IC 27-1-13 Chapter 13. Casualty, Fire, and Marine Insurance Company Powers and Policy Requirements

IC 27-1-13-0.1 Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 3.5 of this chapter by P.L.88-2000 apply to financial statements filed by an insurer after December 31, 1999.

As added by P.L.220-2011, SEC.423.

IC 27-1-13-1 Particular rights, privileges, and powers of casualty, fire, or marine insurers; exceptions

Sec. 1. In addition to the general rights, privileges, and powers conferred by IC 27-1-5 through IC 27-1-13 and IC 27-11 and subject to the limitations and restrictions contained in this article and in the articles of incorporation, every casualty, fire, or marine insurance company shall possess and may exercise the rights, privileges, and powers enumerated in this chapter, except that such powers shall not be intended or interpreted to mean that a company organized under either class as set out and defined in IC 27-1-5-1 shall make any kind or kinds of insurance as set out and defined in any other class of IC 27-1-5-1 other than as expressly provided in such classification.

Formerly: Acts 1935, c.162, s.170. As amended by P.L.252-1985, SEC.67; P.L.3-1990, SEC.97.

IC 27-1-13-2 Repealed

Formerly: Acts 1935, c.162, s.171. Repealed by Acts 1981, P.L.241, SEC.4.

IC 27-1-13-3 Investment of capital and funds above capital; real estate interests

Sec. 3. (a) The following definitions apply throughout this section:

(1) "Acceptable collateral" means the following:

(A) As to securities lending transactions and for the purpose of calculating counterparty exposure:

(i) cash;

(ii) cash equivalents;
(iii) letters of credit; and
(iv) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(B) As to lending foreign securities, sovereign debt rated 1 by the Securities Valuation Office.

(C) As to repurchase transactions:
(i) cash;
(ii) cash equivalents; and
(iii) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(D) As to reverse repurchase transactions:
(i) cash; and
(ii) cash equivalents.

(2) "Admitted assets" means assets permitted to be reported as admitted assets on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

(3) "Business entity" means any of the following:
(A) A sole proprietorship.
(B) A corporation.
(C) A limited liability company.
(D) An association.
(E) A general partnership.
(F) A limited partnership.
(G) A limited liability partnership.
(H) A joint stock company.
(I) A joint venture.
(J) A trust.
(K) A joint tenancy.
(L) Any other similar form of business organization, whether for profit or nonprofit.

(4) "Cash" means any of the following:
(A) United States denominated paper currency and coins.
(B) Negotiable money orders and checks.
(C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(5) "Cash equivalent" means any of the following:
(A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
(B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
(C) A government money market mutual fund.
(D) A class one (1) money market mutual fund.

(6) "Class one (1) money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one (1) reserve factor pursuant to the Purposes and Procedures of the Securities Valuation Office of the National Association of Insurance Commissioners or any successor publication.

(7) "Derivative transaction" has the meaning set forth in IC 27-1-12-2.2(a)(14).

(8) "Government money market mutual fund" means a money market mutual fund that at all times:

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

(B) qualifies for investment without a reserve pursuant to the Purposes and Procedures of the Securities Valuation Office of the National Association of Insurance Commissioners or any successor publication.

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

(10) "Mutual fund" means:

(A) an investment company; or

(B) in the case of an investment company that is organized as a series company, an investment company series;

that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(11) "Obligation" means any of the following:

(A) A bond.

(B) A note.

(C) A debenture.

(D) Any other form of evidence of debt.

(12) "Qualified business entity" means a business entity that is:

(A) an issuer of obligations or preferred stock that is rated one (1) or two (2) or is rated the equivalent of one (1) or two (2) by the Securities Valuation Office or by a nationally recognized statistical rating organization recognized by the Securities Valuation Office; or

(B) a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York.

(13) "Securities Valuation Office" refers to the Securities Valuation Office of the National Association of Insurance Commissioners or any successor of the Office established by the National Association of Insurance Commissioners.

(b) Any company, other than one organized as a life insurance company, organized under the provisions of IC 27-1 or any other law of this state and authorized to make any or all kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or guaranty fund as follows and not otherwise:

(1) In cash.

(2) In:

(A) direct obligations of the United States; or

(B) obligations secured or guaranteed as to principal and interest by the United States.

(3) In:

(A) direct obligations; or

(B) obligations secured by the full faith and credit;

of any state of the United States or the District of Columbia.

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

(5) In obligations secured by mortgages or deeds of trust or unencumbered real estate or perpetual leases thereon in the United States not exceeding eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any such governmental units. Where improvements on the land constitute a part of the value on which the loan is made, the improvements shall be insured against fire and tornado for the benefit of the

mortgagee. For the purposes of this section, real estate may not be deemed to be encumbered by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights-of-way, joint driveways, sewer rights, rights-in-walls, nor by reason of building restrictions, or other restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner. The restrictions contained in this subdivision do not apply to loans or investments made under section 5 of this chapter.

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

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

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

(3) In obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a state, territory, or possession of the United States, the District of Columbia, Canada, or any province of Canada, providing such obligations are authorized by law and are either:

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

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

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

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

(4) In:

(A) direct obligations; or

(B) obligations secured by the full faith and credit;

of any state of the United States, the District of Columbia, or Canada or any province thereof.

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

obligated to be paid under the agreement are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial fixed period of the lease or contract of less than one hundred percent (100%) of the indebtedness if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of the period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

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

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

(8) In any mutual fund that:

(A) has been registered with the Securities and Exchange Commission for a period of at least five (5) years immediately preceding the date of purchase;

(B) has net assets of at least twenty-five million dollars ($25,000,000) on the date of purchase; and

(C) invests substantially all of its assets in investments permitted under this subsection.

The amount invested in any single mutual fund shall not exceed ten percent (10%) of admitted assets. The aggregate amount of investments under this subdivision may be limited by the commissioner if the commissioner finds that investments under this subdivision may render the operation of the company hazardous to the company's policyholders, to the company's creditors, or to the general public. This subdivision in no way limits or restricts investments that are otherwise specifically permitted under this section.

(9) In obligations payable in United States dollars and issued, guaranteed, assumed, insured, or accepted by a foreign government or by a solvent business entity existing under the laws of a foreign government, if the obligations of the foreign government or business entity meet at least one (1) of the following criteria:

(A) The obligations carry a rating of at least A3 conferred by Moody's Investor Services, Inc.

(B) The obligations carry a rating of at least A- conferred by Standard & Poor's

Corporation.

(C) The earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times the average fixed charges of the business entity applicable to the period, and if during either of the last two (2) years of the period, the earnings available for fixed charges were at least three (3) times the fixed charges of the business entity for the year. As used in this subdivision, the terms "earnings available for fixed charges" and "fixed charges" have the meanings set forth in IC 27-1-12-2(a).

Foreign investments authorized by this subdivision shall not exceed twenty percent (20%) of the company's admitted assets. This subdivision in no way limits or restricts investments that are otherwise specifically permitted under this section. Canada is not a foreign government for purposes of this subdivision.

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

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

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

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

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

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

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

(i) a description of how cash received will be invested or used for general corporate purposes of the company;

(ii) operational procedures to manage interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

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

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

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

(ii) prohibits securities lending transactions under the agreement with the agent or

its affiliates.

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

(i) possession of the acceptable collateral;

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

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

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

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

(ii) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this subdivision would exceed forty percent (40%) of its admitted assets.

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

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

(G) In a repurchase transaction, the company shall receive as acceptable collateral transferred securities having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the company, the business entity shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a company in a repurchase transaction shall not be sold in a reverse

repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

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

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

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

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

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

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

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

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

(A) if expressly prohibited by statute; or

(B) in an insolvent organization or an organization in default with respect to the payment of principal or interest on its obligations.

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

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

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

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

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

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

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

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

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

(e) All real estate described in subsection (d)(4) through (d)(8) which is not necessary for the convenient transaction of its business shall be sold by said company and disposed of within ten (10) years after it acquired title to the same, or within five (5) years after the same has ceased to be necessary for the accommodation of its business, unless the company procures the certificate of the commissioner that its interests will suffer materially by a forced sale of the real estate, in which event the time for the sale may be extended to such time as the commissioner directs in the certificate.

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

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

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

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

(C) internal control procedures;

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

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

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

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

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

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

Formerly: Acts 1935, c.162, s.172; Acts 1937, c.288, s.3; Acts 1939, c.63, s.4; Acts 1949, c.206, s.1; Acts 1971, P.L.384, SEC.1; Acts 1973, P.L.277, SEC.1. As amended by Acts 1981, P.L.241, SEC.1; P.L.159-1986, SEC.3; P.L.161-1986, SEC.1; P.L.121-1990, SEC.2; P.L.8-1991, SEC.9; P.L.184-1996, SEC.2; P.L.186-1997, SEC.7; P.L.1-2002, SEC.104; P.L.40-2004, SEC.2; P.L.89-2011, SEC.30; P.L.81-2012, SEC.3.

IC 27-1-13-3.5 Intangible assets attributable to investment in subsidiary; amount as percentage of capital and surplus

Sec. 3.5. (a) Except as provided by subsection (b), goodwill, trade names, and other like intangible assets attributable to any investment in a subsidiary shall be admitted as assets except:

(1) to the extent that the aggregate amount thereof exceeds ten percent (10%) of the capital and surplus of the insurer as reported in its latest annual report filed with the commissioner;

(2) to the extent that any such asset is not being amortized ratably over a period of ten (10) years or less from the date of acquisition; and

(3) in determining the financial condition or solvency of an insurer under IC 27-9.

(b) The commissioner may increase the ten percent (10%) limitation in subsection (a)(1) to an amount not to exceed twenty percent (20%) of the capital and surplus of the insurer as

reported in its latest annual statement filed with the commissioner if:

(1) the assets of the insurer include good will, trade names, and other like intangible assets that are attributable to the acquisition after December 31, 1998, of an insurance company or health maintenance organization authorized to do business under the laws of any state; and

(2) as of the date of the initial request for an increase in the ten percent (10%) limitation in subsection (a)(1) the total adjusted capital of the insurer is at least four hundred percent (400%) of the authorized control level risk based capital of the insurer as reported in the latest annual report filed with the commissioner.

(c) The commissioner may retain experts to assist with a request made under subsection (b). The insurer shall pay all costs for the experts.

As added by P.L.160-1986, SEC.2. Amended by P.L.88-2000, SEC.1.

IC 27-1-13-4 Valuation of bonds and securities

Sec. 4. (a) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or, instead of this method, according to an accepted method of valuation as is approved by the department. The purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage, or express charges paid in the acquisition of the securities. The department shall have full discretion in determining the method of calculating values according to the rules set forth in this subsection. However, no such method or valuation under this subsection may be inconsistent with any applicable method or valuation used by insurers in general or any such method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

(b) Securities held by an insurer, other than those referred to in subsection (a), shall be valued, in the discretion of the department, at their market value or at their appraised value or at prices determined by the department as representing the fair market value of the securities. Preferred or guaranteed stocks or shares, while paying full dividends, may be carried at a fixed value in lieu of market value at the discretion of the department and in accordance with the method of valuation that the department approves. No valuation under this subsection may be inconsistent with any applicable valuation or method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

Formerly: Acts 1935, c.162, s.172a. As amended by P.L.130-1994, SEC.20; P.L.116-1994, SEC.27.

IC 27-1-13-5 Insured loans and investments

Sec. 5. (a) Subject to such rules as the department finds to be necessary and proper, any insurance company other than one organized as a life insurance company organized under the provisions of this article or any other law of this state and authorized to make any or all of the kinds of insurance described in Class 2 or Class 3 of IC 27-1-5-1 shall have the following powers:

(1) To make such loans and advances of credit and purchase of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain such insurance.

(2) To make such loans secured by mortgages on real property or leasehold, as the federal housing administrator insures or makes a commitment to insure, and to obtain such insurance.

(3) To purchase, invest its capital and other funds in, and dispose of, notes or bonds

secured by deed of trusts or mortgage insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities issued by national mortgage associations.

(b) No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credits may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made shall be deemed to apply to loans, advances of credit, or purchases made pursuant to subsections (a)(1) and (a)(2).

(c) Any rule made and promulgated under and pursuant to this section may apply to one (1) or more of the insurance companies to which this section is applicable.

Formerly: Acts 1935, c.162, s.173; Acts 1937, c.288, s.4. As amended by P.L.252-1985, SEC.68.

IC 27-1-13-6 Limitation on risks; effect of reinsurance

Sec. 6. (a) No company organized to make any kind or kinds of insurance included in class II and class III of IC 27-1-5-1 may take, on any one (1) risk of whatever nature, a sum exceeding one-tenth (1/10) part of its paid-up capital, surplus, and contingent reserves, if any, if a stock company, or one-tenth (1/10) part of its surplus and contingent reserves, if any, if other than a stock company. No portion of any such risk or hazard which shall have been reinsured in accordance with any regulations that the commissioner may enact pursuant to this section shall be included in determining the limitation of risk prescribed in this section. This section shall not apply to marine insurances, companies organized to make life insurance, or companies organized to issue title insurance.

(b) No stock or mutual insurance company transacting fidelity or surety business in this state shall expose itself to any loss on any one (1) fidelity or surety risk or hazard in an amount exceeding ten percent (10%) of its capital, surplus and contingent reserves, if any, unless it shall be protected in excess of that amount by: (a) Reinsurance in a company authorized to transact the fidelity or surety business in this state, provided that such reinsurance is in such form as to enable the obligee or beneficiary to maintain an action thereon against the company reinsured jointly with such reinsurer and, upon recovering judgment against such reinsured, to have recovery against such reinsurer for payment to the extent in which it may be liable under such reinsurance and in discharge thereof; or (b) the cosuretyship of such a company similarly authorized; or (c) deposit with it in pledge or conveyance to it in trust for its protection of property; or (d) conveyance or mortgage for its protection; or (e) in case a suretyship obligation was made on behalf or on account of a fiduciary holding property in a trust capacity, deposit or other disposition of a portion of the property so held in trust that no future sale, mortgage, pledge or other disposition can be made thereof without the consent of such company; except by decree or order of a court of competent jurisdiction. However (1) such a company may execute what are known as transportation or warehousing bonds for United States internal revenue taxes to an amount equal to fifty percent (50%) of its capital, surplus and contingent reserves, if any; (2) when the penalty of the suretyship obligation exceeds the amount of a judgment described therein as appealed from and thereby secured, or exceeds the amount of the subject-matter in controversy or of the estate in the hands of the fiduciary for the performance of whose duties it is conditioned, the bond may be executed if the actual amount of the judgment or the subject-matter in controversy or estate not subject to supervision or control of the surety is not in excess of such limitation; and (3) when the penalty of the suretyship obligation executed for the performance of a contract exceeds the contract price, the latter shall be taken as the basis for estimating the limit of risk within the meaning of this section. No such company may, anything to the contrary in this section notwithstanding, execute suretyship obligations guaranteeing the deposits of any single financial institution in an aggregate amount in excess of ten percent (10%) of the capital, surplus and contingent reserves, if any, of such corporate surety, unless it is protected in excess of that amount by credits in

accordance with subdivisions (a), (b), (c) or (d) of this subsection.
Formerly: Acts 1935, c.162, s.175. As amended by Acts 1982, P.L.162, SEC.1; P.L.260-1983, SEC.4.

IC 27-1-13-7 Policy requirements

Sec. 7. (a) No policy of insurance against:

(1) a:

(A) loss or damage resulting from accident to; or

(B) death or injury suffered by;

an employee or other person or persons and for which the person or persons insured are liable; or

(2) a loss or damage to property resulting from collision with any moving or stationary object and for which loss or damage the person or persons insured are liable;

shall be issued or delivered in this state by any domestic or foreign corporation, insurance underwriters, association, or other insurer authorized to do business in this state, unless the requirements of subsection (b) are met.

(b) A policy described in subsection (a) must contain the following:

(1) A provision that:

(A) the insolvency or bankruptcy of the person or persons insured shall not release the insurance carrier from the payment of damages for injury sustained or loss occasioned during the life of the policy; and

(B) if execution against the insured is returned unsatisfied in an action brought by the injured person or his or her personal representative in case death resulted from the accident because of insolvency or bankruptcy described in clause (A) then an action may be maintained by the injured person, or his or her personal representative, against the domestic or foreign corporation, insurance underwriters, association or other insurer under the terms of the policy for the amount of the judgment in the said action not exceeding the amount of the policy.

(2) A provision that notice given by or on behalf of the insured to any authorized agent of the insurer within this state, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer.

(3) If the policy is to be issued or delivered in this state to the owner of a motor vehicle, a provision insuring the owner against liability for damages for death or injury to person or property resulting from negligence in the operation of the motor vehicle, in the business of the owner or otherwise, by any person legally using or operating the motor vehicle with the permission, expressed or implied, of the owner.

(c) If a motor vehicle is owned jointly by a husband and wife:

(1) either spouse may, with the written consent of the other spouse, be excluded from coverage under a policy described in subsection (b)(3); and

(2) the husband and wife may choose to have their liability covered under separate policies.

(d) This section does not prohibit an insurer from making available a named driver exclusion in a commercial motor vehicle policy.

(e) A policy issued in violation of this section shall, nevertheless, be held valid but be deemed to include the provisions required by this section, and when any provision in the policy or rider is in conflict with a provision required to be contained by this section, the rights, duties and obligations of the insurer, the policyholder and the injured person or persons shall be governed by the provisions of this section.

(f) No policy of insurance shall be issued or delivered in this state by any foreign or domestic corporation, insurance underwriters, association, or other insurer authorized to do business in this state, unless it contains a provision that authorizes such foreign or domestic corporation, insurance underwriters, association, or other insurer authorized to do business in this state to settle the liability of its insured under IC 34-18 without the consent of its

insured when the unanimous opinion of the medical review panel under IC 34-18-10-22(b)(1) is that the evidence supports the conclusion that the defendant failed to comply with the appropriate standard of care as charged in the complaint.
Formerly: Acts 1935, c.162, s.177. As amended by Acts 1981, P.L.241, SEC.2; P.L.111-1998, SEC.1; P.L.72-2016, SEC.8.

IC 27-1-13-7.5 Newly acquired motor vehicle; required coverage

Sec. 7.5. (a) As used in this section, "motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).

(b) As used in this section, "newly acquired motor vehicle" means one (1) of the following types of vehicles of which an individual who is insured under a personal lines motor vehicle insurance policy becomes the owner during the policy period:

(1) A private passenger motor vehicle.

(2) A pickup truck or van for which no other insurance policy provides coverage.

(c) If the insured notifies the insurer of the newly acquired motor vehicle within the periods specified in subdivisions (1) and (2), an insurer that issues a motor vehicle insurance policy shall provide at least:

(1) fourteen (14) days of liability coverage; and

(2) if the motor vehicle insurance policy provides physical damage coverage, four (4) days of physical damage coverage that is subject to a deductible of not more than five hundred dollars ($500);

for a newly acquired motor vehicle under the motor vehicle insurance policy, effective on the date the insured becomes the owner.
As added by P.L.276-2013, SEC.11.

IC 27-1-13-8 Estimating condition; classification of items as assets or liabilities; reserves

Sec. 8. In estimating the condition of any company which makes insurance comprised within class 2 or class 3 of IC 27-1-5-1, the department shall allow only such investments as assets as are authorized by the laws of this state at the date of the investigation, but unpaid premiums on policies or renewals written within three (3) months shall be admitted as available resources. It shall charge as liabilities in addition to all other outstanding indebtedness of the company the capital stock, if any, and the following:

(a) The premium reserve on policies in force equal to fifty percent (50%) of the gross premiums charged for covering risks, less the reserve computed by the same method, on reinsurance in force. However, the department may, in its discretion, charge a premium reserve equal to the unearned portions of the gross premium charged by computing on each respective risk from the date of the issuance of the policy, less the reserve, computed by the same method, on reinsurance in force.

(b) In the case of policies of marine or inland navigation or transportation insurance it shall charge as a liability fifty percent (50%) of the amount of the premiums written in such policies upon yearly risks and upon risks covering not more than one (1) passage not terminated and the full amount of premiums written in policies upon all other such risks not terminated.

(c) The reserve for outstanding losses at least equal to the aggregate estimated amounts due or to become due on account of all losses or claims of which the company has received notice. However, the loss reserve shall also include the estimated liability on any notices received by the company of the occurrence of any event which may result in a loss and the estimated liability for all losses which have occurred but on which no notice has been received. For the purpose of such reserves, the company shall keep a complete and itemized record showing all losses and claims on which it has received notice, including all notices received by it of the occurrence of any event which may result in a loss.

(d) Any other reserves as are required by or provided for in the annual statement blanks

adopted by the National Association of Insurance Commissioners and furnished to companies under IC 27-1-3-13.

(e) Whenever, in the judgment of the department, the loss reserves calculated in accordance with subsections (a), (b), (c), and (d) are inadequate, it may in its discretion require a company to maintain additional reserves.

Formerly: Acts 1935, c.162, s.179. As amended by P.L.260-1983, SEC.7.

IC 27-1-13-8.5 Rules to prescribe minimum standards for establishment of reserves

Sec. 8.5. The department shall adopt rules under IC 4-22-2 to prescribe minimum standards for the establishment of reserves as required by the National Association of Insurance Commissioners or its successor organization for insurers writing Class 2 and Class 3 lines of business.

As added by P.L.130-1994, SEC.21 and P.L.116-1994, SEC.28.

IC 27-1-13-9 Trading or dealing in commodities, goods, wares, and merchandise

Sec. 9. No company shall directly or indirectly deal or trade in buying or selling goods, wares, merchandise or other commodities, except such as may have been insured by it and such as may be sold under judicial process or otherwise, in which, or in the profits of the sale of which, it may be interested by reason of having previously become insurers of the same or of some share or portion thereof.

Formerly: Acts 1935, c.162, s.180.

IC 27-1-13-10 Insurance rating bureaus; organizational regulations

Sec. 10. Any insurance rating bureau which files any rating plan, manual, classifications, rules or rates for fire, marine or inland marine and allied risks insurance with the insurance department of the state of Indiana for its members or subscribers shall as a condition precedent to the filing of an application to act as a rating bureau in the state of Indiana, establish in its constitution or by-laws the right of domestic insurers organized and operating under the laws of the state of Indiana, who are members of such rating bureau, to have representation on the board of directors, board of governors or any other governing body whatsoever, controlling said rating bureau, in an amount of not less than 33 1/3% of all of the voting members of such governing body. The constitution and by-laws of said rating bureau shall also contain the condition that all meetings of the governing body of said rating bureau shall be held either in Chicago, Illinois or in Indianapolis, Indiana; Provided, however, That nothing contained herein shall limit the representation of such domestic insurers on said governing body. Indiana representatives on such governing body shall be nominated by special meeting of the Indiana members of such rating bureau at least 10 days preceding the election of representatives on the governing body of such rating bureau. The insurance commissioner of the state of Indiana shall have no right to approve any such rating bureau as a rating bureau in the state of Indiana until the aforesaid conditions are met by such bureau.

Formerly: Acts 1935, c.162, s.180a; Acts 1947, c.269, s.1.

IC 27-1-13-11 Insurance rating bureaus; meetings; appearance by aggrieved persons

Sec. 11. At all such meetings of the governing body held at Indianapolis, Indiana, as set out in section 10 of this chapter, any aggrieved policyholder, insurance producer, company, representative, or any other aggrieved person may appear before such meeting to have complaints heard in full, and it shall be the duty of such rating bureau to rectify such conditions as are justly complained of in such manner as is reasonably possible.

Formerly: Acts 1935, c.162, s.180b; Acts 1947, c.269, s.2. As amended by P.L.252-1985,

SEC.69; P.L.178-2003, SEC.19.

IC 27-1-13-12 Insurance rating bureau; division of representation

Sec. 12. The representation of Indiana insurors on such governing body of such rating bureau described in section 10 of this chapter shall be equally divided as between domestic stock and mutual insurors, and the number of members on such governing body of such rating bureau shall be fixed so this can be accomplished.

Formerly: Acts 1935, c.162, s.180c; Acts 1947, c.269, s.3. As amended by P.L.252-1985, SEC.70.

IC 27-1-13-13 Repealed

Formerly: Acts 1935, c.162, s.180d; Acts 1947, c.269, s.4. Repealed by P.L.108-1985, SEC.1.

IC 27-1-13-14 Casualty and liability insurance; qualified public transportation agency; group coverage for functions

Sec. 14. (a) As used in this section:

"Casualty and liability insurance" means insurance included in Class II and Class III of IC 27-1-5-1.

"Qualified public transportation agency" means any of the following:

(1) A public transportation corporation established under IC 36-9-4.

(2) An agency of a city that provides for public transportation.

(3) An agency of a town that provides for public transportation.

(4) An agency of a township that provides for public transportation.

(5) Any person who provides public transportation to a county under an agreement with the county.

(b) A company authorized to issue casualty and liability insurance policies in Indiana may sell group casualty and liability insurance to two (2) or more qualified public transportation agencies only for the purpose of insuring their public transportation functions.

As added by P.L.256-1983, SEC.1.

IC 27-1-13-15 Property and casualty insurance blanket policies for planned unit development owners association or corporation

Sec. 15. (a) As used in this section, "planned unit development" has the meaning set forth in IC 36-7-1-14.5.

(b) As used in this section, "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.

(c) An insurance company may issue a blanket policy of property and casualty insurance to an association or a nonprofit corporation composed of the owners of the property within a planned unit development for the purpose of insuring:

(1) the association or nonprofit corporation;

(2) the owners of the property within the planned unit development;

(3) the executive body of the association or nonprofit corporation;

(4) the managing agent of the association or nonprofit corporation, if any;

(5) all persons who act as agents or employees of:

(A) the association or nonprofit corporation;

(B) the owners of the property;

(C) the executive body; or

(D) the managing agent;

with respect to the planned unit development; and

(6) all other persons entitled to occupy any unit or other portion of the planned unit development, including property owners;

against losses under this subsection, including loss or damage to property within the planned

unit development and loss of use or occupancy.

(d) An association or a nonprofit corporation composed of the owners of all of the property within a planned unit development is authorized to purchase an insurance policy described in subsection (c).

As added by P.L.116-1994, SEC.29. Amended by P.L.1-2010, SEC.110.

IC 27-1-13-16 Notice of residential policy changes

Sec. 16. (a) This section applies to a policy of insurance that:

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

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

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) An insurer that reduces, restricts, or removes, through a rider or an endorsement, coverage provided by a policy of insurance must provide to the named insured written notice, through the United States mail or by electronic means, of the changes to the policy. The written notice required by this subsection must:

(1) be part of a document that is separate from the rider or endorsement;

(2) be printed in at least 12 point type, 1 point leaded;

(3) consist of text that achieves a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner as provided by IC 27-1-26-6;

(4) identify the forms, provisions, or endorsements that are changed;

(5) indicate that the named insured may contact the servicing insurance producer for the policy, if any, or the insurer for assistance with any questions concerning the policy changes;

(6) indicate whether a premium adjustment will result from the policy changes; and

(7) set forth any options available to the named insured to repurchase the coverage that has been reduced, restricted, or removed.

(c) The insurer bears the burden to prove that notice was sent to the named insured in accordance with this section. If the notice is sent through the United States mail, proof of mailing as described in IC 27-7-6-7 is sufficient proof of the notice.

(d) The commissioner may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.173-2007, SEC.9. Amended by P.L.3-2008, SEC.208; P.L.116-2011, SEC.1; P.L.6-2012, SEC.186; P.L.129-2014, SEC.5.

IC 27-1-13-17 Residential policy restrictions

Sec. 17. (a) This section applies to a policy of insurance that:

(1) covers first party loss to property located in Indiana; and

(2) insures against loss or damage to:

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

(B) personal property in which the named insured has an insurable interest and that is used within a residential dwelling for personal, family, or household purposes.

(b) A policy of insurance described in subsection (a) may not be issued, renewed, or delivered to any person in Indiana if the policy limits a policyholder's right to bring an action against an insurer to a period of less than two (2) years from the date of loss.

As added by P.L.173-2007, SEC.10.