



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB2494

Introduced 2/17/2005, by Rep. Mark H. Beaubien, Jr.

SYNOPSIS AS INTRODUCED:

215 ILCS 5/132

from Ch. 73, par. 744

Amends the Illinois Insurance Code. Makes a technical change in a Section concerning market conduct and non-financial examinations.

LRB094 07734 LJB 37912 b

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 5. The Illinois Insurance Code is amended by
5 changing Section 132 as follows:

6 (215 ILCS 5/132) (from Ch. 73, par. 744)

7 Sec. 132. Market conduct and non-financial examinations.

8 (1) The ~~The~~ Director, for the purposes of ascertaining the
9 non-financial business practices, performance, and operations
10 of any company, may make examinations of:

11 (a) any company transacting or being organized to
12 transact business in this State;

13 (b) any person engaged in or proposing to be engaged in
14 the organization, promotion, or solicitation of shares or
15 capital contributions to or aiding in the formation of a
16 company;

17 (c) any person having a contract, written or oral,
18 pertaining to the management or control of a company as
19 general agent, managing agent, or attorney-in-fact;

20 (d) any licensed or registered producer, firm, or
21 administrator, or any person, organization, or corporation
22 making application for any licenses or registration;

23 (e) any person engaged in the business of adjusting
24 losses or financing premiums; or

25 (f) any person, organization, trust, or corporation
26 having custody or control of information reasonably
27 related to the operation, performance, or conduct of a
28 company or person subject to the jurisdiction of the
29 Director.

30 (2) Every company or person being examined and its
31 officers, directors, and agents must provide to the Director
32 convenient and free access at all reasonable hours at its

1 office or location to all books, records, documents, and any or
2 all papers relating to the business, performance, operations,
3 and affairs of the company. The officers, directors, and agents
4 of the company or person must facilitate the examination and
5 aid in the examination so far as it is in their power to do so.

6 The Director and any authorized examiner have the power to
7 administer oaths and examine under oath any person relative to
8 the business of the company being examined.

9 (3) The examiners designated by the Director under Section
10 402 must make a full and true report of every examination made
11 by them, which contains only facts ascertained from the books,
12 papers, records, or documents, and other evidence obtained by
13 investigation and examined by them or ascertained from the
14 testimony of officers or agents or other persons examined under
15 oath concerning the business, affairs, conduct, and
16 performance of the company or person. The report of examination
17 must be verified by the oath of the examiner in charge thereof,
18 and when so verified is prima facie evidence in any action or
19 proceeding in the name of the State against the company, its
20 officers, or agents upon the facts stated therein.

21 (4) The Director must notify the company or person made the
22 subject of any examination hereunder of the contents of the
23 verified examination report before filing it and making the
24 report public of any matters relating thereto, and must afford
25 the company or person an opportunity to demand a hearing with
26 reference to the facts and other evidence therein contained.

27 The company or person may request a hearing within 10 days
28 after receipt of the examination report by giving the Director
29 written notice of that request, together with a statement of
30 its objections. The Director must then conduct a hearing in
31 accordance with Sections 402 and 403. He must issue a written
32 order based upon the examination report and upon the hearing
33 within 90 days after the report is filed or within 90 days
34 after the hearing.

35 If the examination reveals that the company is operating in
36 violation of any law, regulation, or prior order, the Director

1 in the written order may require the company or person to take
2 any action he considers necessary or appropriate in accordance
3 with the report of examination or any hearing thereon. The
4 order is subject to judicial review under the Administrative
5 Review Law. The Director may withhold any report from public
6 inspection for such time as he may deem proper and may, after
7 filing the same, publish any part or all of the report as he
8 considers to be in the interest of the public, in one or more
9 newspapers in this State, without expense to the company.

10 (5) Any company which or person who violates or aids and
11 abets any violation of a written order issued under this
12 Section shall be guilty of a business offense and may be fined
13 not more than \$5,000. The penalty shall be paid into the
14 General Revenue fund of the State of Illinois.

15 (Source: P.A. 87-108.)