

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 532, 538.7, and 545 as follows:

6 (215 ILCS 5/532) (from Ch. 73, par. 1065.82)
7 Sec. 532. Purpose.

8 (a) The purpose of this Article is to provide a mechanism
9 for the payment of covered claims under certain insurance
10 policies, to avoid excessive delay in payment of covered
11 claims, to avoid financial loss to claimants or policyholders
12 because of the entry of an Order of Liquidation against an
13 insolvent company, including through services offered to the
14 Director in her or his capacity as receiver under Article XIII
15 of this Code that relate to covered claims, to provide a Fund
16 to assess among member companies the costs of such protection
17 and maintain the continuity and self-sufficient operation of
18 the Fund, and to offset the costs associated with maintaining
19 the Fund's continuity and self-sufficient operations when
20 practical by providing assistance and services to the Director
21 in her or his capacity as receiver under Article XIII of this
22 Code as described in this Section.

23 (b) The purpose of this Article is also to provide a

1 mechanism for the Fund to participate in and facilitate the
2 process by which the assets of an insolvent company are
3 marshaled and distributed pursuant to Article XIII of this
4 Code beyond reimbursing the cost of covered claims. This
5 subsection (b) is inoperative 5 years after the effective date
6 of this amendatory Act of the 104th General Assembly ~~this~~
7 ~~amendatory Act of the 102nd General Assembly.~~

8 (Source: P.A. 102-396, eff. 8-16-21.)

9 (215 ILCS 5/538.7) (from Ch. 73, par. 1065.88-7)

10 Sec. 538.7. (a) The Fund may perform such other acts as are
11 necessary or proper to effectuate the purposes of this
12 Article.

13 (b) The Fund may contract with the Office of Special
14 Deputy Receiver or any other person or organizations
15 authorized by law to carry out the duties of the Director in
16 her or his capacity as a receiver under Article XIII of this
17 Code. The power of the Fund to contract with these persons or
18 entities includes, but is not limited to, providing consulting
19 services and claims administration services that assist with
20 these persons or entities in the performance of their
21 respective statutory and legal functions provided by law. The
22 Fund may only exercise the authority to contract pursuant to
23 this subsection upon the board of director's written
24 determination that the provisioning of such services will
25 advance the purposes set forth in Section 532. Any contract

1 the Fund may enter into to provide services pursuant to this
2 subsection shall be subordinate and subject to the Fund's
3 statutory obligations to timely pay covered claims and avoid
4 financial loss to claimants or policyholders described in this
5 Article.

6 This subsection (b) is inoperative 5 years after the
7 effective date of this amendatory Act of the 104th General
8 Assembly ~~this amendatory Act of the 102nd General Assembly~~.

9 (Source: P.A. 102-396, eff. 8-16-21.)

10 (215 ILCS 5/545) (from Ch. 73, par. 1065.95)

11 Sec. 545. Effect of paid claims.

12 (a) Every insured or claimant seeking the protection of
13 this Article shall cooperate with the Fund to the same extent
14 as such person would have been required to cooperate with the
15 insolvent company. The Fund shall have all the rights, duties
16 and obligations under the policy to the extent of the covered
17 claim payment, provided the Fund shall have no cause of action
18 against the insured of the insolvent company for any sums it
19 has paid out except such causes of action as the insolvent
20 company would have had if such sums had been paid by the
21 insolvent company and except as provided in subsection (d) of
22 this Section. Any person recovering under this Article and any
23 insured whose liabilities are satisfied under this Article
24 shall be deemed to have assigned the person's or insured's
25 rights under the policy to the Fund to the extent of his or her

1 recovery or satisfaction obtained from the Fund's payments.

2 (b) The Fund and any similar organization in another state
3 shall be recognized as claimants in the liquidation of an
4 insolvent company for any amounts paid by them on covered
5 claims obligations as determined under this Article or similar
6 laws in other states and shall receive dividends at the
7 priority set forth in paragraph (d) of subsection (1) of
8 Section 205 of this Code; provided that if, at the time that
9 the liquidator issues a cut-off notice to the Fund in
10 anticipation of closing the estate, a reserve has been
11 established by the Fund, or any similar organization in
12 another state, for the amount of their future administrative
13 expenses and loss development associated with unpaid reported
14 pending claims, these reserves will be deemed to have been
15 paid as of the date of the notice and payment shall be made
16 accordingly. The liquidator of an insolvent company shall be
17 bound by determinations of covered claim eligibility under the
18 Act and by settlements of claims made by the Fund or a similar
19 organization in another state on the receipt of certification
20 of such payments, to the extent those determinations or
21 settlements satisfy obligations of the Fund, but the receiver
22 shall not be bound in any way by those determinations or
23 settlements to the extent that there remains a claim in the
24 estate for amounts in excess of the payments by the Fund. In
25 submitting their claim for covered claim payments the Fund and
26 any similar organization in another state shall not be subject

1 to the requirements of Sections 208 and 209 of this Code and
2 shall not be affected by the failure of the person receiving a
3 covered claim payment to file a proof of claim.

4 (c) The expenses of the Fund and of any similar
5 organization in any other state, other than expenses incurred
6 in the performance of duties under Section 547 or similar
7 duties under the statute governing a similar organization in
8 another state, shall be accorded priority over all claims
9 against the estate, except as provided for in paragraph (a) of
10 subsection (1) of Section 205 of this Code. The liquidator
11 shall make prompt reimbursement to the Fund and any similar
12 organization for such expense payments.

13 (d) The Fund has the right to recover from the following
14 persons the amount of any covered claims (as determined
15 without regard to the exemption in paragraph (iv) of
16 subsection (b) of Section 534.3) and allocated claims expenses
17 which the Fund paid or incurred on behalf of such person in
18 satisfaction, in whole or in part, of liability obligations of
19 such person to any other person:

20 (i) any insured whose net worth on December 31 of the
21 year next preceding the date the company becomes an
22 insolvent company exceeds \$25,000,000; provided that an
23 insured's net worth on such date shall be deemed to
24 include the aggregate net worth of the insured and all of
25 its affiliates as calculated on a consolidated basis.

26 (ii) any insured who is an affiliate of the insolvent

1 company.

2 The Fund may also, at its sole discretion and without
3 assumption of any ongoing duty to do so, pay any workers
4 compensation claims or any other third-party claims or any
5 cybersecurity insurance obligations covered by a policy of an
6 insolvent company on behalf of a high net worth insured as
7 defined in paragraph (iv) of subsection (b) of Section 534.3.
8 In that case, the Fund shall recover from the high net worth
9 insured under this Section for all amounts paid on its behalf,
10 all allocated claim adjusted expenses related to such claims,
11 the Fund's attorney's fees, and all court costs in any action
12 necessary to collect the full amount to the Fund's
13 reimbursement under this Section.

14 (e) Venue in a suit against the Fund arising under this
15 Article shall be in Cook County and Sangamon County. The Fund
16 shall not be required to give any appeal bond in an appeal that
17 relates to a cause of action under this Article.

18 (Source: P.A. 103-113, eff. 6-30-23.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.