

**INDIANA BASIC PROPERTY  
INSURANCE UNDERWRITING ASSOCIATION**

**BY-LAWS**

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**ARTICLE I**

**IDENTIFICATION**

**Section 1. Name.**

The name of this organization of insurers is the Indiana Basic Property Insurance Underwriting Association (hereinafter referred to as the "Association"), an association of insurance companies authorized to do business in Indiana.

**Section 2. Office.**

The principal office of the Association shall be in the City of Indianapolis, Indiana. The Association may also have other offices in other places within the State of Indiana as the Committee may from time to time determine.

**Section 3. Definitions.**

For the purposes of these By-Laws, all terms and phrases as defined in the Plan of Operation of the Association shall have the meanings as set forth therein and the following terms and phrases shall have the meaning as set forth hereafter:

- (a) "Commissioner" means the Commissioner of Insurance of the State of Indiana.
- (b) "Committee" means the governing committee of the Association as established pursuant to Article IV of these By-Laws.
- (c) "Insurer" means any insurance company or other organization licensed to write and engage in writing property insurance (including the property insurance components of multi-peril policies) on a direct basis in the State of Indiana which has become a member of the Association as set forth in Section IV of the Plan of Operation.
- (d) "Insolvency" means written notice from the Commissioner has been received by the Association that an Insurer is insolvent.
- (e) "Plan" means the program established by the Association in conjunction with the Commissioner for the purpose of making property insurance available to applicants who have been unable to secure such insurance on insurable property within the State of Indiana through the admitted insurance market.

## ARTICLE II

### MEETINGS OF INSURERS

#### Section 1. Place of Meetings.

All meetings of the Insurers shall be held at such place, within or without the State of Indiana, as may be specified in a notice thereof.

#### Section 2. Annual Meetings.

The annual meeting of the Insurers for the election of Committee members, and for the transaction of such business as may properly come before the meeting, shall be held on the date as set forth by the Committee. If for any reason the annual meeting of the Insurers shall not be held at the time and place herein provided, the same may be held at any time thereafter, or the business to be transacted at such meeting may be transacted at any special meeting called for that purpose.

#### Section 3. Special Meetings.

Special meetings of the Insurers may be called by the Committee. The notice of a special meeting must include a description of the purpose or purposes for which the meeting is called and such notice shall be given in the manner provided in Section 4 below.

#### Section 4. Notice of Meetings.

A written or printed notice, stating the place, day and hour of all annual and special meetings, and in case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Manager or by the Committee, to each Insurer, at such address as appears upon the records of the Association, no more than thirty (30) days and at least ten (10) days before the date of the meeting. Notice of any such meeting may be waived in writing by any Insurer if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called, and the time and place thereof. Attendance at any meeting, in person or by proxy, shall constitute a waiver of notice of such meeting unless at the beginning of the meeting the Insurer objects to holding the meeting because of lack of notice or defective notice, or prior to consideration of a particular matter at the meeting the Insurer objects to considering the matter because the purpose or purposes thereof have not been described in the meeting notice.

#### Section 5. Voting.

(a) Except as otherwise set forth in these By-Laws or the Plan, or for any other matter required by law, votes of the Insurers are required only on any proposal made by the Committee to the Insurers for the purpose of amending the Plan. The vote of each Insurer shall be cast on a weighted basis in accordance with its premiums written as defined in the Plan. Such proposal or amendment shall become effective when approved by at least two-thirds (2/3) of the votes cast on such weighted basis, and approved by the Commissioner.

(b) On any proposal deemed by the Committee to relate exclusively to "habitational" or exclusively

to "commercial" business, the vote shall be cast and counted on a weighted basis in accordance with each Insurer's habitational or commercial premiums written as the case may be.

(c) Any matter to be voted upon as set out in this section may be proposed and voted upon by mail provided such procedure is unanimously authorized by the Committee at any meeting of the Committee. If so approved by the Committee, notice of the proposal shall be mailed to the Insurers not less than twenty (20) days prior to the final date fixed by the Committee for voting thereon.

**Section 6. Quorum.**

Unless otherwise provided by these By-Laws or by law at any meeting of the Insurers, a majority of the voting interests as set forth in Section 5 above shall constitute a quorum.

**Section 7. Presiding Officer.**

The Chairperson of the Association, if present, shall preside over meetings of the Insurers. If the Chairperson is not present, or if the office of the chairman is vacant, the Vice Chairperson, or if the Vice Chairperson is not present, the Manager, shall preside over the meeting.

**Section 8. Secretary of Meeting.**

The Manager shall act as secretary of all meetings of the Insurers.

**Section 9. Allocation of Profits and Expenses. Liabilities and Losses.**

All profits, losses, expenses and liabilities of the Insurers shall be apportioned in the manner as set forth in the Plan.

**ARTICLE III**

**COMMITTEE**

**Section 1. General Powers.**

The business of the Association shall be managed by the Committee which may exercise all the powers of the Association and perform all lawful acts that are not by law, or by the Plan, or elsewhere in these By-Laws, directed or required to be exercised or performed by the Insurers, officers or other employees of the Association. The Committee may employ such agents, employees and officers as it deems necessary and establish the compensation for said individuals.

The Committee shall select the banks, trust companies or other depositories for the safekeeping and investment of the funds of the Association.

**Section 2. Powers Regarding the Plan.**

The Committee shall have responsibility for the administration of the Plan and may approve and establish such manuals, guidelines, rules and procedures as may be necessary to carry out the purposes of the Plan.

### **Section 3. Committee Membership.**

(a) The Committee shall consist of seven (7) Insurers, each selected annually no later than the annual meeting of the Insurers. The Committee members must be Insurers. Such Committee members as selected or elected as set forth hereafter shall select a principal representative and alternate to represent such Insurer as a Committee member, such principal representative and alternate being employees or agents of such Insurer.

(b) One of such members of the Committee shall be selected by each of the following organizations:

American Insurance Association  
Property Casualty Insurers Association of America  
Insurance Institute of Indiana, Inc.  
National Association of Mutual Insurance Companies

(c) One of such members of the Committee shall be elected from each of the following groups of domestic insurers by a majority of the presidents of all such insurers incorporated or otherwise constituted under the laws of the State of Indiana:

Domestic stock insurance companies  
Domestic mutual insurance companies  
Foreign independent stock insurance companies

(d) No more than one (1) Insurer in a group under the same management or ownership shall serve on the Committee at the same time.

Immediately upon the selection of each member by the organization or group as set forth above, the name of such member shall be forwarded to the Manager of the Association by such organization or group.

### **Section 4. Resignation.**

A member of the Committee may resign at any time by filing its written resignation with the Committee, the Chairperson or the Manager. Said resignation shall be effective upon delivery unless the notice specifies a later effective date.

### **Section 5. Removal.**

Any Committee member may be removed, with cause, at any time at any special meeting of the Insurers called for such purpose.

### **Section 6. Vacancies.**

In case of any vacancy in the Committee through resignation, removal or other cause, the organization or group responsible for selecting such member shall select a successor within thirty (30) days after receipt of notice from the Association of such vacancy.

### **Section 7. Annual Meetings.**

The Committee shall meet each year immediately after the annual meeting of the Insurers at the

place where such meeting of the Insurers has been held, for the purpose of organization, election of officers and consideration of any other business that may be brought before the meeting. No notice shall be necessary for the holding of this annual meeting.

**Section 8. Regular Meetings.**

Regular meetings of the Committee may be held, without notice, at a time and place determined from time to time by the Committee or the Commissioner.

**Section 9. Special Meetings.**

Special meetings of the Committee members may be held upon the call of the Chairperson, or four or more members of the Committee, at any place within or without the State of Indiana, upon at least fifteen (15) days notice, specifying the time, place and general purposes of the meeting, given to each Committee member either personally, by mailing or by telefax. At any meeting at which all Committee members are present, notice of the time, place and purpose thereof shall be deemed waived (unless objected to in the manner provided by Section 11 below); similar notice may likewise be made by absent Committee members either by written instrument or by telefax.

**Section 10. Meetings Held by Simultaneous Communication.**

The Committee may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Committee members participating may simultaneously hear each other during the meetings. A member participating in a meeting by this means is deemed to be present in person at the meeting.

**Section 11. Waiver of Notice.**

A Committee member may waive any notice required by the By-Laws before or after the date and time stated in the notice. The waiver must be in writing, signed by the member entitled to the notice and filed with the minutes or Association records as set forth hereafter. A member's attendance at or participation in a meeting waives any required notice to the member of the meeting unless the member at the beginning of the meeting (or promptly upon the member's arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or consent to action taken at the meeting.

**Section 12. Action Without Meeting.**

Action required or permitted by the laws of the State of Indiana to be taken at a Committee meeting may be taken without a meeting if the action is taken by all members of the Committee pursuant to appropriate written consents. The action must be evidenced by one (1) or more written consents describing the action taken, signed by each Committee member and included in the minutes or filed with the Association records reflecting the action taken.

Action taken pursuant to this Section 12 is effective when the last Committee member signs the consent, unless the consent specifies a different, prior or subsequent effective date.

**Section 13. Voting Requirement and Quorum.**

At all meetings of the Committee, the act of a majority of the members shall be the act of the Committee, except as otherwise specifically provided by law. Four (4) members of the Committee shall constitute a quorum for the transaction of business at any meeting.

**Section 14. Committees.**

The Chairperson may create one (1) or more committees and appoint members of the Committee to serve on them. Each Committee may have one (1) or more members who shall serve at the pleasure of the Chairperson. Each Committee shall have the authority as set forth by the Committee and as allowed under Indiana law and shall operate pursuant to rules established by the Committee which are not inconsistent with these By-Laws.

**Section 15. Representatives and Alternates.**

As soon as practicable after election or initial appointment to the Committee, and thereafter as it may elect, each Committee member shall designate a principal representative and an alternate to serve for it at any meeting which such member's principal representative is unable to attend and shall notify in writing the Manager and Chairperson of such principal representative and alternate.

**Section 16. Order of Business.**

The order of business at all meetings of the Committee shall be as follows:

- (a) Roll call;
- (b) Reading of the minutes of the preceding meeting and action thereon;
- (c) Reports of officers;
- (d) Reports of Committee;
- (e) Unfinished business;
- (f) Miscellaneous business; and
- (g) New business.

**Section 17. Audits.**

The Committee shall have the right, in person or through representatives, at all reasonable times, to audit and inspect the books and records of any Insurer as to matters coming within the purview of the Plan or these By-Laws.

**Section 18. Compensation.**

The Committee members shall be paid no compensation for serving as members, but shall be entitled to out-of-pocket expenses upon providing proper documentation to the Association.

**Section 19. Indemnification and Contribution.**

As used in this Section 19, the following terms shall have the following meanings:

"Expenses" shall mean the reasonable and necessary costs and expenses incurred in a Proceeding (as defined herein) including counsel fees.

"Indemnitee" shall mean the Committee members, Manager, officers of the Association and any employee of the Association.

"Liability" means the obligation to pay a judgment, settlement, penalty, fine (including any excise tax assessed with respect to an employee benefit plan) or reasonable Expenses incurred with respect to a Proceeding.

"Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

(a) Indemnity. Provided an Indemnitee's conduct meets the standard of conduct set forth in subsection (b) below, the Association shall indemnify any Indemnitee and keep Indemnitee indemnified in accordance herewith, to the fullest extent authorized or permitted by Indiana law as such may be in effect from time to time (but subject to the provisions hereof), from and against any and all Expenses and Liabilities in connection with any Proceeding to which Indemnitee is, was, or at any time becomes a party, or is threatened to be made a party, by reason of the fact that Indemnitee is or was a Committee member, Manager, officer of the Association or employee of the Association.

The Association's obligation of indemnity contained herein shall continue during the time Indemnitee is a Committee member, Manager, officer of the Association or employee of Association, and shall continue thereafter so long as Indemnitee shall be subject to any possible claims arising from any Proceedings by reason of the fact that Indemnitee served as a Committee member, Manager, officer of the Association or employee of the Association.

(b) Required Standard of Conduct. The Association shall indemnify Indemnitee in accordance with subsection (a) if:

(i) the Indemnitee's conduct was in good faith; and

(ii) the Indemnitee reasonably believed:

(1) in the case of conduct in his official capacity with the Association, that his conduct was in the best interests of the Association; and

(2) in all other cases, that the Indemnitee's conduct was at least not opposed to the best interests of the Association; and

(iii) in the case of any criminal proceedings the Indemnitee either:

(1) had reasonable cause to believe his conduct was lawful; or

(2) had no reasonable cause to believe his conduct was unlawful.

Indemnification is not permissible against any liability to the extent such liability is the result of willful misconduct or recklessness on the part of the Indemnitee.

(c) Advancement of Expenses. The Association may pay for or reimburse the reasonable Expenses incurred by Indemnitee as a party to a Proceeding in advance of final disposition of the Proceeding if:

(i) Indemnitee furnishes the Association a written affirmation of his good faith belief that he has met the standard of conduct described in subsection (b) above; and

(ii) Indemnitee furnishes the Association a written undertaking, executed personally or on Indemnitee's behalf, to repay the advance if it is ultimately determined that Indemnitee did not meet the standard of conduct; and

(iii) A determination is made that the facts then known to those making the determination would not preclude indemnification.

(d) Procedure for Determining Indemnity. The Association shall indemnify Indemnitee unless a determination has been made that indemnification is not permissible in the circumstances because Indemnitee has not met the standard of conduct set forth in subsection (b) above. The determination shall be made by a majority vote of the Committee not at the time parties to the Proceeding or not seeking indemnity. In the event a majority of the members of the Committee are seeking indemnification hereunder as a result of the same occurrence, such determination shall be made by a majority vote of the Insurers.

(e) Notification and Defense of Claim. Promptly after receipt by Indemnitee of notice of the commencement of any Proceeding, Indemnitee will, if a claim in respect thereof may be made against the Association, notify the Association of the commencement thereof; but the omission so to notify the Association will not relieve the Association from any liability which it may have to Indemnitee otherwise under this section provided the Association is not prejudiced by such late notice. With respect to any such Proceeding as to which Indemnitee notifies the Association of the commencement thereof:

(i) the Association will be entitled to participate at its own expense; and

(ii) except as otherwise provided below, to the extent that it may wish, the Association, either singly or jointly with any other indemnifying party similarly notified, will be entitled to assume the defense thereof, with counsel satisfactory to Indemnitee. After notice from the Association to Indemnitee of its election to assume the defense thereof, the Association will not be liable to Indemnitee for any Expenses subsequently incurred by Indemnitee in connection with the defense thereof other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ his or her own counsel in such Proceeding but the fees and expenses of such counsel incurred after notice from the Association of its assumption of the defense thereof shall be at the expense of Indemnitee unless (A) the employment of counsel by Indemnitee has been authorized by the Association, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Association and the Indemnitee in the conduct of the defense of such Proceeding, or (C) the Association shall not in fact have employed counsel to assume the defense of such action, in each of which cases the



fees and expenses of counsel shall be at the expense of the Association; and

(iii) The Association shall not be liable to indemnify Indemnitee under this Agreement for any amounts paid in settlement of any Proceeding effected without its written consent; the Association shall not settle any Proceeding in any manner which would impose any penalty or limitation on Indemnitee without Indemnitee's written consent; and neither the Association nor Indemnitee will unreasonably withhold such party's consent to any proposed settlement.

(f) Non-Member Services. Nothing contained in this Section 19 shall be construed to require indemnity of any Committee member, Manager, officer or employee resulting from the negligence or misconduct of the Committee member, Manager, officer or employee while performing compensable services for the Association but not in his capacity as a Committee member, Manager, officer or employee and for which such Committee member, Manager, officer or employee has liability insurance coverage from another source.

(g) Right to Contribution of Insurers. If any Insurer or Servicing Insurer incurs any loss, obligation, debt or Liability (as defined above) on behalf of or in furtherance of the business of the Association, whether resulting from innocent or negligent conduct on the part of the Insurer, but not including conduct that is willful or wanton, all Insurers shall contribute towards such loss, obligation, debt or Liability in an amount determined by the proportion that the Insurers share in the allocation of profits, expenses, liabilities and losses as set forth in Article III, Section 9, of these By-Laws.

The time for determining the allocation of such contributions shall be based on the sharing ratios as described above for the year in which the event causing the contribution occurs.

The time for payment of the contribution shall be within one hundred twenty (120) days after receipt by an Insurer of a written notice to contribute from the Insurer that incurred the loss.

## ARTICLE IV

### OFFICERS OF THE ASSOCIATION

#### Section 1. Officers.

The officers of the Association shall consist of a Chairperson, Vice Chairperson, Manager and such other officers as determined by the Committee from time to time. The Chairperson and Vice Chairperson shall be selected from the Committee. The Committee by resolution may create and define the duties of other officers in the Association and may elect or appoint persons to fill such offices.

The Chairperson shall serve for a two (2) year term. At the end of the term of the Chairperson, the Vice Chairperson shall become Chairperson for a period of two (2) years and a new Vice Chairperson shall be elected by the Committee to serve for a two (2) year term. The Chairperson and Vice Chairperson's terms shall begin on the same day as the Association's fiscal year.

Should a Chairperson be unable to complete a full term as Chairperson, the current Vice Chairperson

shall become Chairperson and should a Vice Chairperson be unable to complete a full term, the Committee shall select a new Vice Chairperson at the next meeting of the Committee to complete the unexpired term of the Vice Chairperson.

The Manager shall be appointed by the Committee and shall serve until a successor is chosen and qualified. The Manager may resign and may be removed by the Committee at any time. Notice of removal shall be made in writing by the Committee to the Manager. Notice of resignation shall be made in writing by the Manager to the Chairperson.

#### **Section 2. Vacancies.**

Whenever any vacancy shall occur in any office by death, resignation, increase in the number of offices of the Association, or otherwise, the same shall be filled by the Committee, and the officer so elected shall hold office until his successor is chosen and qualified.

#### **Section 3. Chairperson.**

The Chairperson of the Association shall preside over all meetings of the Committee and the Insurers. In addition, the Chairperson shall, subject to the direction of the Committee, perform those executive, supervisory and managerial functions and duties as are assigned to the Chairperson from time to time by the Committee, and as are not otherwise delegated to the Manager. The Chairperson may sign, with the Manager or any other officer authorized by the Committee, any deeds, mortgages, bonds, contracts or other instruments which the Committee has authorized be executed. The Chairperson shall discharge such other duties as may be incidental to that office or as shall be prescribed by the Committee from time to time.

#### **Section 4. Manager.**

The Manager shall be the chief executive officer of the Association. The Manager shall have general and active management authority of the business of the Association and shall see that all orders and resolutions of the Committee are carried into effect.

The Manager shall keep the minutes of the meetings of the Committee and Insurers, see that all notices are duly given in accordance with the provisions of these By-Laws, be responsible for all securities of the Association and discharge such other duties as may be incidental to the Manager's office or as shall be required by the Committee from time to time.

The Manager shall receive, disburse and properly care and account for all Association funds, prepare such reports as are necessary to disclose in detail the financial condition of the Association as required by the Committee, and shall have such authority and exercise such powers as may be conferred upon the Manager by the Committee from time to time.

The Manager shall recommend annually, for the approval of the Committee, a law firm to represent the Association, a properly qualified public accounting firm to conduct an annual audit of the operations of the Association and any Servicing Insurers. Upon approval of such firms, such firms shall serve until removed by the Committee.

The Manager shall prepare an operating budget which shall be subject to approval of the Committee. Any contemplated expenditure in excess of or not included in the budget shall require prior approval by the Committee if such expenditure exceeds Five Hundred Dollars (\$500.00).

The Manager shall on a quarterly basis submit to the Committee and the Commissioner a report setting forth the number of requests for insurance under the Plan, the number of policies written, the number of risks conditionally accepted, the number of risks declined and such other information accumulated pursuant to the operation of the Plan as the Commissioner may request.

**Section 5. Vice Chairperson.**

In the absence of the Chairperson, the Vice Chairperson will perform the duties of the Chairperson.

**Section 6. Other Officers.**

Any other officers appointed by the Committee shall perform all duties as the By-Laws may require or as the Committee may prescribe.

**Section 7. Delegation of Authority.**

In the case of the absence of any officer of the Association, or for any other reason that the Committee may deem sufficient, the Committee may delegate the powers or duties of such officer to any other officer or to any Committee member for the time being, provided a majority of the Committee members concurs therein.

**ARTICLE V**

**PLACEMENT OF INSURANCE**

Upon approval by the Association of an application for insurance and receipt by the Association of the full amount of the required premium by certified check, bank check, money order, or the check of a licensed lending institution, licensed agent or broker, the Association on behalf of the Insurers shall issue a policy of insurance. Policies will be issued in the usual and customary manner so the public will be assured of prompt coverage.

**ARTICLE VI**

**BOOKS AND RECORDS**

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of all meetings of the Insurers and Committee, and shall keep at the principal office a record giving the names and addresses of all Insurers.

**ARTICLE VII**

**EXECUTION OF DOCUMENTS**

All deeds, mortgages, bonds, contracts or other instruments which the Committee has authorized to

be executed shall be signed by the Chairperson and Manager.

All checks, drafts, notes and other orders for the payment of money shall be signed by the Manager or such officer or employee of the Association as the Committee may designate by resolution from time to time.

## **ARTICLE VIII**

### **ASSOCIATION PARTICIPATION**

#### **Section 1.**

The Association shall, on behalf of the Insurers, be authorized to issue policies or certificates of insurance on eligible risks. It is also authorized to purchase reinsurance on behalf of the Insurers, provided such reinsurance is authorized by a majority of the members of the Committee.

#### **Section 2.**

Each Insurer shall participate in the profits and be liable for the expenses and losses of the Association and the Plan in the following manner:

- (a) for Habitational risks, the same proportion as its Habitational Premiums Written bear to the aggregate Habitational Premiums Written by all Insurers;
- (b) for Commercial risks, the same proportion as its Commercial Premiums Written bear to the aggregate Commercial Premiums Written by all Insurers.

Such proportions shall be determined on the premiums written in the prior calendar year.

The Committee is authorized to make a current assessment upon all Insurers and such further assessments as may be deemed necessary by the Committee in its sole discretion to provide for the expenses and losses incurred by the Association in administering the Plan. The Committee is also authorized to set a schedule by which Insurers are to pay the Association each Insurer's allocation of any expenses and losses.

#### **Section 3.**

A penalty or late charge of Fifty Dollars (\$50) shall be added to the assessment if an Insurer's assessment, or any part thereof, is not paid within thirty (30) calendar days from the date the notice of assessment is mailed by the Association.

## **ARTICLE IX**

### **FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the last day of December in each year unless hereafter changed by resolution of the Committee.

ARTICLE X

AMENDMENTS

Subject to approval by the Commissioner, these By-Laws may be altered, amended or repealed and new By-Laws may be adopted by a majority of the members of the Committee present at any annual, regular or special meeting, if at least twenty (20) days written notice is given of intention to alter, amend, repeal or adopt new By-Laws at such meeting.

These By-Laws have been duly adopted by the Committee, effective April 6, 2006.

A handwritten signature in cursive script, appearing to read "Janis B. Funk", is written over a horizontal line.

Janis B. Funk, Manager