

IC 27-1-12

Chapter 12. Life Insurance Company Powers and Policy Requirements

IC 27-1-12-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of sections 37, 38, 39, 40, 41, and 42 of this chapter by P.L.254-1985 applies to insurance policies delivered in Indiana after December 31, 1985.

As added by P.L.220-2011, SEC.421.

IC 27-1-12-1

Particular rights, privileges, and powers

Sec. 1. In addition to the general rights, privileges, and powers conferred by IC 27-1-5 through IC 27-1-13 and IC 27-1-1, and subject to the limitations and restrictions contained in this article and in the articles of incorporation, every life insurance company shall possess and may exercise the rights, privileges, and powers enumerated in this chapter and IC 27-1-12.8.

(Formerly: Acts 1935, c.162, s.146.) As amended by P.L.252-1985, SEC.59; P.L.3-1990, SEC.96; P.L.276-2013, SEC.2.

IC 27-1-12-2

Investments; categories, conditions, limitations, and standards

Sec. 2. (a) The following definitions apply to this section:

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

(A) cash;

(B) cash equivalents;

(C) letters of credit; and

(D) 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.

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

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

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

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

(D) 1 by the Securities Valuation Office.

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

(A) cash;

(B) cash equivalents; and

(C) 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.
- (4) "Acceptable collateral" means, as to reverse repurchase transactions:
- (A) cash; and
 - (B) cash equivalents.
- (5) "Admitted assets" means assets permitted to be reported as admitted assets on the statutory financial statement of the life insurance company most recently required to be filed with the commissioner.
- (6) "Business entity" means:
- (A) a sole proprietorship;
 - (B) a corporation;
 - (C) a limited liability company;
 - (D) an association;
 - (E) a partnership;
 - (F) a joint stock company;
 - (G) a joint venture;
 - (H) a mutual fund;
 - (I) a trust;
 - (J) a joint tenancy; or
 - (K) other, similar form of business organization;
- whether organized for-profit or not-for-profit.
- (7) "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.
- (8) "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 money market mutual fund.
- (9) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication either using the bond class one reserve factor or because it is exempt from asset valuation reserve requirements.
- (10) "Dollar roll transaction" means two (2) simultaneous transactions that have settlement dates not more than ninety-six (96) days apart and that meet the following description:
- (A) In one (1) transaction, a life insurance company sells to

a business entity one (1) or both of the following:

(i) Asset-backed securities that are issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation or the successor of an entity referred to in this item.

(ii) Other asset-backed securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended.

(B) In the other transaction, the life insurance company is obligated to purchase from the same business entity securities that are substantially similar to the securities sold under clause (A).

(11) "Domestic jurisdiction" means:

(A) the United States;

(B) any state, territory, or possession of the United States;

(C) the District of Columbia;

(D) Canada; or

(E) any province of Canada.

(12) "Earnings available for fixed charges" means income, after deducting:

(A) operating and maintenance expenses other than expenses that are fixed charges;

(B) taxes other than federal and state income taxes;

(C) depreciation; and

(D) depletion;

but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of a business entity.

(13) "Fixed charges" includes:

(A) interest on funded and unfunded debt;

(B) amortization of debt discount; and

(C) rentals for leased property.

(14) "Foreign currency" means a currency of a foreign jurisdiction.

(15) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

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

(A) invests only in:

(i) obligations that are issued, guaranteed, or insured by the United States; or

(ii) collateralized repurchase agreements composed of obligations that are issued, guaranteed, or insured by the United States; and

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

(17) "Guaranteed or insured," when used in reference to an obligation acquired under this section, means that the guarantor or insurer has agreed to:

(A) perform or insure the obligation of the obligor or purchase the obligation; or

(B) be unconditionally obligated, until the obligation is repaid, to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(18) "Investment company" means:

(A) an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended; or

(B) a person described in Section 3(c) of the Investment Company Act of 1940.

(19) "Investment company series" means an investment portfolio of an investment company that is organized as a series company to which assets of the investment company have been specifically allocated.

(20) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit that is:

(A) issued or confirmed by; and

(B) payable and presentable at;

a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication. To constitute acceptable collateral for the purposes of paragraph 29 of subsection (b), a letter of credit must have an expiration date beyond the term of the subject transaction.

(21) "Market value" means the following:

(A) As to cash, the amount of the cash.

(B) As to cash equivalents, the amount of the cash equivalents.

(C) As to letters of credit, the amount of the letters of credit.

(D) As to a security as of any date:

(i) the price for the security on that date obtained from a generally recognized source, or the most recent quotation from such a source; or

(ii) if no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction;

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

(22) "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.).

(23) "Multilateral development bank" means an international

development organization of which the United States is a member.

(24) "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.).

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

(A) A bond.

(B) A note.

(C) A debenture.

(D) Any other form of evidence of debt.

(26) "Person" means:

(A) an individual;

(B) a business entity;

(C) a multilateral development bank; or

(D) a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.

(27) "Repurchase transaction" means a transaction in which a life insurance company purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the life insurance company at a specified price, either within a specified period of time or upon demand.

(28) "Reverse repurchase transaction" means a transaction in which a life insurance company sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

(29) "Securities lending transaction" means a transaction in which securities are loaned by a life insurance company to a business entity that is obligated to return the loaned securities or equivalent securities to the life insurance company, either within a specified period of time or upon demand.

(30) "Securities Valuation Office" refers to:

(A) the Securities Valuation Office of the National Association of Insurance Commissioners; or

(B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.

(31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended).

(32) "Supported", when used in reference to an obligation, by whomever issued or made, means that:

(A) repayment of the obligation by:

- (i) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction; or
- (ii) a business entity;

as the case may be, is secured by real or personal property of value at least equal to the principal amount of the obligation 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 such property for the benefit of the holder of the obligation; and (B) the:

- (i) domestic jurisdiction or administration, agency, authority, or instrumentality of the domestic jurisdiction; or
- (ii) business entity;

as the case may be, has entered into a firm agreement to rent or use the property pursuant to which it is obligated to pay money as rental or for the use of such property in amounts and at times which shall be sufficient, after provision for taxes upon and other expenses of use of the property, to repay in full the obligation with interest and when such agreement and the money obligated to be paid thereunder are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security for the repayment of the obligation 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 obligation 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 such period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

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

1. Obligations of a domestic jurisdiction or of any administration, agency, authority, or instrumentality of a domestic jurisdiction.
2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction.
3. 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 or shares of any institution whose deposits are insured by the Federal Deposit Insurance Corporation to the extent that such shares are insured, obligations issued or guaranteed by a multilateral development bank, and obligations issued or guaranteed by the African Development Bank.

4. 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 domestic jurisdiction, providing such obligations are authorized by law and are:

- (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 thereof; 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 such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

5. Loans evidenced by obligations secured by first mortgage liens on otherwise unencumbered real estate or otherwise unencumbered leaseholds having at least fifty (50) years of unexpired term, such real estate, or leaseholds to be located in a domestic jurisdiction. Such loans shall not exceed 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:

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

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

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

- (1) liens inferior to the lien securing the loan made by the life insurance company;

- (2) taxes or assessment liens not delinquent;
- (3) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls, or utility connections;
- (4) building restrictions or other restrictive covenants; or
- (5) an unassigned lease reserving rents or profits to the owner.

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

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

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

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

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

8. Improved or unimproved real property, whether encumbered or unencumbered, or any interest therein, held directly or evidenced by joint venture interests, general or limited partnership interests, trust certificates, or any other instruments, and acquired by the life insurance company as an investment, which real property, if unimproved, is developed within five (5) years. Real property

acquired for investment under this paragraph, whether leased or intended to be developed for commercial or residential purposes or otherwise lawfully held, is subject to the following conditions and limitations:

- (a) The real estate shall be located in a domestic jurisdiction.
- (b) The admitted assets of the life insurance company must exceed twenty-five million dollars (\$25,000,000).
- (c) The life insurance company shall have the right to expend from time to time whatever amount or amounts may be necessary to conform the real estate to the needs and purposes of the lessee and the amount so expended shall be added to and become a part of the investment in such real estate.
- (d) The value for statement and deposit purposes of an investment under this paragraph shall be reduced annually by amortization of the costs of improvement and development, less land costs, over the expected life of the property, which value and amortization shall for statement and deposit purposes be determined in a manner satisfactory to the commissioner. In determining such value with respect to the calendar years in which an investment begins or ends with respect to a point in time other than the beginning or end of a calendar year, the amortization provided above shall be made on a proportional basis.
- (e) Fire insurance shall be maintained in an amount at least equal to the insurable value of the improvements or the difference between the value of the land and the value at which such real estate is carried for statement and deposit purposes, whichever amount is smaller.
- (f) Real estate acquired in any of the manners described and sanctioned under section 3 of this chapter, or otherwise lawfully held, except paragraph 5 of that section which specifically relates to the acquisition of real estate under this paragraph, shall not be affected in any respect by this paragraph unless such real estate at or subsequent to its acquisition fulfills the conditions and limitations of this paragraph, and is declared by the life insurance company in a writing filed with the department to be an investment under this paragraph. The value of real estate acquired under section 3 of this chapter, or otherwise lawfully held, and invested under this paragraph shall be initially that at which it was carried for statement and deposit purposes under that section.
- (g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no structures intended for commercial, industrial, or residential occupancy, and "improved real

property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and deposit purposes as defined in this paragraph, held under this paragraph at the same time.

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

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

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

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

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

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

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

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

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

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

(a) has been in existence for a period of at least five (5) years immediately preceding the date of purchase, has assets of not less than twenty-five million dollars (\$25,000,000) at the date of purchase, and invests substantially all of its assets in investments permitted under this section; or

(b) is a class one money market mutual fund or a class one bond mutual fund.

Investments authorized by this paragraph 13(A) in mutual funds having the same or affiliated investment advisers shall not at any one (1) time exceed in the aggregate ten percent (10%) of the life insurance company's admitted assets. The limitations contained in paragraph 22 of this subsection apply to investments in the types of mutual funds described in subparagraph (a). For the purposes of this paragraph, "class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

The aggregate amount of investments under this paragraph may be limited by the commissioner if the commissioner finds that

investments under this paragraph may render the operation of the life insurance company hazardous to the company's policyholders or creditors or to the general public.

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

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

15.(A) Tangible personal property, equipment trust obligations, or other instruments evidencing an ownership interest or other interest in tangible personal property when the life insurance company purchasing such property has admitted assets in excess of twenty-five million dollars (\$25,000,000), and where there is a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use of such personal property from a corporation whose obligations would be eligible for investment under the provisions of paragraph 11 of this subsection, provided that the aggregate of such payments together with the estimated salvage value of such property at the end of its minimum useful life, to be determined in a manner acceptable to the insurance commissioner, and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that each net investment in tangible personal property for which any single private corporation is obligated to pay rental, purchase, or other obligatory payments thereon does not exceed one-half of one percent (1/2%) of the life insurance company's admitted assets, and the aggregate net investments made under the provisions of this paragraph do not exceed five percent (5%) of the life insurance company's admitted assets.

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

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

17.(A) Investments in (i) obligations issued, guaranteed, assumed, or supported by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction and (ii) preferred

stock and common stock issued by any such business entity, if the obligations of such foreign jurisdiction or business entity, as appropriate, are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

If the obligations issued by a business entity organized under the laws of a foreign jurisdiction have not received a rating, investments may nevertheless be made under this paragraph in such obligations and in the preferred and common stock of the business entity if 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 its average fixed charges applicable to such period, and if during either of the last two (2) years of such period, the earnings available for fixed charges were at least three (3) times its fixed charges for such year. Investments authorized by this paragraph in a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

- (a) obligations issued, guaranteed, or assumed by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction; and
- (b) preferred stock and common stock issued by a business entity organized under the laws of a foreign jurisdiction;

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

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

insurance company's admitted assets.

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

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

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

20. A life insurance company may make investments although not conforming to the categories, conditions, limitations, and standards contained in paragraphs 1 through 11, 12 through 19, and 29 through 31 of this subsection, but limited in aggregate amount to the lesser of:

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

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

20.(A) Investments under paragraphs 1 through 20 and paragraphs 29 through 31 of this subsection are subject to the general conditions, limitations, and standards contained in paragraphs 21 through 28 of this subsection.

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

22. Investments in:

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

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

23. Investments in subsidiary companies must be made in accordance with IC 27-1-23-2.6.

24. No investment, other than commercial bank deposits and loans

on life insurance policies, shall be made unless authorized by the life insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

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

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

- (a) a corporation which is a subsidiary or affiliate of such life insurance company; or
- (b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

27. Except for the purpose of mutualization provided for in section 23 of this chapter, 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 life insurance company's officers, employees, or agents, no life insurance company shall invest in its own stock.

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

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

- (1) A description of how cash received will be invested or used for general corporate purposes of the company.
- (2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.
- (3) A statement of the extent to which the company may engage

in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

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

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

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

(A) the agent is:

(i) a business entity, the obligations of which are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;

(ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or

(iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

(1) invested:

(A) in accordance with this section 2; and

(B) in a manner that recognizes the liquidity needs of the transaction; or

(2) used by the life insurance company for its general corporate purposes.

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

(1) possession of the acceptable collateral;

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

(3) in the case of a jurisdiction outside the United States:

(A) title to; or

(B) rights of a secured creditor to;

the acceptable collateral.

E. The limitations set forth in paragraphs 17 and 21 of this

subsection do not apply to transactions under this paragraph 29. For purposes of calculations made to determine compliance with this paragraph, no effect may be given to the future obligation of the life insurance company to:

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

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

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

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

- (1) In a securities lending transaction, the life insurance company must 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 received from a particular business entity is less than the market value of all securities loaned by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all securities lending transactions with that business entity, equals at least one hundred two percent (102%) of the market value of the loaned securities.
- (2) In a reverse repurchase transaction, other than a dollar roll transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date equal to at least 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 received from a particular business entity is less than ninety-five percent (95%) of the market value of all securities transferred by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

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

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral 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 received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

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

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

- (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or
- (b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

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

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

- (a) A- or higher by Standard & Poor's Corporation or Duff and

Phelps, Inc.;

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

(c) 1 by the Securities Valuation Office.

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

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

B. The following definitions apply throughout this paragraph:

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

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

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

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

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

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

(B) a remaining maturity of three (3) years or less and a

floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index (for example, federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

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

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

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

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

(1) acquire securities issued, assumed, guaranteed, or insured by the life insurance company or an affiliate of the company; or

(2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of paragraph 29 of this subsection.

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

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

(1) the manager of the investment pool must:

(A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and

(B) be the life insurance company, an affiliated company, a business entity affiliated with the company, or a qualified bank or a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-1 et seq.);

(2) the pool manager or an entity designated by the pool manager of the type set forth in subdivision (1) of this subparagraph F shall compile and maintain detailed accounting records setting forth:

(A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;

(B) a complete description of all underlying assets of the

investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and
(C) other records which, on a daily basis, allow third parties to verify each participant's interest in the investment pool;
and

(3) the assets of the investment pool shall be held in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement or trust agreement with a qualified bank, which must:

(A) state and recognize the claims and rights of each participant;

(B) acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its participation in the investment pool; and

(C) contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

G. The pooling agreement for an investment pool qualified under this paragraph must be in writing and must include the following provisions:

(1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of such insurers or their subsidiaries or affiliates, shall, at all times, hold one hundred percent (100%) of the interests in the investment pool.

(2) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person.

(3) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(A) each participant owns an undivided interest in the underlying assets of the investment pool; and

(B) the underlying assets of the investment pool are held solely for the benefit of each participant.

(4) A participant or (in the event of the participant's insolvency, bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one

(1) of the following forms, at the discretion of the pool

manager:

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

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

(Formerly: Acts 1935, c.162, s.147; Acts 1937, c.288, s.1; Acts 1939, c.63, s.3; Acts 1941, c.115, s.9; Acts 1945, c.175, s.1; Acts 1947, c.43, s.1; Acts 1959, c.21, s.1; Acts 1961, c.138, s.1; Acts 1967, c.60, s.1; Acts 1969, c.184, s.1; Acts 1974, P.L.121, SEC.1; Acts 1975, P.L.44, SEC.2; Acts 1975, P.L.279, SEC.1.) As amended by Acts 1981, P.L.236, SEC.1; P.L.267-1987, SEC.1; P.L.49-1988, SEC.2; P.L.8-1991, SEC.8; P.L.26-1991, SEC.7; P.L.1-1992, SEC.145; P.L.186-1997, SEC.1; P.L.126-2001, SEC.1; P.L.40-2004, SEC.1; P.L.89-2011, SEC.29.

IC 27-1-12-2.1

Repealed

(Repealed by P.L.26-1991, SEC.28.)

IC 27-1-12-2.2

Derivative transactions

Sec. 2.2. (a) The following definitions apply to this section:

(1) "Acceptable collateral" means, as to over-the-counter derivatives transactions and for the purpose of calculating counterparty exposure amounts:

- (A) cash;
- (B) cash equivalents;
- (C) letters of credit; and
- (D) 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.

(2) "Admitted assets" means the life insurance company's 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:

- (A) a sole proprietorship;
- (B) a corporation;
- (C) a limited liability company;
- (D) an association;
- (E) a partnership;
- (F) a joint stock company;
- (G) a joint venture;

- (H) a mutual fund;
 - (I) a trust;
 - (J) a joint tenancy; or
 - (K) another, similar form of business organization; whether organized for-profit or not-for-profit.
- (4) "Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price or level or the performance or value of one (1) or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.
- (5) "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.
- (6) "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 money market mutual fund.
- (7) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication either using the bond class one reserve factor or because it is exempt from asset valuation reserve requirements.
- (8) "Collar" means two (2) derivatives transactions on the same underlying interest in which the insurer receives payments as the buyer of an option, cap, or floor in one (1) transaction and makes payments as the seller of a different option, cap, or floor in the second transaction.
- (9) A. "Counterparty exposure amount" means the net amount of credit risk attributable to a derivative instrument that a life insurance company enters into with another business entity other than through a qualified exchange or a qualified foreign exchange, or cleared through a qualified clearing house ("over the counter derivative instrument"). The amount of credit risk equals:
- (1) the market value of the over-the-counter derivative instrument, if the liquidation of the instrument would result in a final cash payment to the insurer; or
 - (2) zero (0), if the liquidation of the over-the-counter derivative instrument would not result in a final cash

payment to the insurer.

B. If a life insurance company enters into one (1) or more over-the-counter derivative instruments with another business entity under a written master agreement that provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counterparty is either within the United States or a foreign jurisdiction listed in the "Purposes and Procedures of the Securities Valuation Office" or any successor publication as eligible for netting, the net amount of credit risk attributable to the counterparty is the greater of zero (0) or the remainder of:

(1) the market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer by the business entity; minus

(2) the market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.

C. For open transactions involving over-the-counter derivative instruments, market value:

(1) shall be determined not less frequently than at the end of the most recent quarter of the insurer's fiscal year; and

(2) shall be reduced by the market value of acceptable collateral that is:

(A) held by the insurer; or

(B) placed in escrow by one (1) or both parties.

(10) "Covered" means, in the case of a call option, that:

(A) the life insurance company owns the instrument underlying the call option it has written (a "written call") during the entire period that the written call is outstanding; or

(B) pursuant to the exercise of options, warrants, or conversion rights already owned when the call option is written and held during the period that the written call is outstanding, the life insurance company can immediately acquire the instrument underlying the written call, if:

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

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

(11) "Covered" means, in the case of a put option, that the life

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

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

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

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

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

Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, swaptions, forwards, futures, and any other agreements (in the nature of bilateral contracts, options, or otherwise) or substantially similar instruments, or any series or combination thereof, and any agreements (in the nature of bilateral contracts, options, or otherwise) or instruments permitted under rules adopted by the department.

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

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

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

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

(18) "Foreign jurisdiction" means a jurisdiction other than a

domestic jurisdiction.

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

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

(21) "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" or any successor publication.

(22) "Guaranteed or insured," when used in connection with an obligation acquired under this section, means that the guarantor or insurer has agreed to:

(A) perform or insure the obligation of the obligor or purchase the obligation; or

(B) be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(23) "Hedging transaction" means a derivative transaction that is entered into and maintained to manage:

(A) the risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities (or a portfolio of assets, liabilities, or assets and liabilities) that the insurer has acquired or incurred or anticipates acquiring or incurring; or

(B) currency exchange rate risk or the degree of exposure to assets or liabilities (or a portfolio of assets, liabilities, or assets and liabilities) that the insurer has acquired or incurred or anticipates acquiring or incurring.

(24) "Income generation transaction" means a derivative transaction involving the writing of covered call options, covered put options, covered caps, or covered floors.

(25) "Investment company" means an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended, and a person described in Section 3(c) of the Investment Company Act of 1940.

(26) "Investment company series" means an investment portfolio of an investment company that is organized as a series company and to which assets of the investment company have been specifically allocated.

(27) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit issued or confirmed by, and payable and presentable at, a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

(28) "Market value" means:

(A) as to cash, cash equivalents, and letters of credit, the amounts thereof;

(B) as to a security (other than a security that is an over-the-counter derivative instrument) as of any date, the price for the security on that date obtained from a generally recognized source or the most recent quotation from such a source or, to the extent no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction, plus accrued but unpaid income on the security to the extent not included in the price as of that date; and

(C) as to an over-the-counter derivative instrument as of any date, the amount that a life insurance company would have to pay or would receive for entering into an over-the-counter derivative transaction on substantially identical terms with another counterparty.

(29) "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.).

(30) "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.).

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

(A) A bond.

(B) A note.

(C) A debenture.

(D) Any other form of evidence of debt.

(32) "Option" means an agreement giving the buyer the right to buy or receive (a "call option"), sell or deliver (a "put option"), enter into, extend or terminate, or effect a cash settlement based on the actual or expected price, level, performance, or value of one or more underlying interests.

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

(A) an issuer of obligations, preferred stock, or derivative instruments that are rated 1 or 2 or are rated the equivalent of 1 or 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.
- (34) "Qualified clearinghouse" means a clearinghouse:
(A) that is for, and subject to the rules of, a qualified exchange or qualified foreign exchange; and
(B) that provides clearing services, including acting as a counterparty to each of the parties to a transaction so that the parties no longer have credit risk as to each other.
- (35) "Qualified exchange" means:
(A) a securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.), as amended;
(B) a board of trade or commodities exchange designated as a contract market by the Commodity Futures Trading Commission (CFTC) or any successor of the CFTC;
(C) Private Offerings, Resales, and Trading through Automated Linkages (PORTAL);
(D) a designated offshore securities market as defined in Securities Exchange Commission Regulation S (17 C.F.R. Part 230), as amended; or
(E) a qualified foreign exchange.
- (36) "Qualified foreign exchange" means a foreign exchange, board of trade, or contract market located outside the United States or its territories or possessions:
(A) that has received regulatory comparability relief under CFTC Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's Regulations (17 C.F.R. Part 30));
(B) that is, or whose members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under CFTC Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's Regulations (17 C.F.R. Part 30)) as to futures transactions in the jurisdiction where the exchange, board of trade, or contract market is located; or
(C) upon which are listed foreign stock index futures contracts that are the subject of no-action relief issued by the CFTC's Office of the General Counsel, provided that an exchange, board of trade, or contract market that qualifies as a qualified foreign exchange only under this clause is a qualified foreign exchange only as to foreign stock index futures contracts that are the subject of no-action relief.
- (37) "Replication transaction" means a derivative transaction that is intended to replicate the investment in one (1) or more assets that an insurer is authorized to acquire or sell under this section or section 2 of this chapter. A derivative transaction that is entered into as a hedging transaction shall not be considered

a replication transaction.

(38) "Securities Valuation Office" refers to:

(A) the Securities Valuation Office of the National Association of Insurance Commissioners; or

(B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.

(39) "Swap" means an agreement to exchange or to net payments at one (1) or more times based on the actual or expected price, level, performance, or value of one (1) or more underlying interests.

(40) "Swaption" means an agreement giving the buyer the right (but not the obligation) to enter into a swap at a specified time in the future.

(41) "Underlying interest" means the assets, liabilities, other interests or a combination thereof underlying a derivative instrument, such as any one (1) or more securities, currencies, rates, indices, commodities, or derivative instruments.

(42) "Warrant" means an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities, for example, as part of a merger or recapitalization agreement or to facilitate divestiture of the securities of another business entity.

(b) A life insurance company's board of directors 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 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.

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

(1) the intended characteristics; and

(2) the ongoing effectiveness;

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

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

(1) the aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one half percent (7.5%) of the insurer's admitted assets;

(2) the aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent (3%) of the insurer's admitted assets; and

(3) the aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent (6.5%) of the insurer's admitted assets.

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

(1) sales of covered call options on:

(A) non-callable fixed income securities;

(B) callable fixed income securities if the option expires by its terms before the end of the noncallable period; or

(C) derivative instruments based on fixed income securities or yields;

(2) sales of covered call options on equity securities;

(3) sales of covered puts on investments that the insurer is permitted to acquire under section 2 of this chapter; and

(4) sales of covered caps or floors;

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

(f) A life insurance company may enter into replication

transactions. For the purposes of this subsection, a replication transaction is subject to the limitations and restrictions set forth in section 2 of this chapter to which the replicated investments are subject.

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

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

(2) denominated in a foreign currency;

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

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

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

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

(2) are for other risk management purposes.

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

(1) The purpose or purposes of the transaction.

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

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

(4) For collateralized derivatives transactions, a description of any collateral posted by the insurer or the counterparty, as well as records documenting any subsequent variations in the amount of the collateral.

(5) For over-the-counter derivative transactions, the name of the counterparty and the counterparty exposure amount.

(6) For exchange traded derivative instruments, the name of the exchange and the name of the firm that handled the trade.

(k) Each derivative instrument shall be:

(1) traded on a qualified exchange;

(2) entered into with, or guaranteed by, a business entity;

(3) issued or written by or entered into with the issuer of the underlying interest on which the derivative instrument is based;

or

(4) entered into on a qualified foreign exchange.
As added by P.L.186-1997, SEC.2. Amended by P.L.81-2012, SEC.1.

IC 27-1-12-2.4

Participation in certain investment pools; requirements for pooling agreements

Sec. 2.4. (a) The following definitions apply to this section:

(1) "Admitted assets" means a life insurance company's 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.

(2) "Affiliate" means, as to any person, another person that, directly or indirectly, through one (1) or more intermediaries:

(A) controls;

(B) is controlled by; or

(C) is under common control with;

the person.

(3) "Business entity" means:

(A) a sole proprietorship;

(B) a corporation;

(C) a limited liability company;

(D) an association;

(E) a partnership;

(F) a joint stock company;

(G) a joint venture;

(H) a mutual fund;

(I) a trust;

(J) a joint tenancy; or

(K) another, similar form of business organization;

whether organized for-profit or not-for-profit.

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

all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(6) "Fixed charges" includes interest on funded and unfunded debt, amortization of debt discount, and rentals for leased property.

(7) "Guaranteed or insured," when used in connection with an obligation acquired under this section, means that the guarantor or insurer has agreed to:

(A) perform or insure the obligation of the obligor or purchase the obligation; or

(B) be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity or sufficient liquidity to enable the obligor to pay the obligation in full.

(8) "Investment company" means an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1, et seq.), as amended, and a person described in Section 3(c) of the Investment Company Act of 1940.

(9) "Investment company series" means an investment portfolio of an investment company that is organized as a series company and to which assets of the investment company have been specifically allocated.

(10) "Market value" means:

(A) as to cash, cash equivalents, and letters of credit, the amounts thereof; and

(B) as to a security as of any date, the price for the security on that date obtained from a generally recognized source or the most recent quotation from such a source or, to the extent no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction, plus accrued but unpaid income on the security to the extent not included in the price as of that date.

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

(12) "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.).

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

(A) A bond.

(B) A note.

(C) A debenture.

- (D) Any other form of evidence of debt.
- (14) "Person" means an individual, a business entity, a multilateral development bank or a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.
- (15) "Qualified bank" means a national bank, state bank, or trust company that:
 - (A) at all times is not less than adequately capitalized, as determined by standards adopted by United States banking regulators; and
 - (B) is regulated by state banking laws or is a member of the Federal Reserve System.
- (16) "Series company" means an investment company that is organized as a series company, as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1, as amended).
- (b) In addition to the authority to participate in investment pools under section 2(b)(31) of this chapter, a life insurance company may participate in investment pools that:
 - (1) are qualified under this section; and
 - (2) invest only in investments that an insurer may acquire under section 2 of this chapter;if the company's proportionate interest in the amount invested in these investments does not exceed the applicable limits of section 2 of this chapter.
- (c) For an investment pool to be qualified under this section, the investment pool shall not:
 - (1) acquire securities issued, assumed, guaranteed, or insured by the insurer or an affiliate of the insurer; or
 - (2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of section 2(b)(29) of this chapter.
- (d) A life insurance company shall not participate in an investment pool qualified under this section if, as a result of the participation and after giving effect to the participation, the aggregate amount of participation then held by the insurer in all investment pools under this section and under section 2(b)(31) of this chapter would exceed thirty-five percent (35%) of the admitted assets of the insurer.
- (e) For an investment pool to be qualified under this section:
 - (1) the manager of the investment pool:
 - (A) must be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia;
 - (B) must be designated as the pool manager in a pooling agreement; and
 - (C) must be:

- (i) the insurer;
 - (ii) an affiliated insurer;
 - (iii) a business entity affiliated with the insurer;
 - (iv) a qualified bank; or
 - (v) a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-1 et seq.);
- (2) the pool manager or an entity of the type referred to in subdivision (1)(C) that is designated by the pool manager must compile and maintain detailed accounting records setting forth:
 - (A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;
 - (B) a complete description of all underlying assets of the investment pool (including the amount, interest rate, maturity date (if any) and other appropriate designations); and
 - (C) other records that, on a daily basis, allow third parties to verify each participant's interest in the investment pool; and
- (3) the assets of the investment pool must be held in one (1) or more accounts, in the name of or on behalf of the investment pool, in a qualified bank under a custody agreement or trust agreement that:
 - (A) states and recognizes the claims and rights of each participant;
 - (B) acknowledges that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of the participant's participation in the investment pool; and
 - (C) contains an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or the assets of any other person.
- (f) The pooling agreement for an investment pool that is qualified under this section must be in writing and must provide the following:
 - (1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of the insurers or their subsidiaries or affiliates, must at all times hold one hundred percent (100%) of the interests in the investment pool.
 - (2) The underlying assets of the investment pool must not be commingled with the general assets of the pool manager or any other person.
 - (3) In proportion to the aggregate amount of each pool participant's interest in the investment pool:
 - (A) each participant owns an undivided interest in the underlying assets of the investment pool; and
 - (B) the underlying assets of the investment pool are held solely for the benefit of each participant.
 - (4) A participant or (in the event of the participant's insolvency,

bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one (1) of the following forms, at the discretion of the pool manager:

(A) in cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(B) in kind, a pro rata share of each underlying asset; or

(C) in a combination of cash and in kind distributions, a pro rata share in each underlying asset.

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

As added by P.L.186-1997, SEC.3.

IC 27-1-12-2.5

Investments; assets of certain segregated investment accounts; limitations and exceptions

Sec. 2.5. (a) A domestic life insurance company, which has a segregated account or accounts in relation to contracts to which class 1(c) of IC 27-1-5-1 applies, is governed as to its investment of assets by the investment limitations of section 2 of this chapter with the following exceptions:

(1) the limitations prescribed in paragraph 22 of section 2(b) of this chapter are not applicable to investments in relation to such segregated account or accounts;

(2) investments under paragraph 20 of section 2(b) of this chapter are solely limited to ten percent (10%) of the assets of such segregated account; and

(3) the limitations in sections 2 and 3 of this chapter do not apply with regard to contributions, premiums, or considerations made by holders of pension contracts issued by a domestic life insurance company, which has net assets of at least twenty-five million dollars (\$25,000,000) at the end of the preceding calendar year and which has allocated such contributions, premiums, or considerations to a segregated investment account or accounts.

(b) Nothing in section 2 of this chapter or this section prohibits the investment of all assets of a segregated account or accounts in any open-end diversified management company registered under the federal Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(c) Pension contracts for the purposes of subsection (a)(3) means contracts to which both class 1(c) of IC 27-1-5-1 applies and which are issued in connection with a plan or other arrangement described in section 3(a)(2) of the Securities Act of 1933, (15 U.S.C. 77c(a)(2)). The term also includes agreements reinsuring other insurers' contracts which were issued in connection with plans or other arrangements described in 15 U.S.C. 77c(a)(2).
As added by Acts 1981, P.L.236, SEC.2. Amended by P.L.186-1997, SEC.4.

IC 27-1-12-3

Real estate

Sec. 3. Any domestic life insurance company shall have power to acquire, hold and convey real estate as described below, and no other:

1. The building in which it has its principal office and the land on which it stands;

2. Such as shall be necessary for the convenient transaction of its business;

3. Such as shall have been acquired for the accommodation of its business;

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

5. 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 developing in accordance with paragraph 8 of section 2 of this chapter or such as shall have been acquired for the purpose of investment under paragraph 20 of section 2(b) of this chapter. Any real estate acquired under paragraph 20 of section 2(b) of this chapter shall be evaluated for statement purposes in a manner satisfactory to the department.

6. 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; and

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

All such real estate specified in paragraphs (3), (4), (5), (6), and (7) of this section, which shall not be necessary for the convenient transaction of its business, and which is not held under paragraphs 7, 8 or 20 of section 2(b) of this chapter, shall be sold by the life insurance company and disposed of within ten (10) years after it shall have acquired the title to same, or within five (5) years after the same shall have 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 thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in such certificate.

(Formerly: Acts 1935, c.162, s.148; Acts 1945, c.175, s.2; Acts 1951,

c.24, s.1.) As amended by Acts 1981, P.L.236, SEC.3; P.L.186-1997, SEC.5.

IC 27-1-12-3.5

Intangible assets attributable to investment in subsidiary; exceptions

Sec. 3.5. 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.

As added by P.L.160-1986, SEC.1.

IC 27-1-12-4

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 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.150.) As amended by P.L.130-1994, SEC.16; P.L.116-1994, SEC.21.

IC 27-1-12-5

Required provisions of policies between July 1, 1935, and transition date or January 1, 1948

Sec. 5. (a) No policy of life insurance, other than industrial insurance, group life insurance, or reinsurance, bearing a date of issue not earlier than July 1, 1935, nor later than a transition date to be selected by the company pursuant to section 12 of this chapter, such transition date in no event to be later than January 1, 1948, shall be delivered or issued for delivery in this state or issued by a company organized under the laws of this state unless the same shall provide the following:

(1) That all premiums shall be payable in advance, either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one (1) or more of the officers who shall be designated in the policy.

(2) For a grace of not less than thirty (30) days for the payment of every premium after the first premium, which may be subject to an interest charge, during which period the insurance shall continue in force; provided, that if the insured shall die within such period of grace the unpaid premium for the current policy year may be deducted in any settlement under the policy.

(3) That the policy, together with the application therefor, a copy of which application shall be attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the lifetime of the insured for two (2) years from its date, or, at the option of the company after it shall have been in force for two (2) years from its date, except for nonpayment of premiums, and except for violation of the conditions of the policy relating to naval and military service in time of war, and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

(4) That if the age of the insured and/or the beneficiary, if that age enters into the determination of the premiums charged or benefits promised, has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age of the insured and/or beneficiary.

(5) That all statements made by the insured in the application shall, in the absence of fraud, be deemed representations and

not warranties.

(6) That, in the case of participating policies, the policy shall participate in the surplus of the company as apportioned by the board of directors of the company, and that, beginning not later than the end of the fifth policy year, the company will determine and account for the portion of the divisible surplus so ascertained accruing on the policy, and that the owner of the policy shall have the right to have the current dividends arising from such participation paid in cash, and that at periods of not more than five (5) years, such accounting and payment at the option of the policyholder shall be had. The owner of the policy may elect to take any of the other dividend options in the policy. If the owner of the policy shall not elect any of the other dividend options provided in the policy, the apportioned dividends shall be held to the credit of the policy and be payable in cash at maturity of the policy or be withdrawable in cash at an anniversary of its date; provided, however, if the policy shall contain a provision for an apportionment of the surplus at the end of the first policy year and annually thereafter, then and in that event said policy may provide that each dividend shall be paid subject to the payment of the premium of the next ensuing year.

(7) A table showing in figures the loan values and the cash, paid-up and extended insurance options upon surrender, or available under the policy each year, upon default in premium payment during at least the first twenty (20) years of the policy, beginning at the end of the third policy year, which values shall be equal to the full reserve on the policy, except the reserve for permanent mental or physical disability, or for accidental death, and/or other supplemental benefits, less not to exceed two and one-half percent (2 1/2%) of the sum insured; following this table there shall be a clause specifying the mortality table and rate of interest adopted for computing the reserve and specifying the basis for the values and options after the period covered by the table. The provisions of this subdivision shall not apply to term policies nor to any form of paid-up insurance issued or granted in exchange for lapsed or surrendered policies.

(8) Policies issued by companies doing business in this state may provide for not more than one (1) year preliminary term insurance by incorporating therein the following clause immediately following the table of options and statement of basis therefor, as provided for in subdivision (7): "The first year's insurance under this policy is term insurance, purchased by the whole or part of the premium to be received during the first policy year and the policy shall be valued according to its terms and the laws of the state of Indiana".

(9) That after three (3) full years' premiums shall have been

paid, the company, at any time while the policy is in force, will loan, on the execution of a proper assignment of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the insured, less than the amount stated in the table of options to be loaned at the end of the current policy year plus the value of the reserve on any dividend additions to the policy, and that the company will deduct from such loan value any existing indebtedness on or secured by the policy and any unpaid balance of the premiums for the current policy year, and may collect interest in advance on the loan to the end of the current policy year, and may further provide that such loan may be deferred for not exceeding six (6) months after the application therefor is made. It shall be further stipulated in the policy that failure to repay any such loan or pay interest thereon shall not void the policy unless such total indebtedness to the company shall equal or exceed such loan value at the time of such failure, nor until thirty (30) days after notice shall have been mailed by the company to the last known address of the insured and to the assignee, if any, if such assignee has notified the company of his address. No condition other than as provided in this subdivision shall be exacted as a prerequisite to any such loan. The provisions of this subdivision shall not be required in term policies nor shall they apply to paid-up insurance issued or granted in exchange for lapsed or surrendered policies.

(10) That in the event of default of premium payment after premiums have been paid for not less than three (3) years, the insured shall be entitled to the extended insurance shown in the table of values and options for the end of the last year for which full annual premiums shall have been paid; provided, that if there be any unpaid note given for a premium or any indebtedness to the company on account of or secured by the policy, the amount of extended insurance shall be reduced in the ratio of such indebtedness to the net value of such extended insurance, or the amount of such indebtedness shall be deducted from the net value of the extended insurance otherwise available and the balance shall be applied as a net single premium to purchase extended insurance for an amount equal either to the face of the policy or to the face of the policy less the amount of such indebtedness; and provided further, that the policy may be surrendered to the company at its home office within one (1) month from the due date of the unpaid premium for a specified cash value at least equal to the sum which would otherwise be available for the purchase of extended insurance as provided in this subdivision; and provided further, that the company may defer payment for not more than six (6) months after the application therefor is made. The provisions of this subdivision shall not be required in term insurance of twenty

(20) years or less.

(11) That, should there have been default in premium payment, and the value of the policy applied to the extension of the insurance, and such insurance be in force and the original policy not surrendered to the company and cancelled, the policy may be reinstated within three (3) years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest.

(12) That when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and of the interest of the claimant and not later than two (2) months after receipt of such proof.

(13) A title on the face and on the back of the policy describing the same.

(b) Any of the provisions of subsection (a) not applicable to single premium policies shall to that extent not be incorporated therein. The provisions of subsection (a) shall not apply to policies issued on substandard, underaverage, or impaired risks. Any policy may be issued or delivered in this state which in the opinion of the department contains provisions on any one (1) or more of the several requirements of subsection (a) more favorable to the policyholder than those required in subsection (a).

(Formerly: Acts 1935, c.162, s.151; Acts 1943, c.189, s.1.) As amended by P.L.252-1985, SEC.60.

IC 27-1-12-6

Required provisions of policies after transition date or January 1, 1948

Sec. 6. (a) No policy of life insurance, other than industrial insurance, group life insurance or reinsurance, bearing a date of issue which is the same as or later than a transition date to be selected by the company pursuant to section 12 of this chapter, such transition date in no event to be later than January 1, 1948, shall be delivered or issued for delivery in this state or issued by a company organized under the laws of this state unless the same shall provide the following:

(1) That all premiums shall be payable in advance, either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one (1) or more of the officers who shall be designated in the policy.

(2) For a grace period of not less than thirty (30) days for the payment of every premium after the first premium, which may be subject to an interest charge, during which period the insurance shall continue in force; provided, that if the insured shall die within such period of grace the unpaid premium for the current policy year may be deducted in any settlement under the policy.

(3) That the policy, together with the application therefor, a

copy of which application shall be attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the lifetime of the insured for two (2) years from its date, or, at the option of the company after it shall have been in force for two (2) years from its date, except for nonpayment of premiums, and except for violation of the conditions of the policy relating to naval and military service in time of war, and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

(4) That if the age of the insured and/or beneficiary, if that age enters into the determination of the premiums charged or benefits promised, has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age of the insured and/or beneficiary.

(5) That all statements made by the insured in the application shall, in the absence of fraud, be deemed representations and not warranties.

(6) That, in the case of participating policies, the policy shall participate in the surplus of the company as apportioned by the board of directors of the company, and that, beginning not later than the end of the fifth policy year, the company will determine and account for the portion of the divisible surplus so ascertained accruing on the policy, and that the owner of the policy shall have the right to have the current dividends arising from such participation paid in cash, and that at periods of not more than five (5) years, such accounting and payment at the option of the policyholder shall be had. The owner of the policy may elect to take any of the other dividend options in the policy. If the owner of the policy shall not elect any of the other dividend options provided in the policy, the apportioned dividends shall be held to the credit of the policy and be payable in cash at maturity of the policy or be withdrawable in cash at any anniversary of its date; provided, however, that if the policy shall contain a provision for an apportionment of the surplus at the end of the first policy year and annually thereafter, then and in that event, said policy may provide that each dividend shall be paid subject to the payment of the premium of the next ensuing year.

(7) Nonforfeiture provisions in accordance with the requirements of section 7 of this chapter.

(8) That the company, at any time while the policy is in force, will loan, on the execution of a proper assignment of the policy, and on the sole security thereof, at a specified rate of interest (payable in advance if the company so elects), a sum, which, together with the sum of:

- (A) previously existing indebtedness, if any, including interest thereon to the end of the current policy year; and
- (B) interest to the end of the current policy year on the amount newly loaned;

is equal to or, at the option of the insured, less than the cash surrender value at the end of the current policy year as provided for by the policy in accordance with the terms of section 7 of this chapter; provided, that the company may, as a condition precedent to the making of such loan, and at its own option, require the payment of the unpaid balance, if any, of the premium or premiums for the current policy year, and may require the payment of interest in advance on the total loan to the end of the current policy year. The policy may provide that, if interest on the loan is not paid when due, it shall be added to the existing loan and become a part thereof and bear interest at the same rate as the loan. It shall further be stipulated in the policy that failure to repay any such loan or pay interest thereon shall not void the policy unless such total indebtedness to the company shall equal or exceed such cash surrender value at the time of such failure, nor until thirty (30) days after notice shall have been mailed by the company to the last known address of the insured and to the assignee, if any, if such assignee has notified the company of his address. No condition other than as provided in this subdivision shall be exacted as prerequisite to any such loan. The company shall reserve the right to defer the granting of any loan, except when made to pay premiums on a policy or policies issued by it, for six (6) months after application therefor is made. The provisions of this subdivision shall not be required in term policies nor shall they apply to paid-up insurance issued or granted in exchange for lapsed or surrendered policies.

(9) That, should there have been default in premium payment and the value of the policy applied to the extension of the insurance, and such insurance be in force and the original policy not surrendered to the company and canceled, the policy may be reinstated within three (3) years from the due date of the premium in default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest.

(10) That when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and of the interest of the claimant and not later than two (2) months after receipt of such proof.

(11) A title on the face and on the back of the policy describing the same.

(b) Any of the provisions of subsection (a) not applicable to single premium policies shall to that extent not be incorporated therein. The provisions of subsection (a) shall not apply to policies issued on

substandard, underaverage, or impaired risks. Any policy may be issued or delivered in this state which in the opinion of the department contains provisions on any one (1) or more of the several requirements of subsection (a) more favorable to the policyholder than those required in subsection (a).

(Formerly: Acts 1935, c.162, s.151A; Acts 1943, c.189, s.2; Acts 1959, c.146, s.1.) As amended by P.L.252-1985, SEC.61.

IC 27-1-12-7

Required provisions relating to defaulting or surrendering policyholder

Sec. 7. (a) No policy of life insurance, except as stated in subsection (f) of this section, bearing a date of issue which is the same as or later than a transition date to be selected by the company pursuant to section 12 of this chapter, such transition date in no event to be later than January 1, 1948, shall be delivered or issued for delivery in this state, or issued by a company organized under the laws of this state, unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the department are at least as favorable to defaulting or surrendering policyholders as are the minimum requirements specified in this section and are essentially in compliance with subsection (g) of this section:

(1) That, in the event of default in any premium payment after premiums have been paid for at least one (1) full year in the case of ordinary insurance or three (3) full years in the case of industrial insurance, the company will grant, upon proper request made not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of an amount determined as specified in this section. In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits;

(2) That, upon surrender of the policy within sixty (60) days after the due date of any premium in default, after premiums have been paid for at least three (3) full years in the case of ordinary insurance or five (5) full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of a stated amount determined as specified in this section;

(3) That, if a request for a nonforfeiture benefit or surrender of the policy is not made or effected as contemplated in subdivisions (1) and (2) of this subsection, a designated paid-up nonforfeiture benefit shall become operative as specified in the policy;

(4) That, if the policy shall have become paid up by completion of all premium payments or if it continues in the form of a paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be determined in this section;

(5) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions to the credit of the policy and that there is no indebtedness to the company on account of or secured by the policy;

(6) A brief and general statement of the method to be used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy on the policy anniversaries beyond the last anniversary of those for which such values and benefits are consecutively shown in the table provided for in subdivision (5) of this subsection;

(7) An explanation of the manner in which the cash surrender value and the paid-up nonforfeiture benefit or benefits are affected by the existence of any paid-up additions to the policy or any indebtedness to the company on account of or secured by the policy.

Any of the provisions of this subsection not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor and surrender of the policy.

(b) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy (including any existing paid-up additions) if there had been no default, over the sum of (1) the then present value of the adjusted premiums as defined in

subsections (d) and (dd), corresponding to premiums which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the company on account of or secured by the policy. However, for any policy issued on or after the operative date of subsection (dd) of this section which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value is an amount not less than the sum of the cash surrender value as defined in this paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in this paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

For any family policy issued on or after the operative date of subsection (dd) of this section, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in the first paragraph of this subsection shall be an amount not less than the sum of the cash surrender value, as defined in that paragraph, for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value, as defined in that paragraph, for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse. Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by such paid-up policy (including any existing paid-up additions) decreased by any indebtedness to the company on account of or secured by the policy.

(c) Any paid-up nonforfeiture benefit available under a policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be not less than the cash surrender value then provided for by such policy or, if none is provided for, the minimum amount determinable in accordance with subsection (b) in the absence of the condition of subsection (a)(2) that premiums be paid for at least a specified period.

(d) This subsection does not apply to policies issued on or after the operative date of subsection (dd) of this section. Except as provided in the third paragraph of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such

adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two per cent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty per cent (40%) of the adjusted premium for the first policy year; (iv) twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less; provided that for the sole purpose of computing the amounts of (iii) and (iv) above, no adjusted premiums in excess of four per cent (4%) of the amount of insurance or uniform amount equivalent thereto shall be used.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at date of issue as the benefits under the policy; provided that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10) or at expiry, if earlier.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two (2) paragraphs of this subsection except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in the succeeding paragraphs of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided, that for any category of ordinary insurance issued

on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that in calculating the present value of any nonforfeiture benefits consisting of paid-up term insurance with or without pure endowment of a lesser amount, the rates of mortality assumed may be not more than one hundred and thirty per cent (130%) of the rates of the mortality according to such applicable table; and provided that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table or tables of mortality as may be specified by the company and approved by the department.

In the case of ordinary policies bearing a date of issue which is the same as or later than the operative date of this paragraph as defined in the succeeding paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided, that such rate of interest shall not exceed three and one-half percent (3 1/2%) per annum, except that such rate of interest shall not exceed four percent (4%) per annum for policies bearing a date of issue of or later than September 1, 1973 and prior to September 1, 1979, and the interest rate may not exceed five and one-half percent (5 1/2%) per annum for policies bearing a date of issue after August 31, 1979; provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six (6) years younger than the actual age of the insured; provided that in calculating the present value of any nonforfeiture benefits consisting of paid-up term insurance with or without pure endowment of a lesser amount, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table; and provided that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table or tables of mortality as may be specified by the company and approved by the department.

Any company may file with the department a written notice of its election to invoke the provisions of the preceding paragraph after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of the preceding paragraph for such company), the preceding paragraph shall become operative with respect to the ordinary policies issued

by such company and bearing a date of issue which is the same as or later than such specified date. If a company makes no such election, the operative date of the preceding paragraph for such company shall be January 1, 1966.

In the case of policies of industrial insurance bearing a date of issue which is the same as or later than the operative date of this paragraph as defined in the succeeding paragraph, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that such rate of interest shall not exceed three and one-half percent (3 1/2%) per annum, except that such rate of interest shall not exceed four percent (4%) per annum for policies bearing a date of issue of or later than September 1, 1973 and before September 1, 1979, and the rate of interest may not exceed five and one-half percent (5 1/2%) per annum for policies bearing a date of issue after August 31, 1979; provided, further, that in calculating the present value of any nonforfeiture benefits consisting of paid-up term insurance with or without pure endowment of a lesser amount, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table; and provided that for insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table or tables of mortality as may be specified by the company and approved by the department.

Any company may file with the department a written notice of its election to invoke the provisions of the preceding paragraph after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of the preceding paragraph for such company), the preceding paragraph shall become operative with respect to the policies of industrial insurance issued by such company and bearing a date of issue which is the same as or later than such specified date. If a company makes no such election, the operative date of the preceding paragraph for such company shall be January 1, 1968.

(dd)(1) This subsection applies to all policies issued on or after the operative date of this subsection. Except as provided in subdivision (7) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums

shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (iii) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as defined in this subsection. Provided that in applying the percentage specified in (iii) no nonforfeiture net level premium may be considered to exceed four percent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(3) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subdivision (7) of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of: (A) the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (i) one percent (1%) of the excess, if positive, of the average amount of

insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (ii) one hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where:

(A) equals the sum of:

(i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(ii) the present value of the increase in future guaranteed benefits provided for by the policy; and

(B) equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provisions of this subsection to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, that policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioners 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one (1) or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection, for policies issued in that calendar year. However:

(A) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

(B) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available,

whether or not required by subsection (a) of this section, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(C) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(D) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(E) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the tables referred to in this subdivision.

(F) For policies issued:

(i) before the operative date of the valuation manual specified in IC 27-1-12.8-34, any commissioners standard ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table; or

(ii) on or after the operative date of the valuation manual specified in IC 27-1-12.8-34, the valuation manual must provide the commissioners standard ordinary mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the commissioner adopts a rule under IC 4-22-2 to approve any commissioners standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(G) For policies issued:

(i) before the operative date of the valuation manual specified in IC 27-1-12.8-34, any commissioners standard industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table; or

(ii) on or after the operative date of the valuation manual specified in IC 27-1-12.8-34, the valuation manual must provide the commissioners standard industrial mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the commissioner adopts a rule under IC 4-22-2 to approve any commissioners standard industrial mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(9) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be as follows:

(A) For policies issued before the operative date of the valuation manual specified in IC 27-1-12.8-34, equal to one hundred twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy under IC 27-1-12.8, rounded to the nearer one quarter of one percent ($1/4$ of 1%).

(B) For policies issued on or after the operative date of the valuation manual specified in IC 27-1-12.8-34, the nonforfeiture interest rate per annum for a policy issued in a particular calendar year must be provided by the valuation manual.

(10) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(11) After September 1, 1981, any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such

company. If a company makes no such election, the operative date of this subsection for such company shall be January 1, 1989.

(e) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (b), (c), (d), and (dd) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of subsection (b), additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity benefits, (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six (26), is uniform in amount after the child's age is one (1), and has not become paid up by reason of the death of a parent of the child, and (6) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(f) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections (d) and (dd), is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal of it, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance, and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy, nor to any policy which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections (b), (c), (d), and (dd) of

this section, exceeds two and one-half percent (2 1/2%) of the amount of insurance at the beginning of the same policy year, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy. For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

(g) This subsection, in addition to all other applicable subsections of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be an amount which does not differ by more than two tenths of one percent (.2%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of (a) the greater of zero (0) and the basic cash value specified in this subsection and (b) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as defined in this subsection, corresponding to premiums which would have fallen due on and after such anniversary. However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (b) or (d) of this section, whichever is applicable, shall be the same as are the effects specified in that subsection on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (d) or (dd), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

- (1) must be the same percentage for each policy year between the second policy anniversary and the later of (i) the fifth policy anniversary and (ii) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two tenths of one percent (.2%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and
- (2) must be such that no percentage after the later of the two (2) policy anniversaries specified in the preceding item (a) may apply to fewer than five (5) consecutive policy years. No basic

cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (d) or (dd) of this section, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections (a), (b), (c), (dd), and (e) of this section. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as subdivisions (1) through (6) in subsection (e) of this section shall conform with the principles of this subsection.

(h) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections (a), (b), (c), (d), or (dd) of this section then:

(1) the commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsection (a), (b), (c), (d), or (dd) of this section;

(2) the commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and

(3) the cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this section, as determined by regulations promulgated by the department.

(Formerly: Acts 1935, c.162, s.151B; Acts 1943, c.189, s.3; Acts 1949, c.8, s.1; Acts 1959, c.146, s.2; Acts 1963, c.212, s.1; Acts 1973, P.L.273, SEC.1.) As amended by Acts 1979, P.L.250, SEC.1; Acts 1981, P.L.237, SEC.1; P.L.276-2013, SEC.3.

IC 27-1-12-8

Prohibited provisions

Sec. 8. No policy of life insurance shall hereafter be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, if it contain any of the following provisions:

(1) Limiting the time within which any action at law or in equity may be commenced, to less than three (3) years after the cause of action shall accrue.

(2) By which the policy shall purport to be issued or to take effect more than six (6) months before the original application for insurance was made.

(3) That in the event of the maturity of any policy after the expiration of the contestable period thereof, for any mode of settlement at maturity of less value according to the company's published rates therefor then in use, than the amount insured under the policy, plus dividend additions, if any, less any indebtedness to the company on account of or secured by the policy and less any premium that may, by the terms of the policy, be deducted.

(4) For the forfeiture of the policy for failure to repay any loan on the policy, or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least thirty (30) days after notice shall have been mailed by the company to the last-known address of the insured and to the assignee, if any, if such assignee has notified the company of his address.

(5) Which contains any clause promising to the holder of such policy any special dividend or benefit to be derived from any other policy; nor shall any company organized under the laws of this state issue in connection with any policy any separate paper or contract promising any such special dividend or benefit; nor shall any company be admitted to do business in this state that issues policies which contain any such clause, or which issues in connection with any policy any separate paper or contract promising any such dividend or benefit.

(Formerly: Acts 1935, c.162, s.152.)

IC 27-1-12-9

Repealed

(Formerly: Acts 1935, c.162, s.153; Acts 1943, c.189, s.4. As amended by P.L.252-1985, SEC.62. Repealed by P.L.276-2013, SEC.4.)

IC 27-1-12-10

Repealed

(Formerly: Acts 1935, c.162, s.153A; Acts 1943, c.189, s.5; Acts 1959, c.146, s.3; Acts 1963, c.212, s.2; Acts 1973, P.L.273, SEC.2. As amended by Acts 1979, P.L.250, SEC.2; Acts 1980, P.L.22,

SEC.16; Acts 1981, P.L.237, SEC.2; P.L.2-1987, SEC.35; P.L.5-1988, SEC.142; P.L.130-1994, SEC.17; P.L.116-1994, SEC.22. Repealed by P.L.276-2013, SEC.5.)

IC 27-1-12-10.1

Repealed

(As added by P.L.130-1994, SEC.18 and P.L.116-1994, SEC.23. Repealed by P.L.276-2013, SEC.6.)

IC 27-1-12-10.5

Rules for minimum standards for establishment of reserves

Sec. 10.5. 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 1(a), Class 1(b), and Class 1(c) lines of business.

As added by P.L.130-1994, SEC.19 and P.L.116-1994, SEC.24.

IC 27-1-12-11

Deposit of assets to cover reserve valuation and liabilities; additional deposits; foreign deposits; continuation of deposits under repealed or superseded laws

Sec. 11. (a) After the department has ascertained the net reserve value of all policies under IC 27-1-12.8-18 or the reserve liabilities under IC 27-1-12.8 of any life insurance company organized and doing business in this state, the department shall notify said company of the amount or amounts thereof. Within sixty (60) days after the date of such notification, the officers of such company shall deposit with the department, solely for the security and benefit of all its policyholders, assets in an amount, invested in accordance with section 2 of this chapter (except paragraph 20 of section 2(b) of this chapter) which together with the assets already deposited with the department and such additional assets as may be deposited by said company with other states or governments, pursuant to the requirements of the laws of such other states or governments in which said company is doing business, shall be not less than the lesser of the amount of such reserve value or reserve liabilities or the amount provided under subsection (f). No life insurance company organized under this article or any other law of this state shall be required to make such deposit until the amount prescribed by this subsection exceeds the amount deposited by said company under IC 27-1-6-14 or IC 27-1-6-15. Investments in real estate shall be deposited in the form of satisfactory evidences of ownership. The deposit requirement in relation to policy loans and bank deposits shall be considered fulfilled by the inclusion of such item in the company's annual statement, but subject to the right of the company at any time, and the obligation of the company on demand of the department, to file with the department a certificate as to the amount

of such item.

(b) If the department in the course of the year ascertains that the net reserve value of a company's policies under IC 27-1-12.8-18 or its reserve liabilities under IC 27-1-12.8 exceeds such company's deposits as required by subsection (a), it may require such company within sixty (60) days to increase its deposit to the required amount.

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

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

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

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

(Formerly: Acts 1935, c.162, s.153B; Acts 1943, c.189, s.6; Acts 1945, c.175, s.4.) As amended by Acts 1981, P.L.238, SEC.1; P.L.31-1988, SEC.12; P.L.186-1997, SEC.6; P.L.81-2012, SEC.2; P.L.276-2013, SEC.7; P.L.129-2014, SEC.4.

IC 27-1-12-12

Transition period; selection of date; effect

Sec. 12. The period beginning July 1, 1943, and ending January 1, 1948, both dates inclusive, shall be a transition period between the nonforfeiture provisions set forth respectively in sections 5, 6, and 7 of this chapter and between the valuation provisions set forth

respectively in IC 27-1-12.8-18 and IC 27-1-12.8-19 through IC 27-1-12.8-40. Accordingly, a company may, by means of a writing filed with the department, select a transition date within such period, but should a company fail to make such a selection, the transition date as to such company shall be January 1, 1948. Except as otherwise provided in IC 27-1-12.8, for group annuities and pure endowments, policies issued prior to the transition date shall be governed in all respects and at all times by section 5 of this chapter and IC 27-1-12.8-18, and policies issued on or after such transition date shall be governed in all respects and at all times by sections 6 and 7 of this chapter and IC 27-1-12.8. A company's election of a transition date shall be irrevocable and shall apply to sections 6 and 7 of this chapter and IC 27-1-12.8 without exception, as well as to that portion of section 31 of this chapter which relates to policies bearing a date of issue later than such transition date.

(Formerly: Acts 1935, c.162, s.153C; Acts 1943, c.189, s.7; Acts 1973, P.L.273, SEC.3; Acts 1974, P.L.1, SEC.12.) As amended by P.L.252-1985, SEC.63; P.L.276-2013, SEC.8.

IC 27-1-12-13

Filing form of policy with department; objections; effect on right to issue

Sec. 13. A policy of life insurance shall not be issued or delivered in this state until the form of the same has been filed with the department, nor if the department give written notice within thirty (30) days of such filing, to the company proposing to issue it showing wherein the form of such policy does not comply with the requirements of the laws of this state.

(Formerly: Acts 1935, c.162, s.154.)

IC 27-1-12-14

Designation of beneficiary; change of beneficiary; eligible beneficiaries; exemption of policy proceeds from claims of creditors

Sec. 14. (a) As used in this section, "premium" includes any deposit or contribution.

(b) As used in this section, "proceeds or avails" means death benefits, cash surrender and loan values, premiums waived, and dividends whether used in reduction of the premiums or in whatsoever manner used or applied, excepting only where the debtor has, subsequent to the issuance of the policy, actually elected to receive the dividends in cash.

(c) Any person whose life is insured by any life insurance company may name as his payee or beneficiary any person or persons, natural or artificial, with or without an insurable interest, or his estate. A designation at the option of the policyowner may be made either revocable or irrevocable, and the option elected shall be set out in and shall be made a part of the application for the

certificate or policy of insurance. When the right of revocation has been reserved, the person whose life is insured, subject to any existing assignment of the policy, may at any time designate a new payee or beneficiary, with or without reserving the right of revocation, by filing written notice thereof at the home office of the corporation, accompanied by the policy for suitable indorsement thereon.

(d) Any person may effect an insurance on his life, for any definite period of time, or for the term of his natural life, to inure to the sole benefit of the spouse and children, or of either, or other relative or relatives dependent upon such person or any creditor or creditors as he may cause to be appointed and provided in the policy.

(e) Except as provided in subsection (g), all policies of life insurance upon the life of any person, which name as beneficiary, or are bona fide assigned to, the spouse, children, or any relative dependent upon such person, or any creditor, shall be held, subject to change of beneficiary from time to time, if desired, for the benefit of such spouse, children, other relative or creditor, free and clear from all claims of the creditors of such insured person or of the person's spouse; and the proceeds or avails of all such life insurance shall be exempt from all liabilities from any debt or debts of such insured person or of the person's spouse.

(f) A premium paid for an individual life insurance policy that names as a beneficiary, or is legally assigned to, a spouse, child, or relative who is dependent upon the policy owner is not exempt from the claims of the creditors of the policy owner if the premium is paid:

- (1) not more than one (1) year before the date of the filing of a voluntary or involuntary bankruptcy petition by; or
- (2) to defraud the creditors of;

the policy owner.

(g) The insurer issuing the policy is discharged from all liability by payment of the proceeds and avails of the policy in accordance with the terms of the policy unless, before payment, the insurer has received at the insurer's home office, written notice by or on behalf of a creditor of the policy owner that specifies the amount claimed against the policy owner.

(Formerly: Acts 1935, c.162, s.155; Acts 1973, P.L.274, SEC.1; Acts 1975, P.L.280, SEC.1.) As amended by Acts 1981, P.L.239, SEC.1; P.L.253-1995, SEC.1; P.L.82-1998, SEC.2.

IC 27-1-12-15

Competency of certain minors to contract for insurance and receive payments

Sec. 15. (a) Any person who is not of the full age of eighteen (18) years but who is of the age, as determined by the nearest birthday, of not less than sixteen (16) years, shall be deemed competent to contract for life, accident and sickness insurance or annuities upon the life of such minor for the benefit of such minor or for the benefit

of the father, mother, husband, wife, brother or sister, child or children, or any grandparent of such minor, and to exercise and enjoy every right, privilege and benefit provided by any such contracts on the life of such minor, subject to the foregoing limitations as to the designation of beneficiary.

(b) No person who shall have attained the age of eighteen (18) years is incompetent because of age to contract for any of the kinds of insurance described in Class 1 of IC 1971, 27-1-5-1, or to exercise and enjoy every right, privilege and benefit provided by any such contract.

(c) No person who shall have attained the age of eighteen (18) years is incompetent because of age to receive and to give full acquittance and discharge for payments made to such person by a life insurance company under the provisions of a contract of insurance of any of the kinds described in Class 1 of IC 1971, 27-1-5-1, or under the provisions of a settlement agreement executed in connection with any such contract of insurance.

(Formerly: Acts 1935, c.162, s.155a; Acts 1961, c.203, s.1; Acts 1971, P.L.383, SEC.1; Acts 1973, P.L.275, SEC.1.)

IC 27-1-12-16

Proceeds of life insurance; definition; payment to trustees

Sec. 16. (A) The terms "proceeds" and "proceeds of life insurance" and similar phrases used in this section mean and include any and all benefits payable by the insurer by reason of the death of the insured under any "life insurance," "policy of life insurance," "insurance policy," "policy," or "annuity contract" providing for benefits on the death of the insured, including individual ordinary life policies, certificates issued under a group policy, annuity contracts, and accident or health policies.

(B) Proceeds of life insurance policies heretofore made payable to a trustee or trustees named as beneficiary or hereafter to be named beneficiary under an inter vivos trust shall be paid directly to the trustee or trustees and held and disposed of by the trustee or trustees as provided in the trust agreement or declaration of trust in writing made and in existence on the date of death of the insured, whether or not such trust or declaration of trust is amendable or revocable or both, or whether it may have been amended, and notwithstanding the reservation of any or all rights of ownership under the insurance policy or annuity contract; subject, however, to a valid assignment of any part of the proceeds. It is not necessary to the validity of such trust agreement or declaration of trust that it be funded or have a corpus other than the right, which need not be irrevocable, of the trustee or trustees named therein to receive such proceeds as beneficiary.

(C) A policy of life insurance or annuity contract may designate as beneficiary a trustee or trustees named or to be named by will if the designation is made in accordance with the provisions of the

policy or contract whether or not the will is in existence at the time of the designation. The company shall, within sixty days after receipt at its home office of proof of probate of the will, pay the proceeds of such insurance or contract to the trustee or trustees designated in the insurance policy or annuity contract, subject to a valid assignment of any part thereof and any other provisions of the policy or contract, unless prior to the actual payment by the company it shall have received at its home office written notice of the filing or pendency of (1) objection to the probate of said will, or (2) a suit to contest the validity of said will or of the testamentary trust or trusts created therein to which such proceeds are payable, or (3) petition for the construction of that part of the testamentary trust designating the trustee or trustees: Provided, however, That if the company makes any payment or payments of proceeds to such trustee or trustees in accordance with the terms of the policy or contract before receipt at the home office of such written notice, said trustee or trustees shall give full acquittance therefor to the company and such payment shall fully discharge the company from all claims and liability to the extent thereof. Provided, further, That if such written notice is received by the company, payment by it of any unpaid proceeds may be delayed during the pendency of said objections, suit, or petition for construction for not to exceed one (1) year from the date of death of insured, and thereafter the company may pay any and all unpaid proceeds due by reason of the death of the insured to the clerk of the court wherein the probate proceeding is pending by depositing them with such clerk who, as such clerk, shall give full acquittance to the company for all proceeds so paid and the company shall be fully discharged from any and all liability and claims by or on behalf of any other person or persons whomsoever to the extent of the amount so paid and deposited. The clerk shall thereafter hold and disburse said proceeds in accordance with the order of said court to the party or parties and in the amount or amounts provided in said order upon receiving proper receipts therefor; all Provided, however, That the procedure provided for herein shall not preclude the company from interpleading or being interpleaded in any appropriate proceeding or filing a bill of interpleader in any court of competent jurisdiction.

(d) If no claim to proceeds is made by any trustee designated as the beneficiary in any policy of insurance or annuity contract within one year after the death of the insured or if satisfactory evidence is furnished the insurance company within the one-year period showing that there is or will be no trustee qualified to receive the proceeds, payment may be made by the insurance company to those thereafter entitled.

(e) The proceeds of insurance collected by the trustee or trustees are not part of the testator's estate and are not subject to the debts of the insured or to transfer, inheritance, or estate taxes to any greater extent than if the proceeds were payable to some named beneficiary or beneficiaries other than to the estate of the insured or executor or

administrator thereof.

(f) This section applies to all trustee designations of a beneficiary or beneficiaries by an insured dying after June 15, 1967, regardless of when made, naming a trustee or trustees of a trust or trusts established by will.

If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application.

(Formerly: Acts 1935, c.162, s.155b; Acts 1967, c.127, s.4.)

IC 27-1-12-17

Authority of corporation to insure life of director, officers, agent, or employee; consent to change of beneficiary

Sec. 17. Any corporation organized under the laws of this state may, when authorized by its board of directors, or its executive committee, cause to be insured, for its benefit, the life of any of its directors, officers, agents or employees, and to pay the premiums for such insurance; and may continue to pay such premiums after the insured shall cease to be such a director, officer, agent or employee of such corporation.

Due authority for such corporation to effect, assign, release, convert, surrender, or take any other action with reference to such insurance, shall be sufficiently evidenced to the insurance company by a certificate to that effect by the secretary, or other corresponding officer of such corporation under its corporate seal. Any such certificate shall protect the insurance company for any act done or suffered by it upon the faith thereof, without further inquiry into the validity of the corporate authority or the regularity of the corporate proceedings. The beneficiary in such a policy shall not be changed except with the consent of such corporation, beneficiary, effecting such insurance.

No person shall, by reason of interest in the subject matter, be disqualified from acting as a director, or as a member of the executive committee of such corporation on any corporate act touching such insurance.

(Formerly: Acts 1935, c.162, s.156.)

IC 27-1-12-17.1

Acquisition of insurable interest in and policy on life of employee

Sec. 17.1. (a) As used in this section, "employee" includes a director, an officer, a partner, a manager, a nonmanagement employee, and a retired employee of the employer or the employer's affiliates.

(b) As used in this section, "employer" means an individual, a corporation, a partnership, a limited liability company, and any other legal entity that has at least one (1) employee and is legally doing business in Indiana. The term includes an association of employers

and the employer's affiliates.

(c) An employer that provides life insurance, health insurance, disability insurance, retirement benefits, or similar benefits to an employee of the employer has an insurable interest in the life of the employee. The trustee of a trust established by an employer for the benefit of the employer has the same insurable interest as the employer in the life of an employee. The trustee of a trust established by an employer that provides life insurance, health insurance, disability insurance, retirement benefits, or similar benefits to an employee of the employer and acts in a fiduciary capacity with respect to that employee or the employee's dependents or beneficiaries has an insurable interest in the life of the employee for whom benefits are to be provided.

(d) An employer or the trustee of a trust established by the employer may acquire insurance upon an employee in whom the employer or the trustee of the trust has an insurable interest as determined under subsection (c) if the employee consents to be insured. An employee consents to be insured if the employee is provided written notice of the insurance coverage and does not object to the insurance coverage within thirty (30) days of receipt of the notice.

(e) An insurable interest must exist at the time the contract of life or disability insurance becomes effective, but need not exist at the time the loss occurs.

(f) Proceeds of a policy issued under this section are exempt from the claims of the employee's creditors or dependents.

As added by P.L.254-1995, SEC.1.

IC 27-1-12-18

Contract to extend time for premium payments

Sec. 18. A life insurance company may enter into subsequent agreements in writing with the insured, which need not be attached to the policy, to extend the time for the payment of any premium, or part thereof, upon condition that failure to comply with the terms of such agreement shall lapse the policy as provided in said agreement or in the policy. Subject to such lien as may be created to secure any indebtedness contracted by the insured in consideration of such extension, said agreement shall not impair any right existing under the policy.

(Formerly: Acts 1935, c.162, s.157.)

IC 27-1-12-19

Ascertainment of indebtedness due upon policy or premium loans; interest

Sec. 19. In ascertaining the indebtedness due upon policy or premium loans, the interest, if not paid when due, shall be added to the principal of such loans and shall bear interest at the rate specified in the note or loan agreement.

(Formerly: Acts 1935, c.162, s.158.)

IC 27-1-12-20

Premium deposits; maximum; inclusion in cash surrender value; disposition; withdrawal

Sec. 20. No life insurance company shall receive or accept, by virtue of the provisions set forth in any policy or indorsement thereon, any premium deposit in excess of the regular premium then due whenever the total premium deposit together with the policy reserve shall be sufficient as a gross premium to convert the policy into a fully paid policy. The policy or indorsement shall contain a provision that the amount of any premium deposit fund held by the company will be included as a part of the cash surrender value of the policy, a provision providing for the disposition of such fund if it is not sufficient to pay the next premium, and a provision that such fund is not withdrawable except by surrender of the policy, a loan thereon or through the selection of a nonforfeiture value.

(Formerly: Acts 1935, c.162, s.159.)

IC 27-1-12-21

Power to hold proceeds under trust or other agreement with policyholder

Sec. 21. Any life insurance company organized under the laws of this state shall have power to hold the proceeds of any policy issued by it under a trust or other agreement upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as shall have been agreed to in writing by such company and the policyholder. Such insurance company shall not be required to segregate funds so held but may hold them as a part of its general corporate assets.

(Formerly: Acts 1935, c.162, s.160.)

IC 27-1-12-22

Impairment of assets or capital; notice of time for restoration; suspension of right to issue new policies

Sec. 22. If it appears to the department from an examination made by it or by an examiner appointed by it, that the assets of any domestic life insurance company are insufficient to justify its continuance in business or that its capital is impaired the department shall notify such company, setting a time, within the discretion of the commissioner, by which such impairment of assets or of its capital shall be restored and further notifying such company to issue no new policies until its assets have become equal to its liabilities, or its capital has been restored unimpaired.

(Formerly: Acts 1935, c.162, s.161.)

IC 27-1-12-23

Procedure for converting domestic stock life insurance company into mutual life insurance company

Sec. 23. Any domestic stock life insurance company may become a mutual life insurance company and to that end may carry out a plan for the acquisition of shares of its capital stock by amending its articles of incorporation and complying with the following requirements:

(a) Such plan shall be approved by a two-thirds (2/3) vote of the policyholders, present and voting at a meeting called for that purpose. For the purpose of this section a quorum shall consist of at least ten per cent (10%) of the policyholders of such company. Each policyholder whose insurance shall have been in force for at least one (1) year prior to such meeting shall have one (1) vote, regardless of the number of policies or amount of insurance he may have with such company. Notice of such meeting shall be given by mailing from the principal office of such company at least thirty (30) days prior to the date set for such meeting in a sealed envelope, postage prepaid, addressed to such policyholders at their last known post-office addresses. Voting shall be by ballot, in person or by proxy, or by mail under the direction of inspectors appointed by the commissioner and in accordance with such other regulations as he may prescribe. Such inspectors shall have the power to determine all questions concerning the verification of the ballots, the ascertainment of the validity thereof, the qualifications of the voters, and to canvass the vote. They shall certify to the commissioner and to the company the result of such election. All necessary expenses incurred by the commissioner or by the inspectors appointed by him shall be certified by him to and paid by the company.

(b) Such plan shall be submitted to and approved by the commissioner. The commissioner shall not approve said plan unless in his opinion the rights and interests of all policyholders are preserved. In carrying out said plan a company may acquire any shares of its own stock by gift, bequest or purchase. Any shares thus acquired shall be held in trust for the policyholders of the company as hereinafter provided and shall be assigned and transferred on the books of the company to three (3) trustees who shall hold in trust and shall vote them at all company meetings until all the capital stock of such company is acquired, when the entire capital stock shall be cancelled, and thereupon, the company shall be and become a mutual life insurance company without capital stock. Such trustees shall be appointed and vacancies shall be filled as provided in the plan adopted under the provisions of this section. Such trustees shall file with the company a verified acceptance of their appointments and declarations that they will faithfully discharge their duties as such trustees. All dividends and other sums acquired, after paying the necessary expenses of executing said trust, shall be immediately repaid to said company for the benefit of all who are or may become policyholders of said company and entitled to participate in the

profits thereof, and shall be added to and become a part of the surplus earned by said company and be apportionable accordingly as a part of said surplus among said policyholders.
(Formerly: Acts 1935, c.162, s.162.)

IC 27-1-12-24

Offering stock or certificates as inducement for purchase of insurance or annuity; revocation of authority

Sec. 24. No life insurance company doing business in this state shall issue in this state, nor permit its agents, officers, or employees to issue or deliver in this state, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities, or any special advisory board or other contracts of any kind promising returns and profits as an inducement to insurance or for the purchase of an annuity; and no life insurance company shall be authorized to do business in this state which issues or permits its agents, officers, or employees to issue in this state or in any other state or territory agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities, or any special advisory board or other contracts of any kind promising returns and profits as an inducement to insurance or for the purchase of an annuity; and no corporation or stock company acting as agent of a life insurance company nor any of its agents, officers, or employees shall be permitted to sell, agree to offer or sell, or give or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds, or agreement of any form or nature promising returns and profits as an inducement to insurance or for the purchase of an annuity; or in connection therewith. The department may, upon due proof after notice and hearing that any such company or agent thereof has violated any of the provisions of this section, revoke the authority of the company or agent so offending.

(Formerly: Acts 1935, c.162, s.163.)

IC 27-1-12-25

Misrepresentation of policy terms or benefits; inducing policyholder to lapse, forfeit, or surrender insurance

Sec. 25. No life insurance company doing business in this state, and no officer, director or agent thereof shall make, issue or circulate, or cause to be issued or circulated, any estimate, illustration, circular, or statement of any sort misrepresenting the terms of any policy issued or to be issued by it or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Nor shall a person make any misrepresentation to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit, or surrender his

insurance.

(Formerly: Acts 1935, c.162, s.164.) As amended by Acts 1978, P.L.2, SEC.2710.

IC 27-1-12-26

Fraudulent representations; offense

Sec. 26. A person who knowingly makes any false or fraudulent statement or representation in or with reference to any application for life insurance, or for the purpose of obtaining any fee, commission, money, or benefit from or in any company transacting business under this article, commits a Class A misdemeanor.

(Formerly: Acts 1935, c.162, s.165.) As amended by Acts 1978, P.L.2, SEC.2711.

IC 27-1-12-27

Repealed

(Repealed by P.L.254-1985, SEC.7.)

IC 27-1-12-28

Repealed

(Repealed by P.L.254-1985, SEC.7.)

IC 27-1-12-29

Group life insurance; exemption of proceeds from legal process

Sec. 29. (a) As used in this section, "premium" includes any deposit or contribution.

(b) Except as provided in subsection (c), no policy of group insurance nor the proceeds thereof, when paid to any employee or employees, shall be liable to attachment, garnishment, or other process, or to be seized, taken, appropriated, or applied to any legal or equitable process or operation of law, to pay any debt or liability of such employee, or his beneficiary, or any other person who may have a right thereunder, either before or after payment, nor shall the proceeds thereof, where not payable to a named beneficiary, constitute a part of the estate of the employee for the payment of his debts.

(c) A premium paid for an individual life insurance policy that names as a beneficiary, or is legally assigned to, a spouse, child, or relative who is dependent upon the policy owner is not exempt from the claims of the creditors of the policy owner if the premium is paid:

(1) not more than one (1) year before the date of the filing of a voluntary or involuntary bankruptcy petition by; or

(2) to defraud the creditors of;

the policy owner.

(d) The insurer issuing the policy is discharged from all liability by payment of the proceeds and avails of the policy (as defined in section 14(b) of this chapter) in accordance with the terms of the policy unless, before payment, the insurer has received at the

insurer's home office, written notice by or on behalf of a creditor of the policy owner that specifies the amount claimed against the policy owner.

(Formerly: Acts 1935, c.162, s.168.) As amended by P.L.253-1995, SEC.2.

IC 27-1-12-30

Group life insurance; assignment of incidents of ownership

Sec. 30. No provision of this article or of any other law shall be construed as prohibiting an insured under a group insurance policy, pursuant to agreement among the insured, the group policyholder and the insurer, from making an assignment of all or any part of the incidents of ownership held by the insured under such policy, including specifically but not by way of limitation, any right to designate a beneficiary thereunder and any right to have an individual policy issued in accordance with provisions (8) and (9) of section 28 of this chapter. All such assignments, whether made prior to or subsequent to August 18, 1969, shall be valid for the purpose of vesting in the assignee thereof all the incidents of ownership so assigned, and shall entitle the insurer to deal with the assignee as the owner thereof in accordance with the provisions of said policy, but without prejudice to the insurer on account of any payment made or individual policy issued prior to receipt by the insurer of such notice as may be required by the provisions of the policy.

(Formerly: Acts 1935, c.162, s.168.1; Acts 1969, c.327, s.2.) As amended by P.L.252-1985, SEC.64.

IC 27-1-12-31

Authority to issue life or endowment insurance upon group plan; special premium rates; valuation of policies; segregation

Sec. 31. Any life insurance company may issue life or endowment insurance, with or without annuities, upon the group plan as defined in this chapter, with special rates of premiums less than the usual rates of premiums for such policies, and may value such policies on any accepted table of mortality and interest assumption adopted by the company for that purpose, provided, that in no case shall such standard be lower than the American Men Table of Mortality (ultimate) with interest assumption at three and one-half percent (3 1/2%) in the case of policies issued before the transition date selected by the company pursuant to section 12 of this chapter, nor lower than the standard prescribed in IC 27-1-12.8 in the case of policies issued on and after such transition date. All policies of group insurance shall be segregated by the company into a separate class, the mortality experience kept separate, and the number of policies, amount of insurance, reserves, premiums, and payments to policyholders thereunder, together with the mortality table and interest assumption adopted by the company shall be reported separately in the company's annual financial statement.

(Formerly: Acts 1935, c.162, s.169; Acts 1943, c.189, s.8.) As amended by P.L.252-1985, SEC.65; P.L.276-2013, SEC.9.

IC 27-1-12-32

Financial qualifications of companies issuing certain contracts

Sec. 32. A domestic life insurance company shall not issue the type of life insurance or annuity contracts defined and sanctioned under Class 1(c) of IC 27-1-5-1 unless, in addition to fulfilling all other qualifications prescribed by law, it possesses assets of not less than twenty million dollars (\$20,000,000), or combined capital and surplus, in the case of a stock company, or surplus, in the case of a mutual company, of not less than two million five hundred thousand dollars (\$2,500,000). In applying these qualifications to a subsidiary stock life insurance company that is a subsidiary company (as defined in IC 27-1-23-2.6), the requirements concerning assets, capital, and surplus shall be regarded as fulfilled if the consolidated assets, capital, and surplus of the primary and subsidiary companies equal or exceed the required amounts.

(Formerly: Acts 1935, c.162, s.169.1; Acts 1961, c.138, s.3.) As amended by P.L.252-1985, SEC.66; P.L.1-2002, SEC.103.

IC 27-1-12-33

Variable life insurance policies; contents; regulation

Sec. 33. Variable life insurance policies (contracts providing for immediate or future life insurance benefits as described in Class 1 (c) of IC 1971, 27-1-5-1), to the extent that benefits thereunder are on a variable basis, shall contain a statement to that effect in lieu of stipulating the dollar amount of benefits. Such policies shall also contain such grace period, reinstatement, and nonforfeiture provisions, and shall be subject to the establishment of such reserve liabilities, in accordance with actuarial procedures that recognize the variable nature of benefits provided and any mortality guarantees, as the commissioner shall by regulation prescribe. Upon promulgation of such regulation, variable life insurance policies shall not thereafter be subject to the grace period, nonforfeiture, policy loan, reinstatement, and valuation provisions of the Indiana Insurance Law applicable to or required to be contained in other policies of life insurance. Such regulation shall establish such other requirements with respect to variable life insurance policies, variable life insurance, or any matter incidental thereto, as the commissioner deems to be in the public interest.

(Formerly: Acts 1973, P.L.276, SEC.1.)

IC 27-1-12-34

Repealed

(Repealed, as added by Acts 1977, P.L.284, SEC.1, by Acts 1978, P.L.8, SEC.16.)

(Repealed, as added by Acts 1977, P.L.285, SEC.1, by Acts 1982,

IC 27-1-12-34.1

Wholesale, franchise, and employee term life insurance; issuance or delivery; requirements

Sec. 34.1. (a) No policy of wholesale, franchise, or employee life insurance, as defined in this section, shall be issued or delivered in this state unless it conforms to the requirements of this section.

(b) Wholesale, franchise, or employee life insurance is defined as a term life insurance plan under which a number of individual term insurance policies are issued at special rates to a selected group. A special rate is any rate lower than the rate shown in the issuing insurance company's manual for individually issued policies of the same type and to insureds of the same class.

(c) Wholesale, franchise, or employee life insurance may be issued to:

- (1) three (3) or more employees of any corporation, copartnership, or individual employer, or any governmental corporation, agency, or department thereof; or
- (2) ten (10) or more members, employees, or employees of members of any trade or professional association, or of a labor union, or of any association of members in the same or related occupations, profession, or industry having been in existence for at least two (2) years, where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance. Evidence of individual insurability satisfactory to the insurer may be required by the insurer as a condition to coverage.

(d) The premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the insured or association or union for its members, or by some designated person acting on behalf of such employer, association, or union. The term "employees" as used in this chapter refers to officers, managers, employees, and retired employees of the employer and the individual proprietor or partners if the employer is an individual or partnership.

(e) Each policy issued under this section shall provide that, if the insured person ceases to qualify for the policy he may convert the policy, without evidence of insurability, to an individual policy of life insurance, provided application for such conversion is made within thirty-one (31) days of the date the insured person ceases to qualify for coverage under this section. The individual policy shall be issued on any one (1) of the forms, except term insurance, then customarily issued by the insurer at the age and in the amount applied for. The premium on this individual policy is to be at the insurer's then customary rate applicable to the form and amount of such individual policy, the class of risk to which the insured person then belongs, and his age attained on the effective date of such

individual policy.

As added by Acts 1982, P.L.6, SEC.17.

IC 27-1-12-35

Life insurance proceeds; payment; time limit; liability for interest

Sec. 35. (a) Any resident of this state who becomes entitled to receive payment of an obligation in cash under the terms of a policy of individual life insurance issued in this state, including any death benefit riders attached thereto, endowment insurance or an individual annuity contract, shall be entitled to receive payment of interest from the insuring company if any payment is not received by such resident within thirty (30) days after the event giving rise to the obligation, or within thirty (30) days after the scheduled date of payment as the case may be. Interest payable shall be calculated from the date of the event or the scheduled date of payment. However, any interest awarded by a court shall be in lieu of that provided in this section.

(b) The rate of interest payable pursuant to this section shall be not less than that rate, as determined from time to time by the insuring company, applicable to proceeds of life insurance left on deposit with the insuring company and subject to withdrawal on demand.

(c) For the purposes of this section, payment shall be deemed to have been received by a resident when manually delivered by an agent or representative of the insuring company or when deposited by the insuring company in the United States mails, postage prepaid, and directed to the resident at his last known address as evidenced by the business records of the insuring company.

As added by Acts 1978, P.L.8, SEC.15.

IC 27-1-12-36

Repealed

(Repealed by P.L.254-1985, SEC.7.)

IC 27-1-12-37

Group life insurance; eligible policyholders; regulations

Sec. 37. Except as provided in section 38 of this chapter, no policy of group life insurance may be delivered in Indiana unless it conforms to one (1) of the following descriptions:

(1) A policy issued to an employer or to the trustees of a fund established by an employer (which employer or trustees must be deemed the policyholder) to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(A) The employees eligible for insurance under the policy must be all of the employees of the employer, or all of any class or classes of employees. The policy may provide that the term "employees" includes the employees of one (1) or more subsidiary corporations and the employees, individual

proprietors, and partners of one (1) or more affiliated corporations, limited liability companies, proprietorships, or partnerships if the business of the employer and of the affiliated corporations, proprietorships, limited liability companies, or partnerships is under common control. The policy may provide that the term "employees" includes the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" may include retired employees, former employees, and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" includes elected or appointed officials.

(B) The premium for the policy must be paid either from the employer's funds, from funds contributed by the insured employees, or from both sources of funds. Except as provided in clause (C), a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject the coverage in writing.

(C) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(2) A policy issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two (2) or more creditors (which creditor, holding company, affiliate, trustee, trustees, or agent must be deemed the policyholder) to insure debtors of the creditor, or creditors, subject to the following requirements:

(A) The debtors eligible for insurance under the policy must be all of the debtors of the creditor or creditors, or all of any class or classes of debtors. The policy may provide that the term "debtors" includes:

(i) borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

(ii) the debtors of one (1) or more subsidiary corporations; and

(iii) the debtors of one (1) or more affiliated corporations, proprietorships, limited liability companies, or partnerships if the business of the policyholder and of the affiliated corporations, proprietorships, limited liability companies, or partnerships is under common control.

(B) The premium for the policy must be paid either from the creditor's funds, from charges collected from the insured debtors, or from both sources of funds. Except as provided in clause (C), a policy on which no part of the premium is to be derived from the funds contributed by insured debtors

specifically for their insurance must insure all eligible debtors.

(C) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

(D) The amount of the insurance on the life of any debtor may at no time exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor.

(E) The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Each payment under this clause must reduce or extinguish the unpaid indebtedness of the debtor to the extent of the payment, and any excess of the insurance must be payable to the estate of the insured.

(F) Notwithstanding clauses (A) through (E), insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

(3) A policy issued to a labor union or similar employee organization (which organization must be deemed to be the policyholder) to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

(A) The members eligible for insurance under the policy must be all of the members of the union or organization, or all of any class or classes of members.

(B) The premium for the policy must be paid either from funds of the union or organization, from funds contributed by the insured members specifically for their insurance, or from both sources of funds. Except as provided in clause (C), a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject the coverage in writing.

(C) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) A policy issued to a trust or to one (1) or more trustees of a fund established or adopted by two (2) or more employers, or by one (1) or more labor unions or similar employee organizations, or by one (1) or more employers and one (1) or more labor unions or similar employee organizations (which trust or trustees must be deemed the policyholder) to insure employees of the employers or members of the unions or

organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(A) The persons eligible for insurance must be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes of employees or members. The policy may provide that the term "employees" includes the employees of one (1) or more subsidiary corporations and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietorships, limited liability companies, or partnerships if the business of the employer and of the affiliated corporations, proprietorships, limited liability companies, or partnerships is under common control. The policy may provide that the term "employees" includes the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" includes retired employees, former employees, and directors of a corporate employer. The policy may provide that the term "employees" includes the trustees or their employees, or both, if their duties are principally connected with the trusteeship.

(B) The premium for the policy must be paid from funds contributed by the employer or employers of the insured persons, by the union or unions or similar employee organizations, or by both, from funds contributed by the insured persons, or from both the insured persons and one (1) or more employers, unions, or similar employee organizations. Except as provided in clause (C), a policy on which no part of the premium is to be derived from funds contributed by the insured persons, specifically for their insurance must insure all eligible persons, except those who reject the coverage in writing.

(C) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(5) A policy issued to an association, a trust, or one (1) or more trustees of a fund established, created, or maintained for the benefit of members of one (1) or more associations. The association or associations must have at the outset a minimum of one hundred (100) persons; must have been organized and maintained in good faith for purposes other than that of obtaining insurance; must have been in active existence for at least two (2) years; and must have a constitution and bylaws that provide that the association or associations hold regular meetings not less than annually to further purposes of the members, that, except for credit unions, the association or associations collect dues or solicit contributions from members,

and that the members have voting privileges and representation on the governing board and committees. The policy must be subject to the following requirements:

(A) The policy may insure members or employees of the association or associations, employees of members, one (1) or more of the preceding, or all of any class or classes of members, employees, or employees of members for the benefit of persons other than the employee's employer.

(B) The premium for the policy must be paid from funds contributed by the association or associations, by employer members, or by both, from funds contributed by the covered persons, or from both the covered persons and the association, associations, or employer members.

(C) Except as provided in clause (D), a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for the insurance must insure all eligible persons, except those who reject such coverage in writing.

(D) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

(6) A policy issued to a credit union or to one (1) or more trustees or an agent designated by two (2) or more credit unions (which credit union, trustee, trustees, or agent must be deemed the policyholder) to insure members of the credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee, trustees, or agent, or any of their officials, subject to the following requirements:

(A) The members eligible for insurance must be all of the members of the credit union or credit unions, or all of any class or classes of members.

(B) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in clause (C), must insure all eligible members.

(C) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer.

As added by P.L.254-1985, SEC.1. Amended by P.L.19-1986, SEC.46; P.L.8-1993, SEC.413.

IC 27-1-12-38

Group life insurance; requirements for issuance of policy to certain groups

Sec. 38. (a) Group life insurance offered to a resident of Indiana under a group life insurance policy issued to a group other than one described in section 37(1)(A), (2)(A), (3)(A), (4)(A), (5)(A), or (6)(A) of this chapter is subject to the requirements set forth in subsections (b) through (e).

(b) A group life insurance policy described in subsection (a) may not be delivered in Indiana unless the commissioner finds that:

- (1) the issuance of the policy is not contrary to the best interest of the public;
- (2) the issuance of the policy would result in economies of acquisition or administration; and
- (3) the benefits of the policy are reasonable in relation to the premiums charged.

(c) Group life insurance coverage may not be offered in Indiana by an insurer under a policy that was issued in another state unless Indiana or another state having requirements substantially similar to those contained in subsection (b) has made a determination that the policy meets those requirements.

(d) The premium for a policy described in subsection (a) must be paid either from the policyholder's funds, from funds contributed by the covered persons, or from both sources of funds.

(e) An insurer may exclude or limit the coverage under a policy described in subsection (a) on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

As added by P.L.254-1985, SEC.2. Amended by P.L.268-1987, SEC.1.

IC 27-1-12-39

Direct response solicitations; notice of payment of compensation

Sec. 39. (a) As used in this section, "direct response solicitation" means a solicitation through a sponsoring or endorsing entity through the mails, telephone, or other mass communications media.

(b) As used in this section, "sponsoring or endorsing entity" means an organization that has arranged for the offering of a program of insurance in a manner that communicates that:

- (1) eligibility for participation in the program is dependent upon affiliation with the organization; or
- (2) the organization encourages participation in the program.

(c) This section applies to any program of insurance that, if issued on a group basis, would not conform to one (1) of the descriptions in section 37 of this chapter.

(d) If compensation of any kind will or may be paid, under a program of insurance described in subsection (c), to:

- (1) a policyholder or sponsoring or endorsing entity in the case of a group policy; or
- (2) a sponsoring or endorsing entity in the case of individual, blanket, or franchise policies marketed by means of direct response solicitation;

the insurer shall cause to be distributed to prospective insureds under the program a written notice that compensation will or may be paid under the program as indicated in subdivision (1) or (2).

(e) The notice required under subsection (d) shall be given:

- (1) whether the compensation that will or may be paid is direct

or indirect; and

(2) whether the compensation is to be paid to or retained by:

(A) the policyholder or sponsoring or endorsing entity; or

(B) a third party, at the direction of the policyholder or sponsoring or endorsing entity, or any entity affiliated with the sponsoring or endorsing entity by way of ownership, contract, or employment.

(f) The notice required under subsection (d) shall be placed on or accompany any application or enrollment form provided prospective insureds.

As added by P.L.254-1985, SEC.3.

IC 27-1-12-40

Group life insurance; premiums; spouse or dependent child coverage

Sec. 40. Except for a policy that conforms to the description in section 37(2) of this chapter, a group life insurance policy may be extended to insure the employees or members, or any class or classes of employees or members, against loss due to the death of their spouses and dependent children, subject to the following:

(1) The premium for the insurance must be paid either from funds contributed by the employer, union, association, or other person to whom the policy has been issued, from funds contributed by the covered persons, or from both sources of funds. Except as provided in subdivision (2), a policy on which no part of the premium for the spouse's and dependent child's coverage is to be derived from funds contributed by the covered persons must insure all eligible employees or members, or any class or classes of eligible employees or members, with respect to their spouses and dependent children.

(2) An insurer may exclude or limit the coverage on any spouse or dependent child as to whom evidence of individual insurability is not satisfactory to the insurer.

As added by P.L.254-1985, SEC.4. Amended by P.L.111-2008, SEC.2.

IC 27-1-12-41

Group life insurance; required provisions

Sec. 41. (a) A policy of group life insurance may not be delivered in Indiana unless it contains in substance:

(1) the provisions described in subsection (b); or

(2) provisions that, in the opinion of the commissioner, are:

(A) more favorable to the persons insured; or

(B) at least as favorable to the persons insured and more favorable to the policyholder;

than the provisions set forth in subsection (b).

(b) The provisions referred to in subsection (a)(1) are as follows:

(1) A provision that the policyholder is entitled to a grace

period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period.

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue, and that no statement made by a person insured under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

- (A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or
- (B) the statement is contained in a written instrument signed by the insured person.

However, a provision under this subdivision may not preclude the assertion at any time of defenses based upon provisions in the policy that relate to eligibility for coverage.

(3) A provision that a copy of the application, if any, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

(5) A provision specifying an equitable adjustment of premiums, benefits, or both to be made in the event the age of a person insured has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be made.

(6) A provision that any sum becoming due by reason of the death of the person insured must be payable to the beneficiary designated by the person insured. However, if a policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of the sum, living at the death

of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of the sum not exceeding two thousand dollars (\$2,000) to any person appearing to the insurer to be equitably entitled to that payment by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement that:

(A) explains the insurance protection to which the person insured is entitled;

(B) indicates to whom the insurance benefits are payable;

(C) explains any dependent's coverage included in the certificate; and

(D) sets forth the rights and conditions that apply to the person under subdivisions (8), (9), (10), and (11).

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy, or on the dependent of a person covered, ceases because of termination of employment or termination of membership in the class or classes eligible for coverage under the policy, the person or dependent is entitled, without evidence of insurability, to an individual policy of life insurance issued to the person or dependent by the insurer without disability or other supplementary benefits, provided that an application for the individual policy is made and that the first premium is paid to the insurer within thirty-one (31) days after the termination, and provided further that:

(A) the individual policy must, at the option of the person or dependent, be on any one (1) of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;

(B) the individual policy must be in an amount not in excess of the amount of life insurance that ceases because of the termination, less the amount of any life insurance for which the person or dependent becomes eligible under the same policy or any other group policy within thirty-one (31) days after the termination (however, any amount of insurance that has matured on or before the date of the termination as an endowment payable to the person insured, whether in one (1) sum, in installments, or in the form of an annuity, may not, for the purposes of this clause, be included in the amount of insurance that is considered to cease because of the termination); and

(C) the premium on the individual policy must be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which

the person or dependent then belongs, and to the individual age attained by the person or dependent on the effective date of the individual policy.

Subject to the conditions set forth in this subdivision, the conversion privilege created by this subdivision must be available to a surviving dependent of a person covered under a group policy, with respect to the coverage under the group policy that terminates by reason of the death of the person covered, and to the dependent of an employee or member after termination of the coverage of the dependent because the dependent ceases to be a qualified family member under the group policy, while the employee or member remains insured under the group policy.

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured under the policy at the date of the termination whose insurance terminates, including the insured dependent of a covered person, and who has been so insured for at least five (5) years before the termination date, is entitled to have issued by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided in subdivision (8), except that the group policy may provide that the amount of the individual policy may not exceed the lesser of:

- (A) the amount of the person's life insurance protection that is ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which the person is eligible or becomes eligible under a group policy issued or reinstated by the same insurer or another insurer within thirty-one (31) days after the termination; or
- (B) ten thousand dollars (\$10,000).

(10) A provision that if a person insured under the group policy, or the insured dependent of a covered person, dies during the period within which the covered person or dependent would have been entitled to have an individual policy issued under subdivision (8) or (9) or before such an individual policy becomes effective, the amount of life insurance that the covered person or dependent would have been entitled to have issued under an individual policy is payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium for the individual policy has been made.

(11) If active employment is a condition of insurance, a provision that an insured may continue coverage during the insured's total disability by timely payment to the policyholder of that portion, if any, of the premium that would have been required for the insured had total disability not occurred. The continuation of coverage under this subdivision on a premium

paying basis must extend for a period of six (6) months from the date on which the total disability started, but not beyond the earlier of:

(A) the date of approval by the insurer of continuation of the coverage under any disability provision that the group insurance policy may contain; or

(B) the date of discontinuance of the group insurance policy.

(12) In the case of a policy insuring the lives of debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the death benefit will first be applied to reduce or extinguish the indebtedness.

(c) Subsections (b)(6) through (b)(11) do not apply to policies insuring the lives of debtors. The standard provisions required under IC 27-1-12 for individual life insurance policies do not apply to group life insurance policies.

(d) If a group life insurance policy is on a plan of insurance other than the group plan, it must contain a nonforfeiture provision that, in the opinion of the commissioner, is equitable to the insured persons and to the policyholder. However, group life insurance policies need not contain the same nonforfeiture provisions as are required for individual life insurance policies under IC 27-1-12.

As added by P.L.254-1985, SEC.5.

IC 27-1-12-42

Group life insurance; conversion rights; notice; time to exercise rights

Sec. 42. (a) If a person who:

(1) is insured under a group life insurance policy delivered in Indiana; and

(2) is entitled under the terms of the group policy to have an individual policy of life insurance issued without evidence of insurability upon the making of application and payment of the first premium within the period specified in the policy;

is not given notice of the existence of the conversion right referred to in subdivision (2) at least fifteen (15) days before the expiration of the period during which the application and payment of the first premium must be made under the terms of the policy, the person has an additional period within which to exercise the conversion right.

(b) The additional period created under subsection (a) for exercise of a right of conversion expires fifteen (15) days after the person is given notice of the conversion right. However, irrespective of the date on which notice is given or of the absence of any notice, the additional period may not extend beyond sixty (60) days after the expiration date of the period within which application and payment of the first premium were to be made under the terms of the policy.

(c) For purposes of this section, notice of the right of conversion

may be given to the person in a writing:

- (1) presented to the person;
- (2) mailed by the policyholder to the last known address of the person; or
- (3) mailed by the insurer to the last known address of the person as furnished by the policyholder.

As added by P.L.254-1985, SEC.6.

IC 27-1-12-43

Life insurance provision allowing for right to return policy

Sec. 43. (a) As used in this section, "life insurance policy" means:

- (1) an individual life insurance policy other than a credit life insurance policy; or
- (2) an individual policy of variable life insurance;

that is sold after June 30, 1994.

(b) No life insurance policy may be issued in Indiana or issued for delivery in Indiana unless it contains a provision allowing the policyholder to return the policy to:

- (1) the insurer;
- (2) the insurance producer through whom the policy was purchased; or
- (3) any agent of the insurer;

within ten (10) days after the policy is received by the policyholder for a full refund of all money paid by the policyholder.

(c) Each life insurance policy must have prominently printed on its first page a notice setting forth in substance the provisions of subsection (b).

As added by P.L.116-1994, SEC.25. Amended by P.L.178-2003, SEC.16.

IC 27-1-12-44

Stranger originated life insurance allegation; lack of insurable interest

Sec. 44. (a) This section applies to a life insurance policy that is issued after June 30, 2008.

(b) Notwithstanding any other law, an insurer shall not, after a life insurance policy has been in force for two (2) years after the life insurance policy's date of issue, allege that the life insurance policy was issued in connection with stranger originated life insurance (as defined in IC 27-8-19.8-7.8) as a basis to deny payment of the proceeds of the life insurance policy. However, an insurer may seek to void a life insurance policy at any time for lack of insurable interest at the time the life insurance policy was issued.

As added by P.L.112-2008, SEC.1.

IC 27-1-12-45

Execution of POST form does not affect life insurance; prohibition on consideration of POST form in determining life insurance

premiums

Sec. 45. (a) The execution of a POST form under IC 16-36-6 does not affect the sale, issuance, or terms of a policy of life insurance.

(b) A policy of life insurance is not legally impaired or invalidated by the execution of a POST form, including the withholding or withdrawal of life prolonging procedures from an insured under the medical orders included in the POST form.

(c) A POST form may not be considered in the establishment of insurance premiums for an individual.

(d) A person may not require an individual to complete a POST form as a condition for being insured for health care services.

As added by P.L.164-2013, SEC.9.

IC 27-1-12-46**Policy or certificate designated for purchase of funeral services or merchandise; representations by issuer; required disclosures; violations**

Sec. 46. (a) This section applies to a life insurance policy or certificate:

(1) that is issued after June 30, 2015;

(2) the proceeds of which may be designated for use in the purchase of funeral services or merchandise upon the death of the insured; and

(3) the ownership of which is not irrevocably assigned to a trustee and used to fund a contract under IC 30-2-13.

(b) An issuer of a life insurance policy or certificate described in subsection (a) may not represent to a policyholder or certificate holder, a prospective policyholder or certificate holder, an insured, a beneficiary, or any other person that the life insurance policy or certificate is:

(1) a contract for prepaid services or merchandise under IC 30-2-13; or

(2) a funeral policy or a policy with any similar designation.

(c) A life insurance policy or certificate described in subsection (a) may not be delivered or issued for delivery in Indiana, or issued by a company organized under the laws of this state, unless the life insurance policy or certificate either contains or includes in an attached disclaimer the following provisions, or corresponding provisions that the department determines are at least as favorable to policyholders or certificate holders:

(1) A statement that the life insurance policy or certificate is not a contract for prepaid services or merchandise under IC 30-2-13.

(2) A statement that the life insurance policy or certificate does not entitle the policyholder, the certificate holder, or any other person to:

(A) prepaid funeral services or merchandise, or any services or merchandise described in IC 30-2-13-8; or

(B) the right to file a complaint with the state board of funeral and cemetery service established by IC 25-15-9-1 for restitution from the preneed consumer protection fund under IC 30-2-13-29;

unless ownership of the policy is irrevocably assigned to a trustee to fund a contract entered into with a seller (as defined under IC 30-2-13-10) under IC 30-2-13.

(3) A statement that:

(A) the life insurance policy or certificate:

(i) is not guaranteed to be exempt as a resource in determining eligibility for Medicaid under IC 12-15-2-17; and

(ii) does not guarantee Medicaid eligibility; and

(B) Medicaid eligibility determinations are made in accordance with applicable Medicaid laws and policies.

(d) A person that willfully violates this section commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4 and is subject to the penalties and procedures set forth in IC 27-4-1.

As added by P.L.227-2015, SEC.5.