

**State of Illinois
91st General Assembly
Final Senate Journal**

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SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIRST GENERAL ASSEMBLY

21ST LEGISLATIVE DAY

WEDNESDAY, MARCH 17, 1999

12:30 O'CLOCK P.M.

The Senate met pursuant to adjournment.
Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.
Prayer by His Eminence, Francis Cardinal George, Archdiocese of Chicago, Chicago, Illinois.
Senator Sieben led the Senate in the Pledge of Allegiance.

The Journal of Thursday, March 11, 1999, was being read when on motion of Senator Myers further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Myers moved that reading and approval of the Journal of Tuesday, March 16, 1999 be postponed pending arrival of the printed Journal.

The motion prevailed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

The 1996 and 1997-98 annual reports for the State Employees Suggestion Award Board submitted by the State Employees Suggestion Award Board pursuant to Public Act 84-943.

The foregoing report was ordered received and placed on file in the Secretary's Office.

REPORTS FROM STANDING COMMITTEES

Senator Sieben, Chairperson of the Committee on Agriculture and Conservation to which was referred **Senate Bills numbered 73, 74, 75, 76, 77, 78, 723, 724, 1070, 1189 and 1199** reported the same back with the recommendation that the bills do pass.

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Under the rules, the bills were ordered to a second reading.

Senator Sieben, Chairperson of the Committee on Agriculture and Conservation, to which was referred **Senate Resolution No. 49** reported the same back with amendments having been adopted thereto, with the recommendation that the resolution, as amended, be adopted.

Under the rules, **Senate Resolution 49** was placed on the Secretary's Desk.

Senator Hawkinson, Chairperson of the Committee on Judiciary to which was referred **Senate Bills numbered 202, 230, 397, 460, 483, 486, 509, 642, 729, 735, 748, 749, 759, 839, 849, 1128 and 1150** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Hawkinson, Chairperson of the Committee on Judiciary to which was referred **Senate Bills numbered 80, 101, 177, 224, 330, 374, 395, 469, 477, 503, 507, 576, 728, 734, 739, 867, 897, 1062, 1142 and 1143** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government to which was referred **Senate Bills numbered 906, 935, 936, 956, 966, 1171, 1184 and 1202** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Dillard, Chairperson of the Committee on Local Government to which was referred **Senate Bills numbered 575, 826, 827, 880, 933, 937, 938, 941, 958, 1131 and 1141** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 21

A bill for AN ACT to amend the School Construction Law by changing Section 5-25.

HOUSE BILL NO. 371

A bill for AN ACT amending the Property Tax Code by adding Section 15-143.

HOUSE BILL NO. 462

A bill for AN ACT regarding persons with disabilities, amending named Acts.

HOUSE BILL NO. 497

A bill for AN ACT concerning computers for children, amending named Acts.

HOUSE BILL NO. 819

A bill for AN ACT to amend the Metropolitan Water Reclamation District Act by changing Section 7a.

HOUSE BILL NO. 1134

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A bill for AN ACT to amend the School Code by changing Section 18-8.05.

HOUSE BILL NO. 1155

A bill for AN ACT concerning cancer research.

HOUSE BILL NO. 1168

A bill for AN ACT to amend the School Code by changing Section 18-8.05.

HOUSE BILL NO. 1723

A bill for AN ACT to amend the Illinois Public Labor Relations Act by changing Section 20.

HOUSE BILL NO. 2347

A bill for AN ACT to amend the Illinois Controlled Substances Act by changing Sections 401 and 402.

Passed the House, March 16, 1999.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills numbered 21, 371, 462, 497, 819, 1134, 1155, 1168, 1723 and 2347** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 70

A bill for AN ACT to amend the Unified Code of Corrections by

adding Section 3-12-15.

HOUSE BILL NO. 104

A bill for AN ACT to amend the Counties Code by changing Section 5-27002.

HOUSE BILL NO. 111

A bill for AN ACT to amend the Illinois Insurance Code by changing Section 370c and adding Section 370c-1.

HOUSE BILL NO. 314

A bill for AN ACT concerning vehicles, amending named Acts.

HOUSE BILL NO. 596

A bill for AN ACT regarding hearing screening for newborns.

HOUSE BILL NO. 603

A bill for AN ACT concerning carbon monoxide detectors.

HOUSE BILL NO. 818

A bill for AN ACT concerning waiver of rights by donors of fertilized human eggs.

HOUSE BILL NO. 1399

A bill for AN ACT to amend the Children's Health Insurance Program Act by changing Section 20.

HOUSE BILL NO. 1414

A bill for AN ACT concerning child support, amending named Acts.

HOUSE BILL NO. 1438

A bill for AN ACT to amend the Illinois Public Aid Code by changing Section 5-5.

HOUSE BILL NO. 1757

A bill for AN ACT to amend the Unified Code of Corrections by changing Section 5-5-3.2.

HOUSE BILL NO. 1182

A bill for AN ACT to amend the Criminal Code of 1961 by changing Section 17-2.

HOUSE BILL NO. 2110

A bill for AN ACT to amend the Election Code by changing Sections

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4-16, 5-23, and 6-53.

HOUSE BILL NO. 2686

A bill for AN ACT relating to school construction projects, amending named Acts.

Passed the House, March 16, 1999.

ANTHONY D. ROSSI, Clerk of the House

The foregoing **House Bills numbered 70, 104, 111, 314, 596, 603, 818, 1182, 1399, 1414, 1438, 1757, 2110 and 2686** were taken up, ordered printed and placed on first reading.

REPORTS FROM STANDING COMMITTEES

Senator Cronin, Chairperson of the Committee on Education to which was referred **Senate Bills numbered 277, 293, 652, 1054, 1075, 1133 and 1192** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Cronin, Chairperson of the Committee on Education to which was referred **Senate Bills numbered 139, 175, 291, 554, 556, 648, 653 and 1168** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Cronin, Chairperson of the Committee on Education, to which was referred **Senate Resolution No. 43** reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution 43** was placed on the Secretary's Desk.

Senator Mahar, Chairperson of the Committee on Environment and Energy to which was referred **Senate Bills numbered 24, 307, 427, 1046 and 1088** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Mahar, Chairperson of the Committee on Environment and Energy to which was referred **Senate Bills numbered 23, 149, 423, 764 and 967** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

Senator Fawell, Chairperson of the Committee on Transportation to which was referred **Senate Bills numbered 760, 989, 1073 and 1151** reported the same back with the recommendation that the bills do pass.

Under the rules, the bills were ordered to a second reading.

Senator Fawell, Chairperson of the Committee on Transportation to which was referred **Senate Bills numbered 737, 794, 987, 1042, 1059, 1136 and 1155** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.

Under the rules, the bills were ordered to a second reading.

PRESENTATION OF RESOLUTIONS

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SENATE RESOLUTION NO. 62

Offered by Senator Halvorson and all Senators:
Mourns the death of Annie Mae Tobias of Liberty, Mississippi.

SENATE RESOLUTION NO. 63

Offered by Senator Link and all Senators:
Mourns the death of Charles M. Palmer of Lincolnshire.

The foregoing resolutions were referred to the Resolutions Consent Calendar.

Senators Dillard - Rauschenberger - Burzynski - Jacobs - Cullerton offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 64

WHEREAS, The State is in need of substantial technological and economic development; and

WHEREAS, The development of technology-intensive industrial sectors of the Illinois economy offers the best opportunity for long-term economic vitality, for the expansion of jobs, for the improvement of productivity and a quality standard of living, and for providing the greatest number of our citizens with genuine opportunity; and

WHEREAS, Significant functions of government are to increase opportunities for gainful employment, to encourage the flow of private capital for investment in technology-intensive enterprises, and to otherwise improved the prosperity, health, and general welfare of the inhabitants of the State; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that there is created the High-Technology Task Force consisting of 5 members appointed as follows: 3 members of the Senate appointed by the President of the Senate, one of whom shall be designated the chairperson by the President of the Senate, and 2 members of the Senate appointed by the Minority Leader of the Senate, all of whom shall serve without compensation but shall be reimbursed for their reasonable and necessary expenses from funds appropriated for that purpose; and be it further

RESOLVED, That the Task Force shall study various issues relating to the development of high-technology in Illinois and the needs of small businesses for the commercialization of new high-technology; the Task Force shall examine, among any other issues it chooses to investigate with respect to biotechnology and information technology, the following issues: (1) the public and private collaboration in technology-based economic development, (2) the relationship between publicly funded research and development and the competitiveness of Illinois industries, (3) the opportunities for employment in technology-intensive business and industry, (4) the existing State resources and programs that assist in the development of high-technology, and (5) the status of technology transfer in Illinois; and be it further

RESOLVED, That the Task Force shall receive the assistance of legislative staff, may employ skilled experts with the approval of the President of the Senate, and shall report its findings to the General Assembly on or before December 1, 1999.

LEGISLATIVE MEASURES FILED

The following floor amendments to the Senate Bills listed below have been filed with the Secretary, and referred to the Committee on

Senate Amendment No. 4 to Senate Bill 7
Senate Amendment No. 2 to Senate Bill 25
Senate Amendment No. 1 to Senate Bill 223
Senate Amendment No. 1 to Senate Bill 286
Senate Amendment No. 1 to Senate Bill 353
Senate Amendment No. 4 to Senate Bill 363
Senate Amendment No. 1 to Senate Bill 496
Senate Amendment No. 1 to Senate Bill 748
Senate Amendment No. 1 to Senate Bill 749
Senate Amendment No. 1 to Senate Bill 823
Senate Amendment No. 1 to Senate Bill 844

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Peterson, **Senate Bill No. 128** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Syverson, **Senate Bill No. 217** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Transportation, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 217 on page 2, line 34, by changing "license" to "licensed"; and
on page 5, line 4, by changing "expired" to "expire"; and
on page 5, line 27, immediately after "State", by inserting "."; and
on page 6, line 26, by changing "provide" to "provided"; and
on page 7, line 23, by changing "prescribe" to "prescribed"; and
on page 7, line 23, immediately after "of the", by inserting "following"; and
on page 8, line 24, by deleting "a"; and
on page 8, line 26, by changing "license" to "licensed"; and
on page 10, line 3, by changing "provision" to "provisions".

There being no further amendments, the foregoing Amendment No. 1, was ordered engrossed; and the bill, as amended, was ordered to a third reading.

On motion of Senator Peterson, **Senate Bill No. 259** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 259, on page 1, by replacing lines 6 and 7 with the following:
"amended by changing Section 1 as follows:"; and
on page 2, by deleting lines 6 through 33; and
by deleting pages 3 through 9; and
on page 10, by deleting lines 1 through 9; and
on page 10, line 11, by replacing "Sections 4 and 15" with "Sections 4, 14, 15, and 20"; and
on page 11, line 5, after "beneficiary", by inserting "; except that in the case of outer burial containers, the use of a licensed and

bonded warehouse as set forth in this paragraph shall not constitute delivery for purposes of this Act"; and

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on page 15, immediately below line 9, by inserting the following:

"(815 ILCS 390/14) (from Ch. 21, par. 214)

Sec. 14. A written sales contract shall be executed in duplicate for each pre-need sale made by a licensee, and a signed copy given to the purchaser. Each completed contract shall be numbered and shall contain the name of the purchaser and the seller, the name of the person, if known, who is to receive the cemetery merchandise, cemetery services or the completed interment, entombment or inurnment spaces under the contract and specifically identify such merchandise, services or spaces. In addition, such contracts must contain a provision in distinguishing typeface substantially as follow:

"Notwithstanding anything in this contract to the contrary, you are afforded certain specific rights of cancellation and refund under Sections 18 and 19 of the Illinois Pre-Need Cemetery Sales Act, enacted by the 84th General Assembly of the State of Illinois".

All pre-need sales contracts shall be sold on a guaranteed price basis. At the time of performance of the service or delivery of the merchandise, the seller shall be prohibited from assessing the purchaser or his heirs or assigns or duly authorized representative any additional charges for the specific merchandise and services listed on the pre-need sales contract.

All pre-need sales contracts must be in writing and no pre-need contract form shall be used without prior filing with the Comptroller. The Comptroller shall review all pre-need sales contract forms and shall prohibit the use of contract forms that do not meet the requirements of this Act upon written notification to the seller. Any use or attempted use of any oral pre-need sales contract or any written pre-need sales contract in a form not filed with the Comptroller or in a form that does not meet the requirements of this Act shall be deemed a violation of this Act.

(Source: P.A. 85-805.)"; and

on page 18, immediately below line 23, by inserting the following:

"(815 ILCS 390/20) (from Ch. 21, par. 220)

Sec. 20. (a) Each licensee must keep accurate accounts, books and records in this State of all transactions, copies of agreements, dates and amounts of payments made or received, the names and addresses of the contracting parties, the names and addresses of persons for whose benefit funds are received, if known, and the names of the trust depositories.

(b) Each licensee must maintain such records for a period of 3 years after the licensee shall have fulfilled his obligation under the pre-need contract or 3 years after any stored merchandise shall have been provided to the purchaser or beneficiary, whichever is later.

(c) Each licensee shall submit reports to the Comptroller annually, under oath, on forms furnished by the Comptroller. The annual report shall contain, but shall not be limited to, the following:

(1) An accounting of the principal deposit and additions of principal during the fiscal year.

(2) An accounting of any withdrawal of principal or earnings.

(3) An accounting at the end of each fiscal year, of the total amount of principal and earnings held.

(d) The annual report shall be filed by the licensee with the Comptroller within 75 days after the end of the licensee's fiscal year. An extension of up to 60 days may be granted by the Comptroller, upon a showing of need by the licensee. Any other reports shall be in the form furnished or specified by the Comptroller. If a licensee fails to submit an annual report to the Comptroller within the time specified in this Section, the

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Comptroller shall impose upon the licensee a penalty of \$5 for each and every day the licensee remains delinquent in submitting the annual report. Each report shall be accompanied by a check or money order in the amount of \$10 payable to: Comptroller, State of Illinois.

(e) On and after the effective date of this Amendatory Act, a licensee may report all required information concerning the sale of outer burial containers on the licensee's annual report required to be filed under this Act and shall not be required to report that information under the Illinois Funeral or Burial Funds Act.

(Source: P.A. 88-477.)".

There being no further amendments, the foregoing Amendment No. 1, was ordered engrossed; and the bill, as amended, was ordered to a third reading.

On motion of Senator R. Madigan, **Senate Bill No. 310** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator R. Madigan, **Senate Bill No. 436** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Insurance and Pensions, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 436 by replacing the title with the following:

"AN ACT to amend the Illinois Insurance Code by adding Section 143.32."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by adding Section 143.32 as follows:

(215 ILCS 5/143.32 new)

Sec. 143.32. Timely payment of health care services claims."

There being no further amendments, the foregoing Amendment No. 1, was ordered engrossed; and the bill, as amended, was ordered to a third reading.

At the hour of 12:52 o'clock p.m., Senator Maitland presiding.

On motion of Senator Rauschenberger, **Senate Bill No. 656** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Peterson, **Senate Bill No. 658** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 658, on page 4, line 34, by replacing "mass produced" with "mass-produced"; and on page 5, line 16, by replacing "foot related" with "foot-related"; and on page 5, line 18, by replacing "including, lectures" with "including lectures"; and on page 5, line 24, by replacing "lectures demonstrations" with "lectures, demonstrations"; and on page 15, line 8, by replacing "Incorporated or" with

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"Incorporated, or"; and on page 26, line 28, by replacing "Court" with "court"; and on page 27, line 23, by replacing "1970" with "1970,".

There being no further amendments, the foregoing Amendment No. 1, was ordered engrossed; and the bill, as amended, was ordered to a third reading.

On motion of Senator Silverstein, **Senate Bill No. 747** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **Senate Bill No. 784** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Judiciary, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 784 on page 1, by replacing lines 18 through 26 with the following:
"interlocutory appeal. Delay shall be considered to be agreed to by the defendant unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the record.

The 120-day term must be one continuous period of incarceration. In computing the 120-day term, separate periods of incarceration may not be combined. If a defendant is taken into custody a second (or subsequent) time for the same offense, the term will begin again at day zero."; and

on page 2, line 9, by inserting "(b)" after "subsection"; and on page 2, line 14 by changing "provision" to "subsection (b) provision".

There being no further amendments, the foregoing Amendment No. 1, was ordered engrossed; and the bill, as amended, was ordered to a third reading.

On motion of Senator Dudycz, **Senate Bill No. 1007** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bomke, **Senate Bill No. 1022** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator R. Madigan, **Senate Bill No. 1024** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator T. Walsh, **Senate Bill No. 1115** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Insurance and Pensions, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Bill 1115 by replacing the title with the following:

"AN ACT to amend the Illinois Insurance Code by changing Section 107.06a and adding Article XI 1/2."; and
by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Section 107.06a and adding Article XI 1/2 as follows:

(215 ILCS 5/107.06a) (from Ch. 73, par. 719.06a)

Sec. 107.06a. Organization under Illinois Insurance Code.

(a) After December 31, 1997, a syndicate or limited syndicate, except for a limited syndicate formed as a partnership, may only be organized pursuant to Sections 7, 8, 10, 11, 12, 14, 14.1 (other than subsection (d) thereof), 15 (other than subsection (d) thereof), 18, 19, 20, 21, 22, 23, 25, 27.1, 28, 28.1, 28.2, 29, 30, 31, 32, 32.1, 33, and 35.1 and Article X of this Code, to carry on the business of a syndicate, or limited syndicate under Article V-1/2 of this Code; provided that such syndicate or limited syndicate is admitted to the Exchange.

(b) After December 31, 1997, syndicates and limited syndicates are subject to the following:

(1) Articles I, IIA, VIII, VIII 1/2, X, XI, XI 1/2, XII, XII 1/2, XIII, XIII 1/2, XXIV, XXV (Sections 408 and 412 only), and XXVIII (except for Sections 445, 445.1, 445.2, 445.3, 445.4, and 445.5) of this Code;

(2) Subsections (2) and (3) of Section 155.04 and Sections 13, 132.1 through 140, 141a, 144, 155.01, 155.03, 378, 379.1, 393.1, 395, and 396 of this Code;

(3) the Reinsurance Intermediary Act; and

(4) the Producer Controlled Insurer Act.

(c) No other provision of this Insurance Code shall be

applicable to any such syndicate or limited syndicate except as provided in this Article V-1/2.

(Source: P.A. 89-97, eff. 7-7-95; 90-499, eff. 8-19-97; 90-794, eff. 8-14-98.)

(215 ILCS 5/Art. XI 1/2 heading new)

Article XI 1/2.

Protected Cell Companies

(215 ILCS 5/179A-1 new)

Sec. 179A-1. Short title. This Article may be cited as the Protected Cell Company Law.

(215 ILCS 5/179A-5 new)

Sec. 179A-5. Purpose. Insurance securitization has been developed as a means of accessing alternative sources of capital and diversifying credit risk in order to enhance an insurance company's ability to both assume risk and stabilize underwriting results. Under the terms of the typical debt instrument underlying an insurance securitization transaction, prepaid principal is repaid to the investor on a specified maturity date with interest, unless a trigger event occurs. The proceeds of the debt instrument both collateralize the insurance company's obligations under specified contracts of insurance if a trigger event occurs, as well as the insurance company's obligation to repay the debt instrument if a trigger event does not occur. Traditionally, insurance securitization transactions have been performed through alien companies in order to utilize efficiencies available to alien companies that are not currently available to domestic companies. In order to create more efficiency in conducting insurance securitization, to allow domestic companies easier access to alternative sources of capital, and to promote the benefits of insurance securitization generally, this Article is required.

(215 ILCS 5/179A-10 new)

Sec. 179A-10. Definitions.

"Company" means protected cell company.

"Domestic company" means an insurance company domiciled in the State of Illinois.

"General account" means the assets and liabilities of a protected cell company other than protected cell assets and protected cell liabilities.

"Indemnity trigger" means a transaction term in which relief of the issuer's obligation to repay investors is triggered by its suffering a specified level of losses under its policies of insurance or reinsurance.

"Insurance securitization" means the entering into of debt instruments supported in full by cash or readily marketable securities with investors by a domestic company where repayment of principal or interest, or both, to investors pursuant to the transaction terms is contingent upon the occurrence or nonoccurrence of an event with respect to which the domestic company is exposed to loss under policies or contracts of insurance or reinsurance it has issued.

"Market value" has the meaning given that term in Article VIII of this Code (Investments of Domestic Companies).

"Protected cell" means an identified pool of assets and liabilities of a domestic company segregated and insulated by means of this Article from the remainder of the company's assets and liabilities.

"Protected cell account" means a specifically identified bank or custodial account established by a protected cell company for the purpose of physically segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the protected cell company's general account.

"Protected cell assets" means all assets identified with and attributable to a specific protected cell of a protected cell company, including assets physically segregated in a protected cell account.

"Protected cell liabilities" means all liabilities identified with and attributable to a specific protected cell of a protected cell company. Protected cell liabilities include liabilities representing the insurance obligations of the protected cell as well as obligations of the protected cell arising out of any insurance securitization transactions of the protected cell.

"Protected cell company" means a domestic company which has one or more protected cells.

(215 ILCS 5/179A-15 new)

Sec. 179A-15. Establishment of protected cells. A domestic company may, with the prior written approval by the Director of a plan of operation submitted by the domestic company with respect to each protected cell, establish one or more protected cells. Upon the written approval by the Director of the plan of operation, which shall include, but not be limited to, the specific business and investment objectives of the protected cell, the company may, in accordance with the approved plan of operation, attribute to the protected cell amounts both reflective of insurance obligations with respect to its insurance business and assets to fund those obligations. A protected cell shall have its own distinct name or designation, which shall include the words "protected cell". The company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets shall be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell. All sales, exchanges, transfers, or other attributions of assets and liabilities between a protected cell and the general account or other protected cells shall be in accordance with the plan of operation approved by the Director or shall be otherwise approved by the Director. Unless otherwise approved by the Director, no sale, exchange, transfer, or other attribution of assets or liabilities may be made by a company between any of its protected cells or between

the company's general account and one or more of its protected cells unless, in the case of an attribution to a protected cell, the attribution is made solely to establish the protected cell or, in the case of an attribution from a protected cell to the company's general account, the attribution is made solely to support the company's

insurance obligations that are the subject of the business of the protected cell. Any sale, exchange, transfer, or other attribution of assets and liabilities between the general account and a protected cell, between 2 or more protected cells of the company, or from investors in the form of principal on a debt instrument issued by a protected cell shall be in cash or in readily marketable securities with established market values unless otherwise approved in advance in writing by the Director.

The creation of a protected cell does not create, in respect of that protected cell, a legal person separate from the company. Amounts attributed to a protected cell under this Article, including assets transferred to a protected cell account, are owned by the company and the company may not be, nor hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding the foregoing, the company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

Nothing in this Article shall be construed to prohibit the company from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the protected cell assets of a protected cell, provided that all remuneration, expenses, and other compensation of the third party advisor or manager are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the company's general account.

A domestic company that is a protected cell company shall establish such administrative and accounting procedures as are necessary to properly identify the one or more protected cells of the company and the protected cell assets and protected cell liabilities attributable thereto. It shall be the duty of the directors of a protected cell company to (i) keep protected cell assets and protected cell liabilities separate and separately identifiable from the assets and liabilities of the company's general account and (ii) to keep protected cell assets and protected cell liabilities attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells. Notwithstanding the foregoing, and subject to the provisions of Section 179A-35, the remedy of tracing shall be applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the company's general account.

(215 ILCS 5/179A-20 new)

Sec. 179A-20. Use and operation of protected cells. Unless otherwise approved by the Director, the company shall, when establishing a protected cell, attribute to the protected cell assets with a value at least equal to the reserves and other insurance liabilities attributed to that protected cell. The protected cell assets of any protected cell may not be charged with liabilities arising out of any other business the company may conduct. All contracts or other documentation reflecting the obligations of a protected cell to the general account shall clearly indicate that only the assets of the protected cell are available for the obligations of the protected cell.

Unless otherwise approved by the Director, assets attributed to a protected cell must be valued at their market value on the date of

valuation, or if there is no readily available market, then as provided in the contract or the rules or other written agreement applicable to the protected cell.

The income, gains, and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains, or losses of the company, including income, gains, or losses of other protected cells. Amounts attributed to a protected cell and accumulations thereon may be invested and reinvested without regard to any requirements or limitations of Article VIII of this Code (Investments of Domestic Companies), and the investments in a protected cell or cells may not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

A protected cell company shall, in respect of any of its protected cells, engage in fully funded indemnity-triggered insurance securitization to support in full the protected cell liabilities attributable to that protected cell. A transaction that is not fully funded is prohibited. An insurance securitization that is not indemnity-triggered and does not support in full the protected cell obligations of a protected cell shall be prohibited absent specific permission by the Director in accordance with the authority granted under Section 179A-45 and the guidance of the National Association of Insurance Commissioners, as such guidance is developed. A protected cell may pay interest or other consideration on any outstanding debt or other obligation attributable to that protected cell, and nothing in this paragraph shall be construed or interpreted to prevent a protected cell from entering into a swap agreement or other transaction that has the effect of guaranteeing such interest or other consideration.

In all cases in which a protected cell engages in an insurance securitization, the financial instrument effecting such transaction shall contain provisions identifying the protected cell to which the transaction will be attributed. In addition, the financial instrument shall clearly disclose that the assets of that protected cell are only available to pay the obligations of that protected cell. Notwithstanding the foregoing, and subject to the provisions of this Article and any other applicable law or rule, the failure to include such language in the financial instrument shall not be used as the sole basis by creditors, reinsurers, or other claimants to circumvent the provisions of this Article.

At the cessation of business of a protected cell, the protected cell company shall voluntarily wind up the protected cell in accordance with a plan approved by the Director.

(215 ILCS 5/179A-25 new)

Sec. 179A-25. Reach of creditors and other claimants. Protected cell assets shall only be available to the creditors of the company who are creditors in respect of that protected cell and shall thereby be entitled, in conformity with the provisions of this Article, to have recourse to the protected cell assets attributable to that protected cell, and shall be absolutely protected from the creditors of the company who are not creditors in respect of that protected cell and who, accordingly, shall not be entitled to have recourse to

the protected cell assets attributable to that protected cell. Creditors of a protected cell shall not be entitled to have recourse against the protected cell assets of other protected cells or the assets of the company's general account.

When an obligation of a protected cell company to a person arises from a transaction, or is otherwise imposed, in respect of a protected cell, (i) that obligation of the company shall extend only to, and the person shall, in respect of that obligation, be entitled

to have recourse only to the protected cell assets attributable to that protected cell and (ii) that obligation of the company shall not extend to, and that person shall not, in respect of that obligation, be entitled to have recourse to the protected cell assets of any other protected cell or the assets of the company's general account.

When an obligation of a protected cell company relates solely to the general account, the obligation of the company shall extend only to, and that creditor shall, in respect of that obligation, be entitled to have recourse only to, the company's general account.

A protected cell shall only be authorized to assume an insurance obligation directly from another protected cell of the company or the company's general account, and under no circumstances shall a protected cell be authorized to issue insurance or reinsurance policies or contracts directly to policyholders or reinsureds or have any obligation to the policyholders of the company's general account. The activities and obligations of a protected cell are not subject to the provisions of Article XXXIII1/2 (Illinois Life and Health Guaranty Association Law) or Article XXXIV (Illinois Insurance Guaranty Fund), and protected cells shall not be assessed by or otherwise be required to contribute to any guaranty fund or guaranty association in this State. Nothing in this provision shall affect the activities or obligations of a company's general account.

In no event shall the establishment of one or more protected cells alone constitute or be deemed to be a fraudulent conveyance, an intent by the company to defraud creditors, or the carrying out of business by the company for any other fraudulent purpose.

(215 ILCS 5/179A-30 new)

Sec. 179A-30. Rehabilitation and liquidation of protected cell companies. Notwithstanding any contrary provision in this Code, the rules promulgated under this Code, or any other applicable law or rule, upon any order of rehabilitation, conservation, or liquidation of a domestic company that is a protected cell company, the receiver shall be bound to deal with the company's assets and liabilities, including protected cell assets and protected cell liabilities, in accordance with the requirements set forth in this Article.

With respect to amounts recoverable under any insurance securitization entered into or outstanding in any protected cell of a protected cell company, the amount recoverable by the receiver shall not be reduced or diminished as a result of the entry of an order of rehabilitation, conservation, or liquidation with respect to the protected cell company or any of its protected cells notwithstanding any provisions to the contrary in the financial instrument governing such insurance securitization.

(215 ILCS 5/179A-35 new)

Sec. 179A-35. Penalties. Any person violating the provisions of this Article shall be subject to any and all enforcement procedures either currently employed or subsequently promulgated by the Department including, but not limited to, the imposition of fines, sanctions or civil penalties, or an order to cease and desist from the establishment of additional protected cells.

(215 ILCS 5/179A-40 new)

Sec. 179A-40. No transaction of an insurance business. No insurance securitization effected under the provisions of this Article shall be deemed to be an insurance policy or contract of insurance and no investor in a securitization transaction shall, by sole means of such investment, be required to be licensed as an insurance company in the State of Illinois.

(215 ILCS 5/179A-45 new)

Sec. 179A-45. Rules. The Director may promulgate reasonable rules as may be necessary to effectuate the purposes of this Article.

Section 99. Effective date. This Act takes effect upon becoming

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law.".

There being no further amendments, the foregoing Amendment No. 1, was ordered engrossed; and the bill, as amended, was ordered to a third reading.

On motion of Senator Klemm, **Senate Bill No. 1198** having been printed, was taken up, read by title a second time and ordered to a third reading.

At the hour of 12:57 o'clock p.m., Senator Donahue presiding.

On motion of Senator Maitland, **Senate Bill No. 1020** having been printed, was taken up, read by title a second time and ordered to a third reading.

REPORTS FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, during its March 17, 1999 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Joint Resolution No. 21.**

Senator Weaver, Chairperson of the Committee on Rules, reported that **Senate Bill No. 1122** has been re-referred from the Committee on Judiciary to the Committee on Rules and has been approved for consideration by the Rules Committee.

Under the rules, the bill was ordered to a second reading.

Senator Weaver, Chairperson of the Committee on Rules, reported that the following Legislative Measures have been approved for consideration:

Senate Amendment No. 1 to Senate Bill 31
Senate Amendment No. 2 to Senate Bill 234
Senate Amendment No. 1 to Senate Bill 430
Senate Amendment No. 1 to Senate Bill 566
Senate Amendment No. 2 to Senate Bill 800

The foregoing floor amendments were placed on the Secretary's Desk.

PRESENTATION OF RESOLUTION

SENATE RESOLUTION NO. 65

Offered by Senator Geo-Karis and all Senators:
Mourns the death of Christine H. Kyritsis of Wadsworth.

The foregoing resolution was referred to the Resolutions Consent Calendar.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 76, sponsored by Senator Parker was taken up, read by title a first time and referred to the Committee on Rules.

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House Bill No. 111, sponsored by Senator T. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 153, sponsored by Senator Weaver was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 248, sponsored by Senator L. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 249, sponsored by Senator L. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 377, sponsored by Senator Peterson was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 404, sponsored by Senator Parker was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 462, sponsored by Senator T. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 524, sponsored by Senator Noland was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 596, sponsored by Senator Radogno was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 678, sponsored by Senator L. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 852, sponsored by Senator Silverstein was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 855, sponsored by Senator Silverstein was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 895, sponsored by Senator Dillard was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1109, sponsored by Senator Myers was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1110, sponsored by Senator Peterson was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1134, sponsored by Senator O'Malley was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1146, sponsored by Senator O'Malley was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1252, sponsored by Senator T. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1365, sponsored by Senator Dudycz was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1469, sponsored by Senator Bomke was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1476, sponsored by Senator Peterson was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1648, sponsored by Senators Trotter - Obama - Smith - Hendon was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1657, sponsored by Senator Sieben was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1739, sponsored by Senator Peterson was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1746, sponsored by Senator L. Walsh was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2013, sponsored by Senator Maitland was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2034, sponsored by Senator R. Madigan was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2041, sponsored by Senator Dudycz was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2042, sponsored by Senator Munoz was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2087, sponsored by Senator Watson was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2103, sponsored by Senator Dudycz was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2106, sponsored by Senator Weaver was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2177, sponsored by Senators Peterson - Geo-Karis was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2204, sponsored by Senator O'Malley was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2206, sponsored by Senator Peterson was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2257, sponsored by Senator del Valle was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2298, sponsored by Senator Weaver was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2308, sponsored by Senator Sieben was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2352, sponsored by Senator Munoz was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2502, sponsored by Senator Petka was taken up,

read by title a first time and referred to the Committee on Rules.

House Bill No. 2641, sponsored by Senator Dillard was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2679, sponsored by Senator Geo-Karis was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2741, sponsored by Senator Weaver was taken up,

read by title a first time and referred to the Committee on Rules.

At the hour of 1:06 o'clock p.m., Senator Watson presiding.

At the hour of 1:07 o'clock p.m., on motion of Senator Karpel, the Senate stood adjourned until Thursday, March 17, 1999 at 11:30 o'clock a.m.