

## IC 27-14

# ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY LAW

## IC 27-14-1

### Chapter 1. General Provisions and Definitions

## IC 27-14-1-1

### Short title

Sec. 1. This article may be referred to as the Indiana mutual insurance holding company law.

*As added by P.L.5-2000, SEC.4.*

## IC 27-14-1-1.1

### Intent of article; alternative organizational structure

Sec. 1.1. (a) This article is intended to enable mutual insurance companies to seek additional capital more effectively to:

- (1) enhance their financial strength and flexibility;
- (2) support long term growth internally and through mergers and acquisitions; and
- (3) expand and enhance the domestic insurance companies of this state.

(b) This article provides an alternative organizational structure to help strengthen the Indiana mutual insurance industry by permitting mutual insurance companies to:

- (1) reorganize into a mutual insurance holding company structure; and
- (2) raise capital through the sale of capital stock.

*As added by P.L.220-2011, SEC.463.*

## IC 27-14-1-2

### "Members' surplus protection principle"

Sec. 2. (a) The requirements of this section constitute the "members' surplus protection principle" for purposes of this article.

(b) The MIHC must at all times have the voting power and economic interests required by IC 27-14-5-1.

(c) The aggregate value of the members' interests in an MIHC shall be protected from dilution as a result of sales of stock of a reorganized insurer or stock holding company to persons other than the MIHC through compliance with the requirements of IC 27-14-5-6, IC 27-14-5-7, IC 27-14-5-8, and IC 27-14-6-5.

(d) Dividends paid on participating policies shall be protected as provided by IC 27-14-3-11.

(e) An MIHC, stock holding company, and reorganized insurer must have outside directors as required by IC 27-14-3-5.

(f) The officers and directors of the MIHC and any subsidiary of the MIHC are subject to the restrictions on stock ownership set forth in IC 27-14-5-2, IC 27-14-5-3, and IC 27-14-5-9.

(g) Dividends paid on the equity securities of a stock holding company or reorganized insurer may be paid only in accordance with

IC 27-14-3-11.

(h) Compensation payable to directors and executive officers of an MIHC, stock holding company, or reorganized insurer may be paid only in accordance with IC 27-14-3-12.

(i) Operations outside the ordinary course of the insurance business may be conducted only as provided in IC 27-14-3-13.

*As added by P.L.5-2000, SEC.4.*

### **IC 27-14-1-3**

#### **Applicability of definitions**

Sec. 3. The definitions set forth in this chapter apply throughout this article.

*As added by P.L.5-2000, SEC.4.*

### **IC 27-14-1-4**

#### **"Acting in concert"**

Sec. 4. (a) Subject to subsection (b), "acting in concert" means:

- (1) a knowing participation in a joint activity whether or not under an express agreement;
- (2) interdependent conscious parallel action toward a common goal under an express agreement or otherwise; or
- (3) a combination or pooling of voting interests or other interests in the securities of any person for a common purpose under any contract, understanding, relationship, agreement, or other arrangement, written or otherwise.

(b) An employee benefit plan is acting in concert with:

- (1) its trustee; or
- (2) a person who serves in a capacity similar to a trustee;

solely for the purpose of determining whether capital stock held by the trustee or the person in a similar capacity and capital stock held by the plan will be aggregated.

*As added by P.L.5-2000, SEC.4.*

### **IC 27-14-1-5**

#### **"Adoption date"**

Sec. 5. "Adoption date" means, with respect to a plan, the date on which the board of directors approves a plan of reorganization or a plan to issue stock.

*As added by P.L.5-2000, SEC.4.*

### **IC 27-14-1-6**

#### **"Affiliate"**

Sec. 6. "Affiliate" means a person who, directly or indirectly:

- (1) controls;
- (2) is controlled by; or
- (3) is under common control with;

another person.

*As added by P.L.5-2000, SEC.4.*

### **IC 27-14-1-7**

**"Applicant"**

Sec. 7. "Applicant" means, with respect to a plan, a person that has submitted a plan to the commissioner under this article.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-8**

**"Associate"**

Sec. 8. (a) Subject to subsection (b), "associate" means any of the following:

(1) With respect to a particular person, corporation, business entity, or other organization (other than the applicant or an affiliate of the applicant) for which the person is:

(A) an officer;

(B) a partner; or

(C) directly or indirectly the beneficial owner of at least ten percent (10%) of any class of equity securities.

(2) With respect to an individual who is a director or an officer of the applicant or of any of the applicant's affiliates, a:

(A) spouse; or

(B) member of the immediate family sharing the same household.

(3) With respect to a particular person, a trust or other estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar fiduciary capacity.

(b) The term does not apply to a person that:

(1) has a beneficial interest in; or

(2) serves as a trustee or in a similar fiduciary capacity for;

an employee benefit plan.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-9**

**"Board"**

Sec. 9. "Board" means:

(1) the board of directors of an MIHC, an MIC, a stock holding company, or a reorganized insurer; or

(2) another board or committee that is responsible under the articles or bylaws of the company for decisions involving the structure or management of an MIHC, MIC, stock holding company, or reorganized insurer.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-10**

**"Commissioner"**

Sec. 10. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-11**

**"Company"**

Sec. 11. "Company" means any of the following:

- (1) An MIC.
- (2) An MIHC.
- (3) A stock holding company.
- (4) A reorganized insurer.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-12**

**"Disinterested director"**

Sec. 12. "Disinterested director" means a director of an MIHC who does not hold, directly or indirectly, a material ownership interest in any subsidiary.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-13**

**"Effective date"**

Sec. 13. "Effective date" means, with respect to a plan, the date on which the plan becomes effective under this article.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-14**

**"Eligible member"**

Sec. 14. "Eligible member" means, with respect to a plan, a person who is a member of an MIC or MIHC, as applicable, on the adoption date of a plan and:

- (1) solely for purposes of receipt of notice of and voting at a meeting of members on a plan of reorganization, continues to be a member of the MIC on the record date for the meeting of members; or
- (2) solely for purposes of eligibility to receive stock subscription rights under a plan to issue stock, continues to be a member of the MIC or MIHC, as applicable, on the date the commissioner approves the plan to issue stock.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-15**

**"Employee benefit plan"**

Sec. 15. "Employee benefit plan" means an employee benefit plan established by an MIHC or by one (1) or more of the subsidiaries of an MIHC for the sole benefit of its:

- (1) employees; or
- (2) sales agents.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-16**

**"Financial services businesses"**

Sec. 16. "Financial services businesses" includes investment banking, commercial banking, industrial banking, savings and loan associations, credit unions, trust companies, other lending and loan brokerage services, services related to the extension of credit

(including but not limited to real estate and personal property appraisal; arranging equity financing; check-guaranty services; collection agency services; asset management, servicing, and collection activities; real estate settlement services; and lease financing transactions), securities broker-dealer and trading services, private placement services, acting as a futures commission merchant, securities underwriting, transactions in bullion, precious metals, and foreign currency, investment advisory services, financial planning services, third party administration of insurance policy claims and accounts receivable, the advance or loan of funds using accounts receivable as collateral, organization and operation of investment companies and mutual funds, employee benefit planning and consultation services, actuarial services, issuance of money orders, savings bonds, and traveler's checks, and other operations and services either closely related to or a proper incident to the foregoing. *As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-17**

##### **"Immediate family"**

Sec. 17. "Immediate family" means any child, stepchild, grandchild, parent, stepparent, grandparent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, and includes adoptive relationships.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-18**

##### **"Internal Revenue Code"**

Sec. 18. "Internal Revenue Code" refers to the Internal Revenue Code of 1986, as amended.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-19**

##### **"Material ownership interest"**

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

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-20**

##### **"Member"**

Sec. 20. "Member" means a person that, according to the:

- (1) records; and
- (2) articles of incorporation and bylaws;

of an MIC or MIHC, as applicable, is a member of the MIC or MIHC, as applicable.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-21**

##### **"Member's interest"**

Sec. 21. "Member's interest" means:

- (1) the voting rights of a member provided by law and by the MIC's or MIHC's articles of incorporation and bylaws; and
- (2) the right to receive cash, stock, or other consideration in the event of a conversion to a stock company under IC 27-1 through IC 27-13 or a dissolution under IC 27-1-10, as provided by those laws and by the MIC's or MIHC's articles of incorporation or bylaws.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-22**

##### **"MIC"**

Sec. 22. "MIC" refers to a mutual insurance company.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-23**

##### **"MIHC"**

Sec. 23. "MIHC" refers to a mutual insurance holding company.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-24**

##### **"Mutual insurance company" or "MIC"**

Sec. 24. "Mutual insurance company" or "MIC" means a mutual insurer that is:

- (1) submitting; or
- (2) subject to;

a plan of reorganization or plan to issue stock under this article.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-25**

##### **"Mutual insurance holding company" or "MIHC"**

Sec. 25. "Mutual insurance holding company" or "MIHC" means a mutual insurance holding company established under IC 27-14-2.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-26**

##### **"Net income"**

Sec. 26. "Net income" means an amount equal to the consolidated net income of the company for which the determination is being made, determined in accordance with generally accepted accounting principles on a basis consistent with prior periods, less net realized investment gains (reduced by capital gains tax, if any) on the sale of investments (including real estate) that were held as of the effective date of the plan of reorganization by a former MIC. For purposes of this section, "net realized investment gains" means an amount equal to realized investment gains less realized investment losses (reduced by capital gains tax, if any) for the same accounting period for all investments (including real estate) held as of the effective date of the plan of reorganization as determined in accordance with generally accepted accounting principles on a basis consistent with prior

periods. The cumulative total of net realized investment gains after the effective date of the plan of reorganization that are applied to reduce one (1) or more years of net income for the purposes of this section and IC 27-14-3-11(e) shall not exceed the net unrealized investment gains as of the effective date of the plan of reorganization. For purposes of this section, "net unrealized investment gains" mean unrealized investment gains less unrealized investment losses (as adjusted for deferred income taxes) as of the effective date of the plan of reorganization.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-27**

##### **"Ordinary course of the insurance business"**

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

- (1) Operations, practices, and procedures of the company in effect prior to the effective date of the plan of reorganization.
- (2) Operations, practices, and procedures that are consistent with industry practices and standards used or in effect at any relevant time.
- (3) The payment of obligations due under any surplus note issued by the company with the approval of the commissioner.
- (4) Expanding the business of any company into other insurance, insurance-related, and financial services businesses.

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

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-28**

##### **"Outside director"**

Sec. 28. (a) "Outside director" means an individual who:

- (1) is a member of a board of:
  - (A) an MIHC;
  - (B) a stock holding company; or
  - (C) a reorganized insurer;
- (2) is not and has not been within the last three (3) years an officer of, an employee of, or a consultant to the entity or any affiliate of the entity referred to in subdivision (1), of whose board the individual is a member;
- (3) with respect to a director of an MIHC that does not, directly or indirectly, own all of the stock of each of its reorganized insurers, is not and has not been within the last three (3) years a director of a stock holding company or a reorganized insurer that is affiliated with the MIHC; and
- (4) is not a spouse of or a member of the immediate family who shares the same household with an officer of, an employee of, or a consultant to the entity or any affiliate of the entity referred to in subdivision (1), of whose board the individual is a

member.

(b) For purposes of this section, a consultant is an individual who directly derives more than thirty-three percent (33%) of the consultant's income in any calendar year from the MIHC or an affiliate of the MIHC or an associate of a person who derives more than thirty-three percent (33%) of its income in any calendar year from the MIHC or any affiliate of the MIHC.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-29**

##### **"Participating policy"**

Sec. 29. "Participating policy" means a policy providing for the distribution of policy dividends.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-30**

##### **"Person"**

Sec. 30. "Person" means any of the following:

- (1) An individual.
- (2) A group of individuals acting in concert.
- (3) A trust.
- (4) An association.
- (5) A partnership.
- (6) A limited liability company.
- (7) A corporation.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-31**

##### **"Plan"**

Sec. 31. "Plan" means a plan:

- (1) of reorganization; or
- (2) to issue stock.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-32**

##### **"Plan of reorganization"**

Sec. 32. "Plan of reorganization" means a plan adopted under IC 27-14-2.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-33**

##### **"Plan to issue stock"**

Sec. 33. "Plan to issue stock" means a plan to issue shares of a stock holding company or a reorganized insurer adopted under IC 27-14-4.

*As added by P.L.5-2000, SEC.4.*

#### **IC 27-14-1-34**

##### **"Policy"**

Sec. 34. "Policy" means a contract providing one (1) or more of



the kinds of insurance described in IC 27-1-5-1.  
*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-35**

**"Reorganized insurer"**

Sec. 35. "Reorganized insurer" means an entity:

- (1) that is a domestic stock insurance company that is owned entirely or in part by an MIHC or a stock holding company; and
- (2) the policyholders of which may be or are entitled to become members of the MIHC.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-36**

**"Stock holding company"**

Sec. 36. "Stock holding company" means an entity other than a reorganized insurer and its subsidiaries that:

- (1) is owned entirely or in part, directly or indirectly, by an MIHC; and
- (2) directly or indirectly owns all or part of the capital stock of a reorganized insurer.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-37**

**"Subsidiary"**

Sec. 37. "Subsidiary" means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:

- (1) directly; or
- (2) indirectly through one (1) or more intermediaries.

*As added by P.L.5-2000, SEC.4.*

**IC 27-14-1-38**

**"Voting capital stock"**

Sec. 38. "Voting capital stock" means capital stock whose holder has the right to vote in the election of directors.

*As added by P.L.5-2000, SEC.4.*