

1 AN ACT relating to insurance.

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

4 Section 5. The Comprehensive Health Insurance Plan Act
5 is amended by changing Section 12 as follows:

6 (215 ILCS 105/12) (from Ch. 73, par. 1312)

7 Sec. 12. Deficit or surplus.

8 (a):- If premiums or other receipts by the Board exceed
9 the amount required for the operation of the Plan, including
10 actual losses and administrative expenses of the Plan, the
11 Board shall direct that the excess be held at interest, in a
12 bank designated by the Board, or used to offset future losses
13 or to reduce Plan premiums. In this subsection, the term
14 "future losses" includes reserves for incurred but not
15 reported claims.

16 (b):- A Any deficit incurred or expected to be incurred
17 on behalf of eligible persons who qualify for plan coverage
18 under Section 7 of this Act shall be recouped by an
19 appropriation made by the General Assembly.

20 (c):- For the purposes of this Section, a deficit shall
21 be incurred when anticipated losses and incurred but not
22 reported claims expenses exceed anticipated income from
23 earned premiums net of administrative expenses.

24 (d):- Any deficit incurred or expected to be incurred on
25 behalf of federally eligible individuals who qualify for Plan
26 coverage under Section 15 of this Act shall be recouped by an
27 assessment of all insurers made in accordance with the
28 provisions of this Section. The Board shall within 90 days
29 of the effective date of this amendatory Act of 1997 and
30 within the first quarter of each fiscal year thereafter
31 assess all insurers for the anticipated deficit in accordance

1 with the provisions of this Section. The board may also make
2 additional assessments no more than 4 times a year to fund
3 unanticipated deficits, implementation expenses, and cash
4 flow needs.

5 (e):- An insurer's assessment shall be determined by
6 multiplying the total assessment, as determined in subsection
7 (d):- of this Section, by a fraction, the numerator of which
8 equals that insurer's direct Illinois premiums during the
9 preceding calendar year and the denominator of which equals
10 the total of all insurers' direct Illinois premiums. The
11 Board may exempt those insurers whose share as determined
12 under this subsection would be so minimal as to not exceed
13 the estimated cost of levying the assessment.

14 (f):- The Board shall charge and collect from each
15 insurer the amounts determined to be due under this Section.
16 The assessment shall be billed by Board invoice based upon
17 the insurer's direct Illinois premium income as shown in its
18 annual statement for the preceding calendar year as filed
19 with the Director. The invoice shall be due upon receipt and
20 must be paid no later than 30 days after receipt by the
21 insurer.

22 (g):- When an insurer fails to pay the full amount of any
23 assessment of \$100 or more due under this Section there shall
24 be added to the amount due as a penalty the greater of \$50 or
25 an amount equal to 5% of the deficiency for each month or
26 part of a month that the deficiency remains unpaid.

27 (h):- Amounts collected under this Section shall be paid
28 to the Board for deposit into the Plan Fund authorized by
29 Section 3 of this Act.

30 (i):- An insurer may petition the Director for an
31 abatement or deferment of all or part of an assessment
32 imposed by the Board. The Director may abate or defer, in
33 whole or in part, the assessment if, in the opinion of the
34 Director, payment of the assessment would endanger the

1 ability of the insurer to fulfill its contractual
2 obligations. In the event an assessment against an insurer
3 is abated or deferred in whole or in part, the amount by
4 which the assessment is abated or deferred shall be assessed
5 against the other insurers in a manner consistent with the
6 basis for assessments set forth in this subsection. The
7 insurer receiving a deferment shall remain liable to the plan
8 for the deficiency for 4 years.

9 ~~(j)~~. The board shall establish procedures for appeal by
10 any insurer subject to assessment pursuant to this Section.
11 Such procedures shall require that:

12 (1) Any insurer that wishes to appeal all or any
13 part of an assessment made pursuant to this Section shall
14 first pay the amount of the assessment as set forth in
15 the invoice provided by the board within the time
16 provided in subsection ~~(f)~~ of this Section. The board
17 shall hold such payments in a separate interest-bearing
18 account. The payments shall be accompanied by a statement
19 in writing that the payment is made under appeal. The
20 statement shall specify the grounds for the appeal. The
21 insurer may be represented in its appeal by counsel or
22 other representative of its choosing.

23 (2) Within 90 days following the payment of an
24 assessment under appeal by any insurer, the board shall
25 notify the insurer or representative designated by the
26 insurer in writing of its determination with respect to
27 the appeal and the basis or bases for that determination
28 unless the Board notifies the insurer that a reasonable
29 amount of additional time is required to resolve the
30 issues raised by the appeal.

31 (3) The board shall refer to the Director any
32 question concerning the amount of direct Illinois premium
33 income as shown in an insurer's annual statement for the
34 preceding calendar year on file with the Director on the

1 invoice date of the assessment. Unless additional time
2 is required to resolve the question, the Director shall
3 within 60 days report to the board in writing his
4 determination respecting the amount of direct Illinois
5 premium income on file on the invoice date of the
6 assessment.

7 (4) In the event the board determines that the
8 insurer is entitled to a refund, the refund shall be paid
9 within 30 days following the date upon which the board
10 makes its determination, together with the accrued
11 interest. Interest on any refund due an insurer shall be
12 paid at the rate actually earned by the Board on the
13 separate account.

14 (5) The amount of any such refund shall then be
15 assessed against all insurers in a manner consistent with
16 the basis for assessment as otherwise authorized by this
17 Section.

18 (6) The board's determination with respect to any
19 appeal received pursuant to this subsection shall be a
20 final administrative decision as defined in Section 3-101
21 of the Code of Civil Procedure. The provisions of the
22 Administrative Review Law shall apply to and govern all
23 proceedings for the judicial review of final
24 administrative decisions of the board.

25 (7) If an insurer fails to appeal an assessment in
26 accordance with the provisions of this subsection, the
27 insurer shall be deemed to have waived its right of
28 appeal.

29 The provisions of this subsection apply to all
30 assessments made in any calendar year ending on or after
31 December 31, 1997.

32 (Source: P.A. 90-30, eff. 7-1-97; 90-567, eff. 1-23-98.)