) shall file the waiver, with the domestic insurer's annual statement filing, with the:

(1) commissioners of insurance in the states in which the domestic insurer is licensed or doing insurance business; and

(2) National Association of Insurance Commissioners.

If another state has access to electronic filing with the National Association of Insurance Commissioners, the domestic insurer shall file the waiver with the other state electronically in accordance with National Association of Insurance Commissioners electronic filing specifications.

SECTION 17. IC 27-1-3.5-12.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: **Sec. 12.3. (a) This section does not apply to a domestic insurer that meets one (1) of the following requirements:**

(1) The domestic insurer has annual direct written and unaffiliated assumed premiums (including international direct and assumed premiums and excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than five hundred million dollars ($500,000,000).

(2) The domestic insurer is a member of a group of insurers that has annual direct written and unaffiliated assumed premiums (including international direct and assumed premiums and excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than one billion dollars ($1,000,000,000).

A domestic insurer or group of insurers described in this subsection shall comply with the requirements of this section not later than one (1) year after the year in which the domestic insurer's or group's annual direct written and unaffiliated assumed premiums described in subdivisions (1) and (2) exceed the applicable maximum amount specified in subdivision (1) or (2).

(b) A domestic insurer shall establish an internal audit function to:

(1) provide independent, objective, and reasonable assurance to the domestic insurer's audit committee and management concerning the domestic insurer's governance, risk management, and internal controls;

(2) perform general and specific audits, reviews, and tests; and

(3) use other techniques considered necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

(c) An internal audit function established under subsection (b) must be organizationally independent, as follows:

(1) Ultimate judgment concerning audit matters must be made by the department responsible for the internal audit function.

(2) The department responsible for the internal audit function shall appoint an individual:

(A) to be responsible for the internal audit function; and

(B) to have direct and unrestricted access to the board of directors of the domestic insurer.

The internal audit function's organizational independence does not preclude dual reporting relationships.

(d) The director of the internal audit function shall report to the audit committee of a domestic insurer on a regular basis, at least annually, concerning the following:

(1) The internal audit function's periodic audit plan.

(2) Factors that may adversely affect the internal audit function's independence or effectiveness.

(3) Material findings from completed audits.

(4) The appropriateness of corrective actions implemented by management as a result of audit findings.

(e) If a domestic insurer is a member of an insurance holding company system or a member of a group of insurers, the domestic insurer may satisfy the internal audit function requirements of this section at the ultimate controlling person level, an intermediate holding company level, or an individual legal entity level.

SECTION 18. IC 27-1-3.5-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12.5. ~~The independent auditor shall furnish the~~ **(a) A** domestic insurer ~~in connection with and for inclusion in the filing of the~~ **that is required to file an** annual audited financial report ~~a letter stating the following:~~

~~(1) That the independent auditor is independent with respect to the insurer and conforms to the standards of the independent auditor's profession as contained in the Code of Professional~~

~~Ethics and Pronouncements of the American Institute of Certified Public Accountants and the rules of Professional Conduct of the Indiana State Board of Accountancy.~~

~~(2) The:~~

~~(A) general background and experience; and~~

~~(B) experience in audits of insurers;~~

~~of the staff assigned to the audit. The letter must also state whether each member of the staff is a certified public accountant. This subdivision does not prohibit the independent auditor from using the staff considered appropriate where such use is consistent with the standards prescribed by generally accepted auditing standards.~~

~~(3) That the independent auditor understands that the commissioner will be relying on the independent auditor's annual audited financial report and the independent auditor's opinion in the report for the monitoring and regulation of the financial positions of the insurers.~~

~~(4) That the independent auditor consents to the requirements of section 13 of this chapter and agrees to make available for review by the commissioner, the commissioner's designee, or the commissioner's appointed agent, any of the independent auditor's work papers and significant communications.~~

~~(5) That the independent auditor is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.~~

~~(6) That the independent auditor is in compliance with the requirements of section 9 of~~ **under** this chapter **that has annual direct written and assumed premiums (excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of at least five hundred million dollars ($500,000,000) shall prepare a report of the domestic insurer's or group of insurers' management's internal control over financial reporting as of the immediately preceding December 31. The report shall be filed with the commissioner along with the communication of internal control related matters noted in an audit.**

(b) The commissioner may require a domestic insurer that is:

(1) not described in subsection (a); and

(2) in a RBC level event described in IC 27-1-36 or considered by the commissioner to be in hazardous financial condition (as defined in rules adopted under IC 27-1-3-7);

to file a report of management's internal control over financial reporting.

(c) If:

(1) a domestic insurer or group of insurers is:

(A) directly subject to Section 404;

(B) part of an insurance holding company system whose parent is directly subject to Section 404;

(C) not directly subject to Section 404, but is a SOX compliant entity; or

(D) part of an insurance holding company system whose parent is not directly subject to Section 404, but is a SOX compliant entity; and

(2) the domestic insurer's or group of insurers' internal controls over financial reporting that have a material impact on the preparation of the domestic insurer's or group of insurers' annual audited financial statements are included in the Section 404 report;

the domestic insurer or group of insurers may satisfy the requirement of this section to file a report of management's internal control over financial reporting by including with the domestic insurer's or group of insurers' Section 404 report an addendum described in subsection (d).

(d) An addendum described in subsection (c) must be a positive statement by the domestic insurer's or group of insurers' management that no internal controls over financial reporting that have a material impact on the preparation of the domestic insurer's or group of insurers' annual audited financial statements exist, other than the internal controls that are included in the Section 404 report.

(e) If:

(1) a domestic insurer or group of insurers is described in subsection (c)(1); and

(2) the domestic insurer's or group of insurers' internal controls over financial reporting that have a material impact on the preparation of the domestic insurer's or group of insurers' annual audited financial statements are not all included in the Section 404 report;

the domestic insurer or group of insurers shall file a report of management's internal control over financial reporting as required by this section for the internal controls that have a material impact and are not included in the Section 404 report.

(f) A domestic insurer's or group of insurers' report of management's internal control over financial reporting required by this section must include the following:

(1) A statement that management is responsible for establishment and maintenance of adequate internal control over financial reporting.

(2) A statement that management has established internal

control over financial reporting and an assertion of whether, to the best of management's knowledge and belief after diligent inquiry, management's internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles.

(3) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of management's internal control over financial reporting.

(4) A statement that briefly describes the scope of work that is included in the report and whether any of management's internal controls over financial reporting were excluded.

(5) Disclosure of any unremediated material weaknesses in the management's internal control over financial reporting identified by management as of the immediately preceding December 31. The management may not conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of annual audited financial statements in accordance with statutory accounting principles if one (1) or more unremediated material weaknesses exist in the management's internal control over financial reporting.

(6) A statement regarding the inherent limitations of the management's internal control over financial reporting.

(7) Signatures of the chief executive officer and the chief financial officer, or equivalent position, of the domestic insurer or group of insurers.

(g) A domestic insurer's or group of insurers' management shall document and make available upon financial condition examination the basis on which the management's assertions described in subsection (f) are made. The management's assertions may be based, in part, upon the management's review, monitoring, and testing of internal controls over financial reporting that are undertaken in the normal course of the management's activities. The management may determine the nature of the internal control framework used and the nature and extent of documentation to make the management's assertion in a cost effective manner, including assembly of or reference to existing documentation.

(h) A report of management's internal control over financial reporting required by this section, and any supporting documentation provided during the course of a financial condition examination, is confidential.

SECTION 19. IC 27-1-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 4.1. Corporate Governance Annual Disclosure

Sec. 1. (a) This chapter applies beginning January 1, 2016.

(b) This chapter does not do the following:

(1) Impose corporate governance standards or internal procedures that are not otherwise required under IC 27.

(2) Limit the commissioner's authority, or the rights and obligations of third parties, under IC 27-1-3.1.

Sec. 2. As used in this chapter, "corporate governance annual disclosure" or "CGAD" means a confidential report filed by an insurer or insurance group under this chapter.

Sec. 3. As used in this chapter, "insurance group" means insurers and affiliates of an insurance holding company system (as defined in IC 27-1-23-1).

Sec. 4. As used in this chapter, "insurer" has the same meaning as set forth in IC 27-1-2-3, except that the term:

(1) refers only to domestic insurers (as defined in IC 27-1-36-8); and

(2) does not include agencies, authorities, or instrumentalities of the United States, possessions and territories of the United States, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

Sec. 5. As used in this chapter, "NAIC" refers to the National Association of Insurance Commissioners.

Sec. 6. (a) An insurer or insurance group of which the insurer is a member shall, not later than June 1 of each calendar year, submit:

(1) to the commissioner; or

(2) if the insurer is a member of an insurance group, to the lead state commissioner of the insurance group (as determined by the procedures in the most recent Financial Analysis Handbook adopted by the NAIC) according to the law of the lead state;

a CGAD.

(b) An insurer that is a member of an insurance group and not required to submit a CGAD to the commissioner under subsection (a) shall submit a CGAD to the commissioner upon the commissioner's request.

(c) A CGAD submitted under this section must include the signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting that to the best of the chief executive officer's or corporate secretary's knowledge the insurer has:

(1) implemented corporate governance procedures; and

(2) provided a copy of the CGAD to the insurer's board of directors or the appropriate committee of the board of

directors.

Sec. 7. (a) Subject to subsection (b), an insurer or insurance group may complete a CGAD using corporate governance information at the level of disclosure at which the insurer's or insurance group's system of corporate governance is structured, as follows:

(1) The ultimate controlling parent level.

(2) An intermediate holding company level.

(3) The individual legal entity level.

(b) An insurer or insurance group may, but is not required to, choose the level of disclosure at which to complete a CGAD under subsection (a) according to one (1) of the following criteria:

(1) The level at which the insurer's or insurance group's risk tolerance is determined.

(2) The level at which the insurer's or insurance group's earnings, capital, liquidity, operations, and reputation are:

(A) collectively overseen; and

(B) supervised.

(3) The level at which legal liability for failure of general corporate governance would be placed.

(c) If the insurer or insurance group chooses the level of disclosure at which to complete a CGAD under subsection (a) according to a criterion described in subsection (b), the insurer or insurance group shall:

(1) indicate which of the three (3) criteria was used to determine the level of disclosure; and

(2) explain any change in the level of disclosure that is subsequently used.

Sec. 8. If a CGAD is submitted by an insurer as a member of an insurance group, the lead state commissioner of the insurance group (as determined by the procedures in the most recent Financial Analysis Handbook adopted by the NAIC) shall:

(1) review a CGAD submitted under section 6 of this chapter; and

(2) make any requests for additional information.

Sec. 9. If an insurer or insurance group:

(1) submits, in other:

(A) documents submitted to the commissioner, including proxy statements filed with registration statements required by IC 27-1-23-3; or

(B) state or federal filings provided to the department;

information that is substantially similar to the information required by this chapter; and

(2) cross references in the CGAD the document or filing that contains the substantially similar information;

the insurer or insurance group is not required to duplicate the information in the CGAD.

Sec. 10. (a) If a CGAD contains the material information necessary to allow the reviewing commissioner to understand the insurer's or insurance group's corporate governance structure, policies, and procedures, the insurer or insurance group may determine whether to respond to a request from the reviewing commissioner for additional information.

(b) If the reviewing commissioner considers additional information to be material and necessary to provide a clear understanding of an insurer's or insurance group's:

(1) corporate governance structure, policies, and procedures;

(2) reporting or information system; or

(3) controls implementing subdivisions (1) and (2);

the commissioner may request the additional information.

(c) A CGAD must be:

(1) prepared in a manner consistent with the NAIC's Corporate Governance Annual Disclosure Model Regulation; and

(2) made available to the commissioner upon:

(A) examination under IC 27-1-3.1; or

(B) request of the commissioner.

Sec. 11. (a) Documents, materials, and other information related to a CGAD, including the CGAD, that are in the possession or control of the department and obtained by, created by, or disclosed to the commissioner or another person under this chapter, are:

(1) considered to be proprietary and contain trade secrets;

(2) confidential and privileged;

(3) not subject to subpoena; and

(4) not subject to discovery or admissible in evidence in a private civil action.

(b) The commissioner may:

(1) use the documents, materials, and other information described in subsection (a) in relation to a regulatory or legal action brought as part of the commissioner's duties; and

(2) otherwise make the documents, materials, and other information public only with the prior written consent of the insurer.

(c) The commissioner, and any other person:

(1) who receives documents, materials, or other information related to a CGAD while acting under the authority of the commissioner; or

(2) with whom the documents, materials, or other information are shared;

under this chapter is not permitted or required to testify in a

private civil action concerning any documents, materials, or other information described in subsection (a).

(d) The commissioner may, in the performance of the commissioner's duties, do the following:

(1) Upon request, share all documents, materials, and other information described in subsection (a) with the following if the recipient agrees in writing, and provides written verification that the recipient has the legal authority, to maintain the confidential and privileged status of the documents, materials, and other information:

(A) Other state, federal, and international financial regulatory agencies.

(B) The NAIC.

(C) Members of a supervisory college (as defined in IC 27-1-23-1).

(D) A third party consultant under section 12 of this chapter.

(2) Receive all documents, materials, and other information described in subsection (a) from:

(A) other state, federal, and international financial regulatory agencies;

(B) members of a supervisory college (as defined in IC 27-1-23-1); and

(C) the NAIC;

if the commissioner maintains the confidential or privileged status of the documents, materials, and other information that are received with notice or the understanding that the documents, materials, and other information are confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, and other information.

(e) The sharing of information by the commissioner under this chapter is not a delegation of regulatory authority. The commissioner is solely responsible for the administration, implementation, and enforcement of this chapter.

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

Sec. 12. (a) The commissioner may, at the insurer's expense, retain third party consultants, including attorneys, actuaries, accountants, and others who are not part of the commissioner's staff, that:

(1) the commissioner considers necessary to review a CGAD, related information, or the insurer's or insurance group's compliance with this chapter; and

(2) have verified, with notice to the insurer, that the third party consultant:

(A) has no conflict of interest affecting the commissioner's retention of the third party consultant; and

(B) has internal procedures to:

(i) monitor whether a conflict of interest arises after the third party consultant has been retained; and

(ii) comply with the confidentiality requirements of this chapter.

(b) A third party consultant who is retained under subsection (a) is under the direction and control of the commissioner and acts only in an advisory capacity.

(c) The NAIC and a third party consultant who is retained under subsection (a) are subject to the same confidentiality requirements as the confidentiality requirements that apply to the commissioner under this chapter. The NAIC may share information received under this chapter only with state regulators from states in which insurers that are members of an insurance group are domiciled.

(d) The commissioner shall enter into a written agreement with the NAIC or a third party consultant governing sharing and use of information provided under this chapter, including the following:

(1) Procedures and protocols concerning the confidentiality and security of information shared:

(A) with the NAIC or third party consultant under this chapter; and

(B) by the NAIC with regulators of other states in which insurers that are members of an insurance group are domiciled.

(2) A statement that the recipient:

(A) agrees in writing; and

(B) provides written verification that the recipient has the legal authority;

to maintain the confidential and privileged status of the documents, materials, and other information.

(3) A statement that, with respect to information shared with the NAIC or third party consultant under this chapter:

(A) the commissioner maintains ownership of the information; and

(B) the use of the information is subject to the direction of the commissioner.

(4) A statement that the NAIC or third party consultant may not store information shared under this chapter in a permanent data base after the underlying analysis is completed.

(5) A requirement that, if CGAD related information of an insurer that is in the possession of the NAIC or third party consultant under this chapter is subject to a request or subpoena to the NAIC or third party consultant for production or disclosure, the NAIC or third party consultant will provide prompt notice to the commissioner and to the insurer or insurance group.

(6) A requirement that the NAIC or third party consultant will allow intervention by an insurer in a judicial or administrative action under which the NAIC or third party consultant may be required to disclose confidential information concerning the insurer that has been shared with the NAIC or third party consultant under this chapter.

(7) An express requirement that the written consent of the insurer or insurance group is required before the NAIC or third party consultant makes public any information shared under this chapter.

Sec. 13. (a) An insurer that fails, without just cause (as determined by the commissioner), to timely file a CGAD as required by this chapter shall, after notice and hearing under IC 4-21.5, pay a civil penalty of one hundred dollars ($100) for each day of noncompliance, not to exceed ten thousand dollars ($10,000).

(b) The commissioner may reduce a penalty imposed under subsection (a) if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(c) A civil penalty collected under this section shall be deposited in the department of insurance fund established by IC 27-1-3-28.

Sec. 14. Notwithstanding IC 1-1-1-8, section 11 of this chapter is not severable.

Sec. 15. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 20. IC 27-1-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. The department is hereby authorized, in its discretion, to approve or disapprove the articles of incorporation of the proposed company. If the department shall approve the articles of incorporation of the proposed company, ~~it~~ **the department** shall write or stamp, in an appropriate place on each of said triplicate copies of such articles of incorporation, the:

(1) words "Approved by the department of insurance of the state of Indiana"; ~~and the~~

(2) date of ~~such~~ **the** approval; ~~beneath which shall appear the~~

(3) impression of the seal of the department; and ~~the~~

(4) signature of the commissioner.

SECTION 21. IC 27-1-15.6-2, AS AMENDED BY P.L.276-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. The following definitions apply throughout this chapter, IC 27-1-15.7, and IC 27-1-15.8:

(1) "Bureau" refers to the child support bureau established by IC 31-25-3-1.

(2) "Business entity" means a corporation, an association, a partnership, a limited liability company, a limited liability partnership, or another legal entity.

(3) "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

(4) "Consultant" means a person who:

(A) holds himself or herself out to the public as being engaged in the business of offering; or

(B) for a fee, offers;

any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued in Indiana.

(5) "Delinquent" means the condition of being at least:

(A) two thousand dollars ($2,000); or

(B) three (3) months;

past due in the payment of court ordered child support.

(6) "Designated home state license" means a license issued by the commissioner to an insurance producer who:

(A) maintains the insurance producer's principal place of residence or principal place of business in a state that does not license insurance producers for the line of authority for which the insurance producer seeks licensure in Indiana; and

(B) is permitted by the commissioner to designate Indiana as the insurance producer's nonresident home state.

~~(6)~~ **(7)** "FINRA" refers to the independent Financial Industry Regulatory Authority.

~~(7)~~ **(8)** "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer:

(A) maintains the insurance producer's principal place of residence or principal place of business; and

(B) is licensed to act as an insurance producer.

~~(8)~~ **(9)** "Insurance producer" means a person required to be licensed under the laws of Indiana to sell, solicit, or negotiate insurance.

~~(9)~~ **(10)** "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to

represent or commit an insurance carrier.

~~(10)~~ **(11)** "Limited line credit insurance" includes the following:

(A) Credit life insurance.

(B) Credit disability insurance.

(C) Credit property insurance.

(D) Credit unemployment insurance.

(E) Involuntary unemployment insurance.

(F) Mortgage life insurance.

(G) Mortgage guaranty insurance.

(H) Mortgage disability insurance.

(I) Guaranteed automobile protection (gap) insurance.

(J) Any other form of insurance:

(i) that is offered in connection with an extension of credit and is limited to partially or wholly extinguishing that credit obligation; and

(ii) that the insurance commissioner determines should be designated a form of limited line credit insurance.

~~(11)~~ **(12)** "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(12)~~ **(13)** "Limited lines insurance" means any of the following:

(A) The lines of insurance defined in section 18 of this chapter.

(B) Any line of insurance the recognition of which is considered necessary by the commissioner for the purpose of complying with section 8(e) of this chapter.

(C) For purposes of section 8(e) of this chapter, any form of insurance with respect to which authority is granted by a home state that restricts the authority granted by a limited lines producer's license to less than total authority in the associated major lines described in section 7(a)(1) through 7(a)(6) of this chapter.

~~(13)~~ **(14)** "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(14)~~ **(15)** "Limited lines travel insurance producer" means a person designated by an insurer to sell, solicit, or negotiate a travel insurance policy. The term includes the following:

(A) A managing general underwriter.

(B) A managing general agent.

(C) A limited lines producer.

~~(15)~~ **(16)** "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of

a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~ **(17)** "Person" means an individual or a business entity.

~~(17)~~ **(18)** "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of a company.

~~(18)~~ **(19)** "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

~~(19)~~ **(20)** "Surplus lines producer" means a person who sells, solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

~~(20)~~ **(21)** "Terminate" means:

(A) the cancellation of the relationship between an insurance producer and the insurer; or

(B) the termination of a producer's authority to transact insurance.

~~(21)~~ **(22)** "Travel insurance" means insurance coverage for personal risks incident to planned travel, including the following:

(A) Interruption or cancellation of a trip or an event.

(B) Loss of baggage or personal effects.

(C) Damage to accommodations or rental vehicles.

(D) Sickness, accident, disability, or death that occurs during travel.

The term does not include a major medical plan that provides comprehensive medical insurance for a traveler on a trip that lasts at least six (6) months, including a traveler who is an individual who works overseas as an expatriot or is deployed as a member of the military.

~~(22)~~ **(23)** "Travel retailer" means a business entity that offers and delivers travel insurance on behalf of and under the direction of a limited lines travel insurance producer.

~~(23)~~ **(24)** "Uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

~~(24)~~ **(25)** "Uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident producer licensing.

SECTION 22. IC 27-1-15.6-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2015]: **Sec. 8.2. (a) Unless denied licensure under section 12 of this chapter, a person that is not a resident of Indiana shall receive a designated home state license if:**

(1) the person has requested licensure in Indiana for a line of authority for which licensure is not required in the person's home state;

(2) the person has submitted the proper request for licensure and has paid the fees required under section 32 of this chapter;

(3) the person has submitted or transmitted to the commissioner a completed uniform application; and

(4) the person has complied with the prelicensing and continuing education requirements that apply to an insurance producer that:

(A) is a resident of Indiana; and

(B) applies for the line of authority described in subdivision (1).

(b) The commissioner may verify an insurance producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners and its affiliates or subsidiaries.

(c) A person that holds a designated home state license and moves from one state to another state shall file a change of address with the department and provide certification from the new resident state not more than thirty (30) days after the change of legal residence. No fee or license application is required under this subsection.

(d) A person that:

(1) holds a designated home state license; and

(2) becomes a resident of a state that requires licensure for the line of authority for which the person holds the designated home state license;

shall become licensed for the line of authority in the new state of residence and notify the commissioner of the new licensure.

(e) Upon receiving notice of new licensure under subsection (d), the commissioner shall transfer the person's designated home state license to a nonresident producer license under section 8 of this chapter.

SECTION 23. IC 27-1-15.6-32, AS AMENDED BY P.L.234-2007, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 32. (a) The department shall adopt rules under IC 4-22-2 to set fees for licensure under this chapter, IC 27-1-15.7, and IC 27-1-15.8.

(b) Insurance producer and limited lines producer license renewal fees are due every two (2) years. The fee charged by the department

every two (2) years for a:

(1) resident license is forty dollars ($40); ~~and~~

(2) nonresident license is ninety dollars ($90); **and**

(3) designated home state license is ninety dollars ($90).

(c) Consultant renewal fees are due every twenty-four (24) months.

(d) Surplus lines producer renewal fees are due every two (2) years. The fee charged by the department every two (2) years for a:

(1) resident license is eighty dollars ($80); and

(2) nonresident license is one hundred twenty dollars ($120).

(e) The commissioner may issue a duplicate license for any license issued under this chapter. The fee charged by the commissioner for the issuance of a duplicate:

(1) insurance producer license;

(2) surplus lines producer license;

(3) limited lines producer license; or

(4) consultant license;

may not exceed ten dollars ($10).

(f) A fee charged and collected under this section shall be deposited into the department of insurance fund established by IC 27-1-3-28.

SECTION 24. IC 27-1-23-4, AS AMENDED BY P.L.81-2012, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Material transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(1) The terms shall be fair and reasonable.

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

(3) The charges or fees for services performed shall be reasonable.

(4) The expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

(5) The books, accounts, and records of each party as to all transactions described in this subsection shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including accounting information necessary to support the reasonableness of the charges or fees to the respective parties.

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

(b) The following transactions involving a domestic insurer and any

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

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

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

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

each as of December 31 next preceding.

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

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

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

each as of December 31 next preceding.

(3) Reinsurance agreements or modifications thereto, including:

(A) reinsurance pooling agreements; and

(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) Guarantees made by the insurer, only as follows:

(A) A guarantee, the amount of which is not quantifiable.

(B) A guarantee, the amount of which is quantifiable, if the amount of the guarantee exceeds the lesser of:

(i) one-half of one percent (0.5%) of the insurer's admitted assets; or

(ii) ten percent (10%) of surplus as regards policyholders;

on December 31 of the immediately preceding calendar year.

(6) Direct or indirect acquisitions or investments, as follows:

(A) In:

(i) a person that controls the insurer; or

(ii) an affiliate of the insurer in an amount that, together with the insurer's present holdings in the investments, exceeds two and one-half percent (2.5%) of the insurer's surplus to policyholders.

(B) This subdivision does not apply to direct or indirect acquisitions or investments in:

(i) subsidiaries acquired under section 2.6 of this chapter; or

(ii) nonsubsidiary insurance affiliates that are subject to this chapter.

~~(5)~~ **(7)** 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 an agreement that was previously filed under this section is terminated, the domestic insurer shall send written notice of the termination to the commissioner. The commissioner shall determine whether a filing concerning the termination is required and shall notify the domestic insurer of the commissioner's determination.

(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, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance.

(3) The number and size of risks insured in each line of business.

(4) The extent of the geographical dispersion of the insurer's insured risks.

(5) The nature and extent of the insurer's reinsurance program.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio.

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

(8) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors described in subdivisions (1) through (7).

(9) The adequacy of the insurer's reserves.

(10) The quality and liquidity of investments in subsidiaries, except that the commissioner may discount or treat any such investment in subsidiaries as a disallowed asset for purposes of determining the adequacy of surplus whenever in the commissioner's judgment such investment so warrants.

(11) The quality of the earnings of the insurer and the extent to which the reported earnings of the insurer include extraordinary items.

(g) No domestic insurer subject to registration under section 3 of this chapter shall pay an extraordinary dividend or make any other extraordinary distribution to its security holders until:

(1) thirty (30) days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or

(2) the commissioner shall have approved such payment within

such thirty (30) day period.

(h) For purposes of subsection (g), an extraordinary dividend or distribution is any dividend or distribution of cash or other property whose fair market value, together with that of other dividends or distributions made within the twelve (12) consecutive months ending on the date on which the proposed dividend or distribution is scheduled to be made, exceeds the greater of:

(1) ten percent (10%) of such insurer's surplus as regards policyholders as of the most recently preceding December 31; or

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

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

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

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

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

SECTION 25. IC 27-1-27-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The commissioner of insurance shall issue resident and nonresident public adjusters' certificates of authority to each person who:

(1) has complied with the requirements of this chapter, including the payment of fees, the completion of the examination, and, in the case of a nonresident applicant, the service of process designation;

(2) is at least eighteen (18) years of age; and

(3) has not been convicted of:

(A) an act which would constitute a ground for disciplinary sanction under section ~~7~~ **7.1** of this chapter; or

(B) a felony that has a direct bearing on his ability to practice competently.

A certificate of authority may be issued to a corporation that has one (1) or more officers, directors, or employees who have been issued public adjusters' certificates of authority. However, a corporation may practice public adjusting only through its officers, directors, or

employees who have been issued certificates under this chapter.

(b) The commissioner of insurance may issue a resident certificate of authority only to an applicant who is a bona fide resident of Indiana.

(c) The commissioner may issue a nonresident certificate of authority only to a nonresident of Indiana who holds an equivalent resident certificate of authority or a license issued under the laws of any other state, any territorial possession of the United States, or any foreign country.

SECTION 26. IC 27-1-27-7 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 7. (a) As used in this section, "practitioner" means an individual or corporation who or which holds a certificate of authority under this chapter.~~

~~(b) A practitioner shall conduct the practice of public adjusting in accordance with the standards established by the commissioner of insurance under section 8 of this chapter and is subject to the exercise of the disciplinary sanctions under subsection (c), if after a hearing, the commissioner finds:~~

~~(1) the practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a certificate to practice public adjusting, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner;~~

~~(2) the practitioner has been convicted of a crime which has direct bearing on the practitioner's ability to continue to practice competently;~~

~~(3) a practitioner has knowingly violated any rule adopted by the commissioner under section 8 of this chapter;~~

~~(4) a practitioner has continued to practice although he has become unfit to practice public adjusting due to:~~

~~(A) professional incompetence;~~

~~(B) failure to keep abreast of current professional theory or practice;~~

~~(C) physical or mental disability; or~~

~~(D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;~~

~~(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients; or~~

~~(6) a practitioner has allowed his name or a certificate issued to him under this chapter to be used in connection with any individual who renders public adjusting services beyond the scope of his training, experience, or competence.~~

~~(c) The commissioner of insurance may order a practitioner to submit to a reasonable physical or mental examination if his physical~~

~~or mental capacity to practice safely is at issue in a disciplinary proceeding.~~

~~(d) Failure to comply with an order under subsection (c) shall render a practitioner liable to the summary revocation procedures under subsection (f).~~

~~(e) The commissioner of insurance may impose any of the following sanctions, singly or in combination, when he finds that a practitioner is guilty of any offense under subsection (b):~~

~~(1) Permanently revoke a practitioner's certificate.~~

~~(2) Suspend a practitioner's certificate.~~

~~(3) Censure a practitioner.~~

~~(4) Issue a letter of reprimand.~~

~~(5) Place a practitioner on probation status and require the practitioner to:~~

~~(A) report regularly to the commissioner upon the matters which are the basis of probation;~~

~~(B) limit practice to those areas prescribed by the commissioner; or~~

~~(C) continue or renew professional education under a practitioner approved by the commissioner until a satisfactory degree of skill has been attained in those areas which are the basis of the probation.~~

~~The commissioner may withdraw a probation order if he finds that the deficiency which required disciplinary action has been remedied.~~

~~(f) The commissioner of insurance may summarily suspend a practitioner's certificate for a period of ninety (90) days in advance of a final adjudication or during the appeals process if the commissioner finds that a practitioner represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the commissioner, and each renewal may be for a period of ninety (90) days or less.~~

~~(g) The commissioner of insurance may reinstate a certificate which has been suspended under this chapter if, after a hearing, the commissioner is satisfied that the applicant is able to practice public adjusting with reasonable skill and safety to clients. As a condition of reinstatement, the commissioner may impose disciplinary or corrective measures authorized under this chapter.~~

~~(h) The commissioner of insurance shall seek to achieve consistency in the application of the sanctions authorized in this section, and significant departures from prior decisions involving similar conduct shall be explained in the commissioner's findings or orders.~~

~~(i) The commissioner of insurance may initiate proceedings under~~

~~this section on his own motion or on the verified written complaint of any interested person. All such proceedings shall be conducted in accordance with IC 4-21.5.~~

SECTION 27. IC 27-1-27-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7.1. (a) The commissioner may suspend, revoke, or refuse to issue or renew a public adjuster's certificate of authority to act as a public adjuster in Indiana, or place a public adjuster on probation, for a cause set forth in subsection (b).**

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

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

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

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

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

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

(6) Having been convicted of a felony.

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

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

(9) Having an insurance license, or the equivalent of an insurance license, probated, suspended, revoked, or refused in another state, province, district, or territory.

(10) Forging another person's name to a document related to an insurance transaction.

(11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.

(12) Failing to comply with an administrative or court order imposing a child support obligation.

(13) Failing to pay state income tax or failing to comply with an administrative or court order directing payment of state income tax.

(c) If the commissioner refuses an application for a certificate of authority to act as a public adjuster or for the renewal of an

existing certificate of authority under this chapter, the commissioner shall notify the applicant or certificate holder in writing, advising of the reason for the refusal. The applicant or certificate holder may, not more than thirty (30) days after receiving the commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal. The hearing must be held under IC 4-21.5 not more than twenty (20) days after the commissioner receives the applicant's or certificate holder's written demand.

SECTION 28. IC 27-1-43-8, AS ADDED BY P.L.119-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) This chapter does not modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.).

(b) This chapter does not apply to a document to which IC 27-1-44 applies.

(c) This chapter does not apply to a notice or document related to title insurance (as defined in IC 27-7-3-2).

SECTION 29. IC 27-1-44-1, AS ADDED BY P.L.119-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. As used in this chapter, "property and casualty insurance" means one (1) or more of the types of insurance described in IC 27-1-5-1, Class 2 and Class 3. **The term does not include title insurance (as defined in IC 27-7-3-2).**

SECTION 30. IC 27-7-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. "Automobile insurance policy" means a policy delivered or issued for delivery in this state or covering a motor vehicle required to be registered in this state providing coverage for bodily injury and property damage liability, medical payments, and uninsured motorists or any combination thereof, and insuring as the named insured a natural person or more than one (1) natural persons related to each other, resident of the same household, and under which the insured vehicles therein designated are as:

(a) a motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

(b) any other four-wheel motor vehicle with a load capacity of one thousand five hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this chapter shall not apply:

(1) to any policy issued under an automobile assigned risk plan;

~~(2) to any policy insuring more than four (4) automobiles;~~ or

~~(3)~~ **(2)** to ~~pay~~ **any** policy covering garage, automobile sales

agency, repair shop, service station, or public parking place operation hazards.

"Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments and uninsured motorists coverage.

"Policy" shall be deemed to mean a policy providing automobile liability coverage.

SECTION 31. IC 27-7-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 14. Group Insurance for Members of the Armed Forces

Sec. 1. As used in this chapter, "armed forces" means the active and reserve components of the following:

(1) The United States Army.

(2) The United States Navy.

(3) The United States Air Force.

(4) The United States Marine Corps.

(5) The United States Coast Guard.

(6) The Indiana National Guard.

Sec. 2. As used in this chapter, "casualty insurance company" has the meaning set forth in IC 27-1-2-3(t).

Sec. 3. As used in this chapter, "group" means a group of individuals who:

(1) have similar professional attributes;

(2) belong to the group for purposes other than that of obtaining insurance; and

(3) are eligible to purchase motor vehicle insurance.

Sec. 4. As used in this chapter, "group administrator" means:

(1) the officers or directors of; or

(2) another person legally vested with the responsibility to manage the affairs of;

a group of members of the armed forces.

Sec. 5. As used in this chapter, "group motor vehicle insurance policy" means a policy of insurance that provides motor vehicle insurance to participating members of the armed forces under one (1) master policy:

(1) that is issued to a group administrator; and

(2) under which individual certificates, each with separate limits of liability and coverage, are issued to participating group members.

Sec. 6. As used in this chapter, "motor vehicle insurance" means the type of insurance described in IC 27-1-5-1, Class 2(f).

Sec. 7. An insurer that is authorized under IC 27-1-3-20 to:

(1) transact business as a casualty insurance company; and

(2) offer motor vehicle insurance;

may provide a group motor vehicle insurance policy.

SECTION 32. IC 27-7-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 15. Group Non-Trucking Liability Insurance

Sec. 1. As used in this chapter, "casualty insurance company" has the meaning set forth in IC 27-1-2-3(t).

Sec. 2. As used in this chapter, "group" means a group of individuals who:

(1) have similar professional attributes;

(2) belong to the group for purposes other than that of obtaining insurance; and

(3) are eligible to purchase motor vehicle insurance.

Sec. 3. As used in this chapter, "group non-trucking liability insurance policy" means a policy of insurance that provides non-trucking liability insurance, and may provide optional physical damage insurance coverage, to participating group members under one (1) master policy:

(1) that is issued to a named insured; and

(2) under which individual certificates, each with separate limits of liability and coverage, are issued to participating group members.

Sec. 4. As used in this chapter, "motor vehicle insurance" means the type of insurance described in IC 27-1-5-1, Class 2(f).

Sec. 5. As used in this chapter, "non-trucking liability insurance" means insurance that provides third party liability coverage for property damage or bodily injury caused by the operation of a for hire motor carrier truck for purposes other than for hire motor carrier truck purposes.

Sec. 6. An insurer that is authorized under IC 27-1-3-20 to:

(1) transact business as a casualty insurance company; and

(2) offer motor vehicle insurance;

may provide a group non-trucking liability insurance policy.

SECTION 33. IC 27-7-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 16. Group Tenant Users Liability Insurance

Sec. 1. As used in this chapter, "casualty and liability insurance" means the type of insurance described in IC 27-1-5-1, Class 2(h).

Sec. 2. As used in this chapter, "casualty insurance company" has the meaning set forth in IC 27-1-2-3(t).

Sec. 3. As used in this chapter, "group" means a group of individuals who:

(1) have similar professional attributes;

(2) belong to the group for purposes other than that of obtaining insurance; and

(3) are eligible to purchase casualty and liability insurance.

Sec. 4. As used in this chapter, "group tenant users liability insurance policy" means a policy of insurance that provides tenant users liability insurance to participating group members under one (1) master policy:

(1) that is issued to a named insured; and

(2) under which individual certificates, each with separate limits of liability and coverage, are issued to participating group members.

Sec. 5. As used in this chapter, "tenant users liability insurance" means insurance that provides liability coverage for property damage or bodily injury to a third party caused by a vendor, exhibitor, or performer during a special event.

Sec. 6. An insurer that is authorized under IC 27-1-3-20 to:

(1) transact business as a casualty insurance company; and

(2) offer casualty and liability insurance;

may provide a group tenant users liability insurance policy.

SECTION 34. IC 27-8-15-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. **(a)** As used in this chapter, "small employer" means any person, firm, corporation, limited liability company, partnership, or association actively engaged in business who, on at least fifty percent (50%) of the working days of the employer during the preceding calendar year, employed at least two (2) but not more than fifty (50) eligible employees, the majority of whom work in Indiana. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation are considered one (1) employer.

(b) If the commissioner of insurance determines that it is necessary or appropriate, the department of insurance may adopt emergency rules under IC 4-22-2-37.1 to conform the definition set forth in subsection (a) with PPACA (as defined in IC 27-19-2-14). Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted under this subsection expires on the date occurring one (1) year after the date on which the emergency rule takes effect.

SECTION 35. IC 27-8-16-6, AS AMENDED BY P.L.234-2007, SECTION 195, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) To remain in effect, a certificate of registration issued under this chapter must be renewed ~~on June 30 of each year.~~ **annually.** To obtain the renewal of a certificate of registration, a claim review agent or a claim review consultant must submit an application to the commissioner. The application must be accompanied by a registration fee in the amount set under section 5(d)

of this chapter. The commissioner shall deposit a registration fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(b) A certificate of registration issued under this chapter may not be transferred unless the department determines that the person to which the certificate of registration is to be transferred has satisfied the requirements of this chapter.

(c) If there is a material change in any of the information set forth in an application submitted under this chapter, the claim review agent or claim review consultant that submitted the application shall notify the department of the change in writing not more than thirty (30) days after the change.

SECTION 36. IC 27-8-17-10, AS AMENDED BY P.L.234-2007, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) To remain in effect, a certificate of registration issued under this chapter must be renewed ~~on June 30 of each year.~~ **annually.** To obtain the renewal of a certificate of registration, a utilization review agent must submit an application to the commissioner. The application must be accompanied by a registration fee in the amount set under section 9(d) of this chapter. The commissioner shall deposit a registration fee collected under this subsection into the department of insurance fund established by IC 27-1-3-28.

(b) A certificate of registration issued under this chapter may not be transferred unless the department determines that the entity to whom the certificate is to be transferred has satisfied the requirements of this chapter.

(c) If there is a material change in any of the information set forth in an application submitted under this chapter, the utilization review agent that submitted the application shall notify the department of the change in writing within thirty (30) days after the change.

SECTION 37. IC 27-17-2-3, AS ADDED BY P.L.73-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The fee for issuance of a registration under this chapter is five hundred dollars ($500).

(b) A registration issued or renewed under this chapter expires ~~one (1) year from the date~~ **annually on the last day of the month** of issuance or renewal.

(c) The fee for renewal of a registration under this chapter is two hundred fifty dollars ($250).

(d) The department shall renew a registration issued under this chapter if:

(1) the fee specified under subsection (c) is paid; and

(2) the commissioner is satisfied that the discount medical card

program organization is in compliance with this article.

(e) Fees collected under this section must be deposited in the department of insurance fund established by IC 27-1-3-28.

SECTION 38. IC 36-8-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. (a) The death benefit, the disability benefit, and the dependents' pension may be operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee receives and holds as trustee for the uses and purposes set out in the supplementary trust agreement all money paid to it as trustee by the department or by other persons.

(c) The trustee may, under the terms of the supplementary trust agreement, pay the necessary premiums for insurance, pay benefits, or pay both as provided by this chapter.

(d) The trustee shall hold, invest, and reinvest the police benefit fund in investments that are permitted by statute for the investment of trust funds and other investments that are specifically designated in the supplementary trust agreement.

(e) Within ninety (90) days after the close of the fiscal year, the trustee, with the assistance of the pension engineers, shall prepare and file with the department ~~and the state insurance department~~ a detailed annual report showing receipts, disbursements, and case histories, and making recommendations regarding the necessary contributions required to keep the program in operation. Contributions by the department shall be provided in the general appropriations to the department. However, these contributions are not required for plans established or modifications adopted after June 30, 1989, under sections 14 through 16 of this chapter unless the establishment or modification is approved by the county fiscal body.

SECTION 39. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____