



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3451

Introduced 2/16/2018, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

New Act

Creates the Insurance Industry Innovation Act. Creates the Innovation Division in the Department of Insurance. Provides that a covered entity may submit a petition to the Department to request to enter into an enforceable compliance agreement. Provides that the Director of Insurance shall complete a review of the petition and notify the covered entity of the Department's determination. Provides the specific factors the Department shall use in determining whether or not to approve a petition. Provides the specific requirements of an enforceable compliance agreement. Provides that the Department shall submit an annual report to the General Assembly beginning July 1, 2019 regarding the aggregate impact of enforceable compliance agreements. Provides that the Department shall establish the cost of each petition. Provides that the Director may adopt rules as necessary to implement the Act. Provides that the Act shall be repealed on January 1, 2024. Effective immediately.

LRB100 20462 LNS 35817 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Insurance Industry Innovation Act.

6 Section 5. Definitions. In this Act:

7 "Covered entity" means an entity that offers or intends to
8 offer an insurance innovation by submitting a petition to the
9 Department of Insurance.

10 "Department" means the Department of Insurance.

11 "Director" means the Director of Insurance.

12 "Enforceable compliance agreement" means a contractual
13 agreement described in subsection (a) of Section 20.

14 "Innovation Division" means the Innovation Division in the
15 Department of Insurance.

16 "Insurance innovation" means an innovative service or
17 product that is or may be subject to regulation by the
18 Department of Insurance.

19 Section 10. Innovation Division. The Department shall
20 establish an Innovation Division to promote insurance product
21 innovations and to assist a covered person whose petition has
22 been approved under Section 20.

1 Section 15. Petition to the Department.

2 (a) A covered entity may submit a petition to the
3 Department through the Innovation Division, in such form and in
4 such manner as the Innovation Division may require, to request
5 to enter into an enforceable compliance agreement containing a
6 modification or waiver of Department rule or State law under
7 which the Department has rulemaking authority with respect to
8 the covered entity or an insurance innovation the covered
9 entity offers or intends to offer.

10 (b) A petition submitted under this Section shall:

11 (1) include an alternative compliance strategy that
12 proposes a method to achieve the public policy goals of the
13 Department rule or State law; and

14 (2) demonstrate that under the alternative compliance
15 strategy, the insurance innovation:

16 (A) would serve the public interest;

17 (B) improves access to insurance products or
18 services; and

19 (C) does not present systemic risk to the State and
20 promotes consumer protection.

21 (c) One or more covered entities that offers or intends to
22 offer similar innovations may jointly submit a petition under
23 this Section.

24 (d) No later than 30 days after receiving a petition, the
25 Department shall publish the petition on the Department's

1 website and provide a 60-day period for public notice and
2 comment.

3 The Department may waive the notice and comment period if
4 the Department determines that the covered entity submitting
5 the petition is similarly situated to another covered entity
6 that has been granted approval of an identical petition
7 pursuant to this Section.

8 The Department shall maintain the confidentiality of any
9 non-publicly available data or information in any petition
10 submitted under this Section. The Department shall give
11 reasonable consideration to maintaining the confidentiality of
12 data or information identified by the covered person in the
13 petition submitted under this Section as non-publicly
14 available data or information.

15 Section 20. Department determination of petition.

16 (a) No later than 30 days after the end of the comment
17 period pursuant to subsection (d) of Section 15 or, if the
18 comment period was waived, not later than 60 days after receipt
19 of a petition under Section 15, the Director shall complete a
20 review of the petition and notify the covered entity, in
21 writing, of the Department's determination of the petition.

22 (b) If the covered entity submitting the petition
23 demonstrates to the Department that the alternative compliance
24 strategy meets the requirements of paragraph (2) in subsection
25 (b) of Section 15, the Department may approve the petition. If

1 the petition is approved, the Department shall enter into an
2 enforceable compliance agreement with the covered entity in
3 accordance with the requirements of Section 25.

4 (c) The Department shall not approve a petition for a
5 waiver of Department rule or State law concerning:

6 (1) assets, deposits, investments, capital, surplus,
7 or other solvency requirements applicable to insurance
8 companies;

9 (2) required participation in an assigned risk plan,
10 market, or guaranty fund;

11 (3) a law or regulation required for the Department to
12 maintain its accreditation by the National Association of
13 Insurance Commissioners, unless the law or regulation
14 permits variances, waivers, or no action letters; or

15 (4) application of any taxes or fees.

16 (d) If the covered entity submitting the petition fails to
17 demonstrate to the Department that the alternative compliance
18 strategy meets the requirements of paragraph (2) of subsection
19 (b) of Section 15, the Department shall deny the petition. If
20 the Department denies a petition, the Director shall provide
21 the covered entity with a written notice explaining the reason
22 for denying the petition.

23 Section 25. Enforceable compliance agreement.

24 (a) If the Department approves a petition under Section 15,
25 the covered entity shall enter into an enforceable compliance

1 agreement with the Department.

2 (b) Any compliance agreement entered into by the Department
3 and a covered entity shall, at a minimum, include:

4 (1) the terms under which the covered entity may
5 develop or offer the approved insurance innovation to the
6 public and any requirements of the covered entity and the
7 Department with respect to the insurance innovation;

8 (2) procedures for modifying the terms of the
9 agreement;

10 (3) consequences for failure to comply with the terms
11 of the agreement;

12 (4) a compliance examination process that occurs at
13 least annually;

14 (5) a termination date for the agreement that is at
15 least one year after the date on which the agreement is
16 entered into;

17 (6) procedures for extending the termination date;

18 (7) procedures for judicial review; and

19 (8) procedures for maintaining the confidentiality of
20 any information disclosed to the Department in making the
21 agreement.

22 (c) If a covered entity and the Department enter into an
23 enforceable compliance agreement, another agency may not
24 commence an enforcement action against the covered entity with
25 respect to the insurance innovation that is the subject of the
26 enforceable compliance agreement.

1 (d) Notwithstanding subsection (c), the State may commence
2 an enforcement action against a covered entity with respect to
3 an insurance innovation that is the subject of an enforceable
4 compliance agreement if, in an action brought by the State in a
5 court of competent jurisdiction, the court determines that the
6 Department's action was arbitrary and capricious and the
7 insurance innovation has substantially harmed consumers within
8 the State.

9 (e) A covered entity may elect to arbitrate an action
10 initiated by another person relating to a financial innovation
11 that is the subject of the enforceable compliance agreement.

12 Section 30. Report to the General Assembly. No later than
13 July 1, 2019 and every July 1 thereafter, the Department shall
14 submit to the General Assembly a report on the aggregate impact
15 of enforceable compliance agreements entered into under this
16 Act that shall include:

17 (1) the number and characteristics of the agreements;

18 (2) the most innovative and least burdensome tools that
19 the Innovation Division has implemented for achieving
20 regulatory ends;

21 (3) the existing State laws, rules, or practices that
22 the Department identifies as the most burdensome to
23 innovation in developing or providing insurance products
24 and services, that adversely affect competition in the
25 insurance industry, or that restrict improvements for

1 consumers of insurance products or services; and
2 (4) recommendations for reducing, consolidating, or
3 eliminating regulations.

4 Section 35. Funding. The Department, by rule, shall
5 establish the cost of each application for petition.

6 Section 40. Rulemaking authority. The Director may adopt
7 reasonable rules as necessary to implement the purposes and
8 provisions of this Act.

9 Section 45. Repeal. This Act is repealed on January 1,
10 2024.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.