



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1460

by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

New Act
215 ILCS 5/2.5

Creates the Motor Vehicle Ancillary Products Act. Provides that each ancillary product provider intending to issue or sell ancillary product contracts in the State shall file a registration with the Director of Insurance and designate a person in the State for service of process. Provides that each ancillary product provider shall pay to the Director a fee upon initial registration and every year thereafter. Provides that other than the ancillary product provider registration requirements in the provision requiring ancillary product provider registration, ancillary product providers and related ancillary product contract sellers, administrators, and other persons marketing, selling, offering to sell, or issuing ancillary product contracts are exempt from any licensing requirements of the State to conduct ancillary product contract business. Sets forth provisions concerning ancillary product provider financial requirements; ancillary product contract receipt requirements; disclosures; ancillary protection product warranties; reimbursement insurance policies; ancillary product contract exemption from insurance laws; prohibited acts; record keeping; cancellation of reimbursement insurance policies; obligations of reimbursement insurance policy insurers; enforcement provisions; premium taxes; applicability; and severability. Amends the Illinois Insurance Code to provide that the Code shall not be construed to apply to ancillary product contracts under the Motor Vehicle Ancillary Products Act. Effective January 1, 2014.

LRB098 07451 RPM 37519 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

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 Motor
5 Vehicle Ancillary Products Act.

6 Section 5. Scope and purpose.

7 (a) The purpose of this Act is to create a legal framework
8 within which motor vehicle ancillary product contracts, as
9 defined in this Act, are regulated and may be sold in this
10 State. This Act declares that ancillary product contracts are
11 not insurance and not otherwise subject to the Illinois
12 Insurance Code. This Act adds significant consumer protections
13 and eliminates unnecessary administration.

14 (b) The following are exempt from this Act:

15 (1) warranties, indemnity agreements, and guarantees
16 that are not provided incidental to the purchase of an
17 ancillary protection product;

18 (2) maintenance agreements;

19 (3) service contracts as defined in Section 5 of the
20 Service Contract Act;

21 (4) automobile clubs; and

22 (5) GAP waiver agreements.

1 Section 10. Definitions. In this Act:

2 "Administrator" means the person who is responsible for the
3 administration of the ancillary product contracts.

4 "Ancillary product contract" means an ancillary service
5 contract or ancillary protection product warranty or both.

6 "Ancillary product holder" means, collectively, both
7 contract holders and warranty holders.

8 "Ancillary product provider" means, collectively, both
9 providers and warrantors.

10 "Ancillary protection product" means a protective
11 chemical, substance, device, system, or service that (i) is
12 installed on or applied to a motor vehicle, (ii) is designed to
13 prevent loss or damage to a motor vehicle from a specific
14 cause, and (iii) includes an ancillary protection product
15 warranty. For purposes of this Section, "ancillary protection
16 product" includes, but is not limited to, protective chemicals,
17 alarm systems, body part marking products, steering locks,
18 window etch products, pedal and ignition locks, fuel and
19 ignition kill switches, and electronic, radio, and satellite
20 tracking devices. "Ancillary protection product" does not
21 include fuel additives, oil additives, or other chemical
22 products applied to the engine, transmission, or fuel system of
23 a motor vehicle.

24 "Ancillary protection product warranty" means a written
25 agreement by a warrantor that provides if the ancillary
26 protection product fails to prevent loss or damage to a motor

1 vehicle from a specific cause, that the warrantor will pay to
2 or on behalf of the warranty holder specified incidental costs
3 as a result of the failure of the ancillary protection product
4 to perform pursuant to the terms of the ancillary protection
5 product warranty.

6 "Ancillary service contract" means an agreement that is
7 effective for a specified duration and paid for by means other
8 than the purchase of a motor vehicle to perform any one or more
9 of the following services:

10 (1) the repair or replacement of tires or wheels or
11 both on a motor vehicle damaged as a result of coming into
12 contact with road hazards;

13 (2) the removal of dents, dings, or creases on a motor
14 vehicle that can be repaired using the process of paintless
15 dent removal without affecting the existing paint finish
16 and without replacing vehicle body panels, sanding,
17 bonding, or painting;

18 (3) the repair of chips or cracks in or the replacement
19 of motor vehicle windshields as a result of damage caused
20 by road hazards;

21 (4) the replacement of a motor vehicle key or key-fob
22 in the event that the key or key-fob becomes inoperable or
23 is lost or stolen; or

24 (5) other services that may be approved by the
25 Director.

26 An ancillary service contract may not include coverage for

1 the repair of damage to the interior surfaces of a vehicle or
2 for repair of damage to the exterior paint or finish of a
3 vehicle; however, such coverage may be offered in connection
4 with the sale of an ancillary protection product.

5 "Contract holder" means the person who purchases an
6 ancillary service contract, any authorized transferee or
7 assignee of the purchaser, or any other person legally assuming
8 the purchaser's rights under the ancillary service contract.

9 "Director" means the Director of Insurance.

10 "Incidental costs" means expenses specified in an
11 ancillary protection product warranty that are incurred by the
12 warranty holder due to the failure of an ancillary protection
13 product to perform as provided in the contract. Incidental
14 costs may include, without limitation, insurance policy
15 deductibles, rental vehicle charges, the difference between
16 the actual value of the stolen vehicle at the time of theft and
17 the cost of a replacement vehicle, sales taxes, registration
18 fees, transaction fees, and mechanical inspection fees.
19 Incidental costs may be reimbursed in either a fixed amount
20 specified in the ancillary protection product warranty or by
21 use of a formula itemizing specific incidental costs incurred
22 by the warranty holder.

23 "Motor vehicle" means self-propelled or towed vehicles
24 designed for personal or commercial use, including, but not
25 limited to, automobiles, trucks, motorcycles, recreational
26 vehicles, all-terrain vehicles, snowmobiles, campers, boats,

1 personal watercraft, and motorcycle, boat, camper, and
2 personal watercraft trailers.

3 "Person" means an individual, company, association,
4 organization, partnership, business trust, corporation, or any
5 other form of legal entity.

6 "Provider" means a person who is contractually obligated to
7 a contract holder under the terms of an ancillary service
8 contract.

9 "Reimbursement insurance policy" means a policy of
10 insurance issued to an ancillary product provider to either
11 provide reimbursement to the ancillary product provider under
12 the terms of the designated ancillary product contracts issued
13 or sold by the provider or, in the event of the provider's
14 non-performance, to pay on behalf of the provider all covered
15 contractual obligations incurred by the provider under the
16 terms of the insured ancillary product contracts.

17 "Road hazard" means a hazard that is encountered while
18 driving a motor vehicle and that may include, but not be
19 limited to, potholes, rocks, wood debris, metal parts, glass,
20 plastic, curbs, or composite scraps.

21 "Warranty holder" means the person who purchases an
22 ancillary protection product, any authorized transferee or
23 assignee of the purchaser, or any other person legally assuming
24 the purchaser's rights under the ancillary product contract.

25 "Warrantor" means a person who is contractually obligated
26 to the warranty holder under the terms of the ancillary

1 protection product warranty.

2 Section 15. Ancillary product provider registration
3 required.

4 (a) Each ancillary product provider intending to issue or
5 sell ancillary product contracts in this State shall file a
6 registration with the Director consisting of their name, full
7 corporate address, telephone number, and contact person and
8 designate a person in this State for service of process. Each
9 ancillary product provider shall pay to the Director a fee in
10 the amount of \$200 upon initial registration and every year
11 thereafter. The registration need only be updated by written
12 notification to the Director if material changes occur in the
13 registration on file.

14 (b) An ancillary product provider may, but is not required
15 to, appoint an administrator or other designee to be
16 responsible for any or all of the administration of its
17 ancillary product contracts and compliance with this Act.

18 (c) Other than the ancillary product provider registration
19 requirements in this Section, ancillary product providers and
20 related ancillary product contract sellers, administrators,
21 and other persons marketing, selling, offering to sell, or
22 issuing ancillary product contracts are exempt from any
23 licensing requirements of this State in order to conduct
24 ancillary product contract business.

1 Section 20. Ancillary product provider financial
2 requirements.

3 (a) In order to ensure the faithful performance of an
4 ancillary product provider's obligations to its ancillary
5 product holders, each ancillary product provider shall insure
6 all ancillary product contracts under a reimbursement
7 insurance policy issued by an insurer licensed, registered, or
8 otherwise authorized to do business in this State, and the
9 insurer shall either:

10 (1) at the time the policy is filed with the Director,
11 and continuously thereafter, (A) maintain surplus as to
12 policyholders and paid-in capital of at least \$15,000,000
13 and (B) annually file copies of the insurer's financial
14 statements, its NAIC Annual Statement, and the actuarial
15 certification required by and filed in the insurer's state
16 of domicile; or

17 (2) at the time the policy is filed with the Director,
18 and continuously thereafter, (A) maintain surplus as to
19 policyholders and paid-in capital of less than \$15,000,000
20 but at least equal to \$10,000,000, (B) demonstrate to the
21 satisfaction of the Director that the company maintains a
22 ratio of net written premiums, where ever written, to
23 surplus as to policyholders and paid-in capital of not
24 greater than 3 to one, and (C) annually file copies of the
25 insurer's audited financial statements, its NAIC Annual
26 Statement, and the actuarial certification required by and

1 filed in the insurer's state of domicile.

2 (b) Except for the requirements specified in this Section,
3 no other financial security requirements shall be required by
4 the Director for ancillary product providers.

5 Section 25. Ancillary product contract receipt required.

6 (a) Ancillary product contracts shall not be issued, sold,
7 or offered for sale in this State unless the provider provides
8 a copy of the ancillary product contract to the contract holder
9 within a reasonable period of time from the date of purchase. A
10 provider may comply with this subsection (a) by providing the
11 consumer with a physical copy of the complete terms and
12 conditions of the contract, by directing the consumer to an
13 Internet website containing a copy of the complete terms and
14 conditions of the contract, or by delivering a copy of the
15 complete terms and conditions of the contract via electronic
16 mail.

17 (b) An ancillary product provider shall provide a consumer
18 with a complete sample copy of the contract terms and
19 conditions prior to the time of sale upon a request for the
20 same by the consumer. A provider may comply with this
21 subsection (b) by providing the consumer with a complete sample
22 copy of the terms and conditions or by directing the consumer
23 to an Internet website containing a complete sample of the
24 terms and conditions of the contract.

1 Section 30. Required disclosures.

2 (a) Ancillary service contracts marketed, sold, offered
3 for sale, issued, made, proposed to be made, or administered in
4 this State shall be written, printed, or typed in clear,
5 understandable language that is easy to read and shall disclose
6 the following requirements, as applicable:

7 (1) the name and address of the provider, and shall
8 identify any administrator if different from the provider,
9 the ancillary service contract seller, and the contract
10 holder to the extent that the name of the contract holder
11 has been furnished by the contract holder; the identities
12 of the parties are not required to be preprinted on the
13 ancillary service contract and may be added to the contract
14 at the time of sale;

15 (2) the total purchase price and the terms under which
16 the contract is sold; the purchase price is not required to
17 be pre-printed on the ancillary service contract and may be
18 negotiated at the time of sale with the contract holder;

19 (3) the existence of any deductible amount, if
20 applicable;

21 (4) the merchandise and services to be provided and any
22 limitations, exceptions, or exclusions;

23 (5) whether the use of non-original manufacturers'
24 parts is allowed;

25 (6) any restrictions governing the transferability of
26 the contract, if applicable;

1 (7) the terms, restrictions, or conditions governing
2 cancellation of the contract prior to the termination or
3 expiration date of the ancillary service contract by either
4 the provider or the contract holder;

5 (8) all of the obligations and duties of the contract
6 holder, such as the duty to protect against any further
7 damage and any service requirements to follow as provided
8 in the owner's manual, supplement, or guide; and

9 (9) whether or not the contract provides for or
10 excludes consequential damages or preexisting conditions,
11 if applicable.

12 (b) An ancillary service contract that is insured by a
13 reimbursement insurance policy under Section 20 of this Act
14 shall conspicuously state all of the following:

15 (1) "This contract is not insurance and is not subject
16 to the insurance laws of this State.";

17 (2) that the obligations of the provider are insured
18 under a reimbursement insurance policy;

19 (3) that if a provider fails to perform or make payment
20 due under the terms of the contract within 60 days after
21 the contract holder requests performance or payment
22 pursuant to the terms of the contract, the contract holder
23 may request performance or payment directly from the
24 provider's reimbursement insurance policy insurer,
25 including any obligation in the contract by which the
26 provider must refund the contract holder upon cancellation

1 of a contract; and

2 (4) the name, address, and telephone number of the
3 provider's reimbursement insurance policy insurer.

4 (c) Ancillary service contracts shall require the provider
5 to permit the contract holder to return the contract within 30
6 days after the date the contract was mailed to the holder or
7 within 30 days after delivery if the contract is delivered to
8 the contract holder at the time of sale or within a longer time
9 period permitted under the contract. Upon return of the
10 ancillary service contract to the provider within the
11 applicable time period, if no claim has been made under the
12 contract prior to its return to the provider, the contract is
13 void and the provider shall refund to the contract holder, or
14 credit the account of the contract holder, with the full
15 purchase price of the ancillary service contract. The right to
16 void the ancillary product service provided in this subsection
17 (c) is not transferable and shall apply only to the original
18 contract purchaser, and only if no claim has been made prior to
19 its return to the provider. A 10% penalty per month shall be
20 added to a refund that is not paid or credited within 45 days
21 after the return of the ancillary service contract to the
22 provider.

23 (d) Subsequent to the time period specified in subsection
24 (c) or if a claim has been made under the contract within that
25 time period, an ancillary service contract holder may cancel
26 the contract and the provider shall refund to the contract

1 holder 100% of the unearned pro rata provider fee, less any
2 claims paid. A reasonable administrative fee may be charged by
3 the provider not to exceed 10% of the purchase price paid by
4 the contract holder.

5 (e) The provider shall mail a written notice to the
6 contract holder at the last known address of the contract
7 holder contained in the records of the provider at least 5 days
8 prior to cancellation by the provider. Prior notice is not
9 required if the reason for cancellation is nonpayment of the
10 provider fee, a material misrepresentation by the contract
11 holder to the provider, a substantial breach of duties by the
12 contract holder relating to the covered product or its use, or
13 a request to cancel by the contract holder. The notice shall
14 state the effective date of the cancellation and the reason for
15 the cancellation. If an ancillary service contract is cancelled
16 by the provider for a reason other than nonpayment of the
17 provider fee, the provider shall refund to the contract holder
18 100% of the unearned pro rata provider fee, less any claims
19 paid. A reasonable administrative fee may be charged by the
20 provider not to exceed 10% of the price paid by the contract
21 holder.

22 Section 35. Ancillary protection product warranty.

23 (a) Ancillary protection product warranties offered,
24 issued, made, proposed to be made, or administered in this
25 State shall be written, printed, or typed in clear,

1 understandable language that is easy to read, and shall
2 disclose the following requirements, as applicable:

3 (1) the name and address of the warrantor, the seller
4 of the ancillary protection product, and the warranty
5 holder;

6 (2) the total purchase price of the ancillary
7 protection product and the terms under which it is to be
8 paid; however, the purchase price is not required to be
9 preprinted on the ancillary protection product warranty
10 and may be negotiated with the consumer at the time of
11 sale;

12 (3) the procedure for making a claim, including a
13 telephone number for the warrantor or administrator
14 responsible for processing the claim;

15 (4) the payments or performance to be provided under
16 the warranty, including payments for incidental costs, the
17 manner of calculation or determination of payments or
18 performance, and any limitations, exceptions or
19 exclusions; incidental costs may be reimbursed under the
20 provisions of the warranty in either a fixed amount
21 specified in the warranty or sales agreement or by the use
22 of a formula itemizing specific incidental costs incurred
23 by the warranty holder;

24 (5) the obligations and duties of the warranty holder,
25 such as the duty to protect against any further damage to
26 the vehicle, the obligation to notify the warrantor in

1 advance of any repair, or other similar requirements, if
2 any;

3 (6) any terms, restrictions, or conditions governing
4 transferability and cancellation of the warranty, if any;
5 and

6 (7) a disclosure that reads substantially as follows:
7 "This agreement is a product warranty and is not
8 insurance."

9 (b) An ancillary protection product warranty that is
10 insured by a reimbursement insurance policy under Section 20 of
11 this Act shall conspicuously state all of the following:

12 (1) "This contract is not insurance and is not subject
13 to the insurance laws of this State.";

14 (2) that the obligations of the warrantor are insured
15 under a reimbursement insurance policy;

16 (3) that if a warrantor fails to perform or make
17 payment due under the terms of the warranty within 60 days
18 after the warranty holder requests performance or payment
19 pursuant to the terms of the warranty, the warranty holder
20 may request performance or payment directly from the
21 warrantor's reimbursement insurance policy insurer; and

22 (4) the name, address, and telephone number of the
23 warrantor's reimbursement insurance policy insurer.

24 (c) A warrantor may only cancel an ancillary protection
25 product warranty if the warranty holder does any of the
26 following:

1 (1) Fails to pay for the ancillary protection product.

2 (2) Makes a material misrepresentation to the seller of
3 the ancillary protection product or to the warrantor.

4 (3) Commits fraud related to the purchase of the
5 ancillary protection product, registration of the
6 ancillary protection product warranty, or a claim made
7 under the ancillary protection product warranty.

8 (4) Substantially breaches the warranty holder's
9 duties under the warranty.

10 (5) Fails to make required payments on the vehicle such
11 that the vehicle is repossessed.

12 (6) Damages the vehicle such that the vehicle is deemed
13 a total loss.

14 (d) A warrantor canceling an ancillary protection product
15 warranty shall mail written notice of cancellation to the
16 warranty holder at the last address of the warranty holder in
17 the warrantor's records at least 30 days prior to the effective
18 date of the cancellation. The notice shall state the effective
19 date of the cancellation and the reason for cancellation.

20 Section 40. Required disclosures; reimbursement insurance
21 policy. A reimbursement insurance policy that is required to be
22 issued under this Act shall contain:

23 (1) a statement that if an ancillary product provider
24 fails to perform or make payment due under the terms of the
25 ancillary product contract within 60 days after the

1 ancillary product holder requests performance or payment
2 pursuant to the terms of the ancillary product contract,
3 the ancillary product holder may request performance or
4 payment directly from the ancillary product provider's
5 reimbursement insurance policy insurer, including any
6 obligation in the ancillary product contract by which the
7 ancillary product provider must refund the contract holder
8 upon cancellation of an ancillary product contract; and

9 (2) a statement that in the event of cancellation of
10 the ancillary product provider's reimbursement insurance
11 policy, insurance coverage shall continue for all
12 ancillary product holders whose ancillary product
13 contracts were issued by the ancillary product provider and
14 reported to the insurer for coverage during the term of the
15 reimbursement insurance policy.

16 Section 45. Ancillary product contract; not insurance. The
17 marketing, sale, offering for sale, issuance, making,
18 proposing to make, and administration of ancillary product
19 contracts by ancillary product providers and related ancillary
20 product contract sellers, administrators, and other persons
21 shall be exempt from all provisions of this State's insurance
22 laws other than this Act.

23 Section 50. Prohibited acts.

24 (a) An ancillary product provider shall not use in its name

1 the words "insurance", "casualty", "surety", "mutual", or any
2 other words descriptive of the insurance, casualty, or surety
3 business or a name deceptively similar to the name or
4 description of any insurance or surety corporation or to the
5 name of any other ancillary product provider. The word
6 "guaranty" or a similar word may be used by an ancillary
7 product provider. This Section shall not apply to a company
8 that was using any of the prohibited language in its name prior
9 to the effective date of this Act.

10 (b) An ancillary product provider or its representative
11 shall not, in its contracts, warranties, or literature, make,
12 permit, or cause to be made any false or misleading statement
13 or deliberately omit any material statement that would be
14 considered misleading if omitted.

15 (c) A person, such as a bank, savings and loan association,
16 lending institution, manufacturer, or seller of any product,
17 shall not require the purchase of an ancillary product contract
18 as a condition of a loan or a condition for the sale of any
19 motor vehicle or other property.

20 (d) An ancillary product provider or its representative
21 shall not, directly or indirectly, represent in any manner,
22 whether by written solicitation or telemarketing, a false,
23 deceptive, or misleading statement with respect to:

24 (1) the ancillary product provider's affiliation with
25 a motor vehicle manufacturer;

26 (2) the ancillary product provider's possession of

1 information regarding a motor vehicle owner's current
2 motor vehicle manufacturer's original equipment warranty;

3 (3) the expiration of a motor vehicle owner's current
4 motor vehicle manufacturer's original equipment warranty;
5 or

6 (4) a requirement that a motor vehicle owner register
7 for a new ancillary product contract with an ancillary
8 product provider in order to maintain coverage under the
9 motor vehicle owner's current ancillary product contract
10 or manufacturer's original equipment warranty.

11 Section 55. Record-keeping requirements.

12 (a) The following provisions shall apply concerning books
13 and records:

14 (1) An ancillary product provider shall keep accurate
15 accounts, books, and records concerning transactions
16 regulated under this Act.

17 (2) The ancillary product provider's accounts, books,
18 and records shall include the following:

19 (A) copies of each type of ancillary product
20 contract sold or issued;

21 (B) the name and address of each ancillary product
22 holder to the extent that the name and address have
23 been furnished by the ancillary product holder;

24 (C) a list of the locations where ancillary product
25 contracts are issued, marketed, sold, or offered for

1 sale; and

2 (D) written claims files, which shall contain at
3 least the dates and description of claims related to
4 the ancillary product contracts.

5 (3) Except as provided in subsection (b) of this
6 Section, the ancillary product provider shall retain all
7 records required to be maintained by this Section for at
8 least one year after the specified period of coverage has
9 expired.

10 (4) The records required under this Section may be, but
11 are not required to be, maintained on a computer disk or
12 other record keeping technology. If the records are
13 maintained in other than hard copy, the records shall be
14 capable of duplication to legible hard copy at the request
15 of the Director.

16 (b) An ancillary product provider discontinuing business
17 in this State shall maintain its records until it furnishes the
18 Director satisfactory proof that it has discharged all
19 obligations to ancillary product holders in this State.

20 Section 60. Cancellation of reimbursement insurance
21 policy. As applicable, an insurer that issued a reimbursement
22 insurance policy required under this Act shall not terminate
23 the policy until a notice of termination in accordance with
24 Section 143.16 of the Illinois Insurance Code has been mailed
25 or delivered to the Director. The termination of a

1 reimbursement insurance policy shall not reduce the issuer's
2 responsibility for ancillary product contracts issued by
3 insured ancillary product providers prior to the date of the
4 termination.

5 Section 65. Obligation of reimbursement insurance policy
6 insurers.

7 (a) Insurers issuing reimbursement insurance to ancillary
8 product providers are deemed to have received the premiums for
9 such insurance upon the payment of ancillary product provider
10 fees by consumers for ancillary product contracts issued by the
11 insured ancillary product providers.

12 (b) This Act shall not prevent or limit the right of an
13 insurer that issued a reimbursement insurance policy to seek
14 indemnification or subrogation against an ancillary product
15 provider if the insurer pays or is obligated to pay the
16 ancillary product holder sums that the ancillary product
17 provider was obligated to pay pursuant to the provisions of the
18 ancillary product contract.

19 Section 70. Enforcement provisions.

20 (a) The Director may conduct examinations of ancillary
21 product providers, administrators, insurers, or other persons
22 to enforce the provisions of this Act and protect ancillary
23 product holders in this State. Upon request of the Director,
24 the ancillary product provider shall make available to the

1 Director all accounts, books, and records concerning ancillary
2 product contracts sold or issued by the ancillary product
3 provider that are necessary to enable the Director to
4 reasonably determine compliance or noncompliance with this
5 Act.

6 (b) The Director may take action that is necessary or
7 appropriate to enforce the provisions of this Act and the
8 Director's rules and orders, and to protect ancillary product
9 holders in this State. The following provisions shall apply:

10 (1) If an ancillary product provider has violated this
11 Act or the Director's rules or orders, then the Director
12 may issue an order directed to that ancillary product
13 provider to cease and desist from committing violations of
14 this Act or the Director's rules or orders; may issue an
15 order prohibiting an ancillary product provider from
16 issuing, selling, or offering for sale ancillary product
17 contracts in violation of this Act; or may issue an order
18 imposing a civil penalty on that ancillary product
19 provider, or any combination of the foregoing, as
20 applicable. The following provisions shall apply
21 concerning hearings:

22 (A) a person aggrieved by an order issued under
23 this paragraph (1) may request a hearing before the
24 Director; the hearing request shall be filed with the
25 Director within 20 days after the date the Director's
26 order is effective;

1 (B) if a hearing is requested, an order issued by
2 the Director under this Section shall be suspended from
3 the original effective date of the order until
4 completion of the hearing and final decision of the
5 Director; and

6 (C) at the hearing, the burden shall be on the
7 Director to show why the order issued pursuant to this
8 paragraph (1) is justified; the provisions of Article
9 XXIV of the Illinois Insurance Code shall apply to a
10 hearing requested under this Section.

11 (2) The Director may bring an action in any court of
12 competent jurisdiction for an injunction or other
13 appropriate relief to enjoin threatened or existing
14 violations of this Act or of the Director's rules or
15 orders. An action filed under this paragraph (2) may also
16 seek restitution on behalf of persons aggrieved by a
17 violation of this Act or rules or orders of the Director.

18 (3) A person who is found to have violated this Act or
19 rules or orders of the Director may be assessed a civil
20 penalty in an amount determined by the Director of not more
21 than \$500 per violation and no more than \$10,000 in the
22 aggregate for all violations of a similar nature. For
23 purposes of this Section, violations shall be of a similar
24 nature if the violation consists of the same or similar
25 course of conduct, action, or practice, irrespective of the
26 number of times the act, conduct, or practice that is

1 determined to be a violation of this Act occurred.

2 (c) This Act does not create a separate civil cause of
3 action.

4 Section 75. Premium taxes.

5 (a) Ancillary product provider fees collected on ancillary
6 product contracts shall not be subject to premium taxes.

7 (b) Premiums for reimbursement insurance policies shall be
8 subject to applicable premium taxes.

9 Section 80. Applicability. This Act applies to all
10 ancillary product contracts issued, sold, or offered for sale
11 on or after January 1, 2014. The failure of any person to
12 comply with this Act prior to January 1, 2014, shall not be
13 admissible in any court proceeding, administrative proceeding,
14 arbitration, or alternative dispute resolution proceeding and
15 may not otherwise be used to prove that the action of any
16 person or the affected ancillary product contract was unlawful
17 or otherwise improper. The adoption of this Act does not imply
18 that an ancillary product contract was insurance prior to
19 January 1, 2014. The penalty provisions of this chapter do not
20 apply to any violation of this Act relating to or in connection
21 with the sale or failure to disclose in a retail installment
22 contract or lease, or contract or agreement that provides for
23 payments under an ancillary product contract as long as the
24 sale of such product, contract, or agreement was otherwise

1 disclosed to the purchaser in writing at the time of the
2 purchase or lease. In the event of a violation for which the
3 penalty provisions of this Act do not apply, the court shall
4 award actual damages and costs, including reasonable
5 attorney's fees. Nothing in this Section shall be construed to
6 require the application of the penalty provisions where this
7 Section is not applicable.

8 A person engaged in the ancillary product contract
9 business, as an ancillary product provider or otherwise, in
10 this State on or before the effective date of this Act, who
11 registers as an ancillary product provider pursuant to this Act
12 within 30 days after the Director makes the registration form
13 available, may continue to engage in business as an ancillary
14 product provider in this State until final agency action is
15 taken by the Director regarding the registration and all rights
16 to administrative judicial review have been exhausted or
17 expired.

18 Section 90. The Illinois Insurance Code is amended by
19 changing Section 2.5 as follows:

20 (215 ILCS 5/2.5)

21 Sec. 2.5. Exemption. This Code shall not be construed to
22 apply to the administration of the Drycleaner Environmental
23 Response Trust Fund under the Drycleaner Environmental
24 Response Trust Fund Act or ancillary product contracts under

1 the Motor Vehicle Ancillary Products Act.

2 (Source: P.A. 90-502, eff. 8-19-97.)

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect January
6 1, 2014.