

1 AN ACT concerning State government.

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

4 Section 1. Legislative intent. It is the intent of the
5 General Assembly in enacting this amendatory Act of the 102nd
6 General Assembly to make only nonsubstantive changes that
7 remove the dehumanizing term "alien" from all Illinois
8 statutory provisions. No change made by this amendatory Act of
9 the 102nd General Assembly shall be interpreted as to make any
10 substantive change to existing law, including, but not limited
11 to, eligibility for federal programs or benefits that are
12 available to a person who meets the definition of "alien"
13 under State or federal law.

14 Section 5. The Illinois Notary Public Act is amended by
15 changing Section 2-102 as follows:

16 (5 ILCS 312/2-102) (from Ch. 102, par. 202-102)

17 (Text of Section before amendment by P.A. 102-160)

18 Sec. 2-102. Application. Every applicant for appointment
19 and commission as a notary shall complete an application in a
20 format prescribed by the Secretary of State to be filed with
21 the Secretary of State, stating:

22 (a) the applicant's official name, as it appears on

1 his or her current driver's license or state-issued
2 identification card;

3 (b) the county in which the applicant resides or, if
4 the applicant is a resident of a state bordering Illinois,
5 the county in Illinois in which that person's principal
6 place of work or principal place of business is located;

7 (c) the applicant's residence address, as it appears
8 on his or her current driver's license or state-issued
9 identification card;

10 (c-5) the applicant's business address if different
11 than the applicant's residence address, if performing
12 notarial acts constitutes any portion of the applicant's
13 job duties;

14 (d) that the applicant has resided in the State of
15 Illinois for 30 days preceding the application or that the
16 applicant who is a resident of a state bordering Illinois
17 has worked or maintained a business in Illinois for 30
18 days preceding the application;

19 (e) that the applicant is a citizen of the United
20 States or a noncitizen ~~an alien~~ lawfully admitted for
21 permanent residence in the United States;

22 (f) the applicant's date of birth;

23 (g) that the applicant is able to read and write the
24 English language;

25 (h) that the applicant has never been the holder of a
26 notary public appointment that was revoked or suspended

1 during the past 10 years;

2 (i) that the applicant has not been convicted of a
3 felony;

4 (i-5) that the applicant's signature authorizes the
5 Office of the Secretary of State to conduct a verification
6 to confirm the information provided in the application,
7 including a criminal background check of the applicant, if
8 necessary; and

9 (j) any other information the Secretary of State deems
10 necessary.

11 (Source: P.A. 99-112, eff. 1-1-16; 100-809, eff. 1-1-19.)

12 (Text of Section after amendment by P.A. 102-160)

13 Sec. 2-102. Application.

14 (a) Application for notary public commission. Every
15 applicant for appointment and commission as a notary shall
16 complete an application in a format prescribed by the
17 Secretary of State to be filed with the Secretary of State,
18 stating:

19 (1) the applicant's official name, as it appears on
20 his or her current driver's license or state-issued
21 identification card;

22 (2) the county in which the applicant resides or, if
23 the applicant is a resident of a state bordering Illinois,
24 the county in Illinois in which that person's principal
25 place of work or principal place of business is located;

1 (3) the applicant's residence address, as it appears
2 on his or her current driver's license or state-issued
3 identification card;

4 (4) the applicant's e-mail address;

5 (5) the applicant's business address if different than
6 the applicant's residence address, if performing notarial
7 acts constitutes any portion of the applicant's job
8 duties;

9 (6) that the applicant has resided in the State of
10 Illinois for 30 days preceding the application or that the
11 applicant who is a resident of a state bordering Illinois
12 has worked or maintained a business in Illinois for 30
13 days preceding the application;

14 (7) that the applicant is a citizen of the United
15 States or lawfully admitted for permanent residence in the
16 United States;

17 (8) the applicant's date of birth;

18 (9) that the applicant is proficient in the ~~the~~
19 English language;

20 (10) that the applicant has not had a prior
21 application or commission revoked due to a finding or
22 decision by the Secretary of State;

23 (11) that the applicant has not been convicted of a
24 felony;

25 (12) that the applicant's signature authorizes the
26 Office of the Secretary of State to conduct a verification

1 to confirm the information provided in the application,
2 including a criminal background check of the applicant, if
3 necessary;

4 (13) that the applicant has provided satisfactory
5 proof to the Secretary of State that the applicant has
6 successfully completed any required course of study on
7 notarization; and

8 (14) any other information the Secretary of State
9 deems necessary.

10 (b) Any notary appointed under subsection (a) shall have
11 the authority to conduct remote notarizations.

12 (c) Application for electronic notary public commission.
13 An application for an electronic notary public commission must
14 be filed with the Secretary of State in a manner prescribed by
15 the Secretary of State. Every applicant for appointment and
16 commission as an electronic notary public shall complete an
17 application to be filed with the Secretary of State, stating:

18 (1) all information required to be included in an
19 application for appointment as an electronic notary
20 public, as provided under subsection (a);

21 (2) that the applicant is commissioned as a notary
22 public under this Act;

23 (3) the applicant's email address;

24 (4) that the applicant has provided satisfactory proof
25 to the Secretary of State that the applicant has
26 successfully completed any required course of study on

1 electronic notarization and passed a qualifying
2 examination;

3 (5) a description of the technology or device that the
4 applicant intends to use to create his or her electronic
5 signature in performing electronic notarial acts;

6 (6) the electronic signature of the applicant; and

7 (7) any other information the Secretary of State deems
8 necessary.

9 (d) Electronic notarial acts. Before an electronic notary
10 public performs an electronic notarial act using audio-video
11 communication, he or she must be granted an electronic notary
12 public commission by the Secretary of State under this
13 Section, and identify the technology that the electronic
14 notary public intends to use, which must be approved by the
15 Secretary of State.

16 (e) Approval of commission. Upon the applicant's
17 fulfillment of the requirements for a notarial commission or
18 an electronic notary public commission, the Secretary of State
19 shall approve the commission and issue to the applicant a
20 unique commission number.

21 (f) Rejection of application. The Secretary of State may
22 reject an application for a notarial commission or an
23 electronic notary public commission if the applicant fails to
24 comply with any Section of this Act.

25 (Source: P.A. 102-160 (See Section 99 of P.A. 102-160 for
26 effective date of P.A. 102-160).)

1 Section 10. The Illinois TRUST Act is amended by changing
2 Section 10 as follows:

3 (5 ILCS 805/10)

4 Sec. 10. Definitions. In this Act:

5 "Citizenship or immigration status" means all matters
6 regarding citizenship of the United States or any other
7 country or the authority to reside in or otherwise be present
8 in the United States.

9 "Civil immigration warrant" means any document that is not
10 approved or ordered by a judge that can form the basis for an
11 individual's arrest or detention for a civil immigration
12 enforcement purpose. "Civil immigration warrant" includes Form
13 I-200 ~~"Warrant for the Arrest of Alien"~~, Form I-203 ~~"Order to~~
14 ~~Detain or Release Alien"~~, Form I-205 "Warrant of
15 Removal/Deportation", Form I-286 "Notice of Custody
16 Determination", any predecessor or successor form, and all
17 warrants, hits, or requests contained in the "Immigration
18 Violator File" of the FBI's National Crime Information Center
19 (NCIC) database. "Civil immigration warrant" does not include
20 any criminal warrant.

21 "Contact information" means home address, work address,
22 telephone number, electronic mail address, social media
23 information, or any other personal identifying information
24 that could be used as a means to contact an individual.

1 "Immigration agent" means an agent of federal Immigration
2 and Customs Enforcement, federal Customs and Border
3 Protection, or any similar or successor agency.

4 "Immigration detainer" means a request to a State or local
5 law enforcement agency to provide notice of release or
6 maintain custody of an individual based on an alleged
7 violation of a civil immigration law, including detainers
8 issued under Sections 1226 or 1357 of Title 8 of the United
9 States Code or 287.7 or 236.1 of Title 8 of the Code of Federal
10 Regulations. "Immigration detainer" includes Form I-247A
11 "Immigration Detainer - Notice of Action" and any predecessor
12 or successor form.

13 "Law enforcement agency" means an agency of the State or
14 of a unit of local government charged with enforcement of
15 State, county, or municipal laws or with managing custody of
16 detained persons in the State.

17 "Law enforcement official" means any individual with the
18 power to arrest or detain individuals, including law
19 enforcement officers, corrections officer, and others employed
20 or designated by a law enforcement agency. "Law enforcement
21 official" includes any probation officer.

22 (Source: P.A. 102-234, eff. 8-2-21.)

23 Section 15. The Department of Commerce and Economic
24 Opportunity Law of the Civil Administrative Code of Illinois
25 is amended by changing Section 605-800 as follows:

1 (20 ILCS 605/605-800) (was 20 ILCS 605/46.19a in part)

2 Sec. 605-800. Training grants for skills in critical
3 demand.

4 (a) Grants to provide training in fields affected by
5 critical demands for certain skills may be made as provided in
6 this Section.

7 (b) The Director may make grants to eligible employers or
8 to other eligible entities on behalf of employers as
9 authorized in subsection (c) to provide training for employees
10 in fields for which there are critical demands for certain
11 skills. No participating employee may be an unauthorized
12 noncitizen (a person that is not lawfully admitted for
13 permanent residence) ~~alien, as defined in 8 U.S.C. 1324a.~~

14 (c) The Director may accept applications for training
15 grant funds and grant requests from: (i) entities sponsoring
16 multi-company eligible employee training projects as defined
17 in subsection (d), including business associations, strategic
18 business partnerships, institutions of secondary or higher
19 education, large manufacturers for supplier network companies,
20 federal Job Training Partnership Act administrative entities
21 or grant recipients, and labor organizations when those
22 projects will address common training needs identified by
23 participating companies; and (ii) individual employers that
24 are undertaking eligible employee training projects as defined
25 in subsection (d), including intermediaries and training

1 agents.

2 (d) The Director may make grants to eligible applicants as
3 defined in subsection (c) for employee training projects that
4 include, but need not be limited to, one or more of the
5 following:

6 (1) Training programs in response to new or changing
7 technology being introduced in the workplace.

8 (2) Job-linked training that offers special skills for
9 career advancement or that is preparatory for, and leads
10 directly to, jobs with definite career potential and
11 long-term job security.

12 (3) Training necessary to implement total quality
13 management or improvement or both management and
14 improvement systems within the workplace.

15 (4) Training related to new machinery or equipment.

16 (5) Training of employees of companies that are
17 expanding into new markets or expanding exports from
18 Illinois.

19 (6) Basic, remedial, or both basic and remedial
20 training of employees as a prerequisite for other
21 vocational or technical skills training or as a condition
22 for sustained employment.

23 (7) Self-employment training of the unemployed and
24 underemployed with comprehensive, competency-based
25 instructional programs and services, entrepreneurial
26 education and training initiatives for youth and adult

1 learners in cooperation with the Illinois Institute for
2 Entrepreneurial Education, training and education,
3 conferences, workshops, and best practice information for
4 local program operators of entrepreneurial education and
5 self-employment training programs.

6 (8) Other training activities or projects, or both
7 training activities and projects, related to the support,
8 development, or evaluation of job training programs,
9 activities, and delivery systems, including training needs
10 assessment and design.

11 (e) Grants shall be made on the terms and conditions that
12 the Department shall determine. No grant made under subsection
13 (d), however, shall exceed 50% of the direct costs of all
14 approved training programs provided by the employer or the
15 employer's training agent or other entity as defined in
16 subsection (c). Under this Section, allowable costs include,
17 but are not limited to:

18 (1) Administrative costs of tracking, documenting,
19 reporting, and processing training funds or project costs.

20 (2) Curriculum development.

21 (3) Wages and fringe benefits of employees.

22 (4) Training materials, including scrap product costs.

23 (5) Trainee travel expenses.

24 (6) Instructor costs, including wages, fringe
25 benefits, tuition, and travel expenses.

26 (7) Rent, purchase, or lease of training equipment.

1 (8) Other usual and customary training costs.

2 (f) The Department may conduct on-site grant monitoring
3 visits to verify trainee employment dates and wages and to
4 ensure that the grantee's financial management system is
5 structured to provide for accurate, current, and complete
6 disclosure of the financial results of the grant program in
7 accordance with all provisions, terms, and conditions
8 contained in the grant contract. Each applicant must, on
9 request by the Department, provide to the Department a
10 notarized certification signed and dated by a duly authorized
11 representative of the applicant, or that representative's
12 authorized designee, certifying that all participating
13 employees are employed at an Illinois facility and, for each
14 participating employee, stating the employee's name and
15 providing either (i) the employee's social security number or
16 (ii) a statement that the applicant has adequate written
17 verification that the employee is employed at an Illinois
18 facility. The Department may audit the accuracy of
19 submissions. Applicants sponsoring multi-company training
20 grant programs shall obtain information meeting the
21 requirement of this subsection from each participating company
22 and provide it to the Department upon request.

23 (g) The Director may establish and collect a schedule of
24 charges from subgrantee entities and other system users under
25 federal job-training programs for participating in and
26 utilizing the Department's automated job-training program

1 information systems if the systems and the necessary
2 participation and utilization are requirements of the federal
3 job-training programs. All monies collected pursuant to this
4 subsection shall be deposited into the Federal Workforce
5 Training Fund and may be used, subject to appropriation by the
6 General Assembly, only for the purpose of financing the
7 maintenance and operation of the automated federal
8 job-training information systems.

9 (Source: P.A. 99-933, eff. 1-27-17.)

10 Section 20. The Illinois Guaranteed Job Opportunity Act is
11 amended by changing Section 25 as follows:

12 (20 ILCS 1510/25)

13 Sec. 25. Program eligibility.

14 (a) General Rule. An individual is eligible to participate
15 in the job projects assisted under this Act if the individual:

16 (1) is at least 16 years of age;

17 (2) has resided in the eligible area for at least 30
18 days;

19 (3) has been unemployed for 35 days prior to the
20 determination of employment for job projects assisted
21 under this Act;

22 (4) is a citizen of the United States, is a national of
23 the United States, is a lawfully admitted permanent
24 resident noncitizen ~~alien~~, is a lawfully admitted refugee

1 or parolee, or is otherwise authorized by the United
2 States Attorney General to work in the United States; and

3 (5) is a recipient of assistance under Article IV of
4 the Illinois Public Aid Code.

5 (b) Limitations.

6 (1) (Blank).

7 (2) (Blank).

8 (3) No individual participating in the job opportunity
9 project assisted under this Act may work in any
10 compensated job other than the job assisted under this Act
11 for more than 20 hours per week.

12 (4) Individuals participating under this Act shall
13 seek employment during the period of employment assisted
14 under this Act.

15 (5) Any individual eligible for retirement benefits
16 under the Social Security Act, under any retirement system
17 for Federal Government employees, under the railroad
18 retirement system, under the military retirement system,
19 under a State or local government pension plan or
20 retirement system, or any private pension program is not
21 eligible to receive a job under a job project assisted
22 under this Act.

23 (Source: P.A. 93-46, eff. 7-1-03.)

24 Section 25. The Illinois Income Tax Act is amended by
25 changing Section 1501 as follows:

1 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

2 Sec. 1501. Definitions.

3 (a) In general. When used in this Act, where not otherwise
4 distinctly expressed or manifestly incompatible with the
5 intent thereof:

6 (1) Business income. The term "business income" means
7 all income that may be treated as apportionable business
8 income under the Constitution of the United States.
9 Business income is net of the deductions allocable
10 thereto. Such term does not include compensation or the
11 deductions allocable thereto. For each taxable year
12 beginning on or after January 1, 2003, a taxpayer may
13 elect to treat all income other than compensation as
14 business income. This election shall be made in accordance
15 with rules adopted by the Department and, once made, shall
16 be irrevocable.

17 (1.5) Captive real estate investment trust:

18 (A) The term "captive real estate investment
19 trust" means a corporation, trust, or association:

20 (i) that is considered a real estate
21 investment trust for the taxable year under
22 Section 856 of the Internal Revenue Code;

23 (ii) the certificates of beneficial interest
24 or shares of which are not regularly traded on an
25 established securities market; and

1 (iii) of which more than 50% of the voting
2 power or value of the beneficial interest or
3 shares, at any time during the last half of the
4 taxable year, is owned or controlled, directly,
5 indirectly, or constructively, by a single
6 corporation.

7 (B) The term "captive real estate investment
8 trust" does not include:

9 (i) a real estate investment trust of which
10 more than 50% of the voting power or value of the
11 beneficial interest or shares is owned or
12 controlled, directly, indirectly, or
13 constructively, by:

14 (a) a real estate investment trust, other
15 than a captive real estate investment trust;

16 (b) a person who is exempt from taxation
17 under Section 501 of the Internal Revenue
18 Code, and who is not required to treat income
19 received from the real estate investment trust
20 as unrelated business taxable income under
21 Section 512 of the Internal Revenue Code;

22 (c) a listed Australian property trust, if
23 no more than 50% of the voting power or value
24 of the beneficial interest or shares of that
25 trust, at any time during the last half of the
26 taxable year, is owned or controlled, directly

1 or indirectly, by a single person;

2 (d) an entity organized as a trust,
3 provided a listed Australian property trust
4 described in subparagraph (c) owns or
5 controls, directly or indirectly, or
6 constructively, 75% or more of the voting
7 power or value of the beneficial interests or
8 shares of such entity; or

9 (e) an entity that is organized outside of
10 the laws of the United States and that
11 satisfies all of the following criteria:

12 (1) at least 75% of the entity's total
13 asset value at the close of its taxable
14 year is represented by real estate assets
15 (as defined in Section 856(c)(5)(B) of the
16 Internal Revenue Code, thereby including
17 shares or certificates of beneficial
18 interest in any real estate investment
19 trust), cash and cash equivalents, and
20 U.S. Government securities;

21 (2) the entity is not subject to tax
22 on amounts that are distributed to its
23 beneficial owners or is exempt from
24 entity-level taxation;

25 (3) the entity distributes at least
26 85% of its taxable income (as computed in

1 the jurisdiction in which it is organized)
2 to the holders of its shares or
3 certificates of beneficial interest on an
4 annual basis;

5 (4) either (i) the shares or
6 beneficial interests of the entity are
7 regularly traded on an established
8 securities market or (ii) not more than
9 10% of the voting power or value in the
10 entity is held, directly, indirectly, or
11 constructively, by a single entity or
12 individual; and

13 (5) the entity is organized in a
14 country that has entered into a tax treaty
15 with the United States; or

16 (ii) during its first taxable year for which
17 it elects to be treated as a real estate
18 investment trust under Section 856(c)(1) of the
19 Internal Revenue Code, a real estate investment
20 trust the certificates of beneficial interest or
21 shares of which are not regularly traded on an
22 established securities market, but only if the
23 certificates of beneficial interest or shares of
24 the real estate investment trust are regularly
25 traded on an established securities market prior
26 to the earlier of the due date (including

1 extensions) for filing its return under this Act
2 for that first taxable year or the date it
3 actually files that return.

4 (C) For the purposes of this subsection (1.5), the
5 constructive ownership rules prescribed under Section
6 318(a) of the Internal Revenue Code, as modified by
7 Section 856(d)(5) of the Internal Revenue Code, apply
8 in determining the ownership of stock, assets, or net
9 profits of any person.

10 (D) For the purposes of this item (1.5), for
11 taxable years ending on or after August 16, 2007, the
12 voting power or value of the beneficial interest or
13 shares of a real estate investment trust does not
14 include any voting power or value of beneficial
15 interest or shares in a real estate investment trust
16 held directly or indirectly in a segregated asset
17 account by a life insurance company (as described in
18 Section 817 of the Internal Revenue Code) to the
19 extent such voting power or value is for the benefit of
20 entities or persons who are either immune from
21 taxation or exempt from taxation under subtitle A of
22 the Internal Revenue Code.

23 (2) Commercial domicile. The term "commercial
24 domicile" means the principal place from which the trade
25 or business of the taxpayer is directed or managed.

26 (3) Compensation. The term "compensation" means wages,

1 salaries, commissions and any other form of remuneration
2 paid to employees for personal services.

3 (4) Corporation. The term "corporation" includes
4 associations, joint-stock companies, insurance companies
5 and cooperatives. Any entity, including a limited
6 liability company formed under the Illinois Limited
7 Liability Company Act, shall be treated as a corporation
8 if it is so classified for federal income tax purposes.

9 (5) Department. The term "Department" means the
10 Department of Revenue of this State.

11 (6) Director. The term "Director" means the Director
12 of Revenue of this State.

13 (7) Fiduciary. The term "fiduciary" means a guardian,
14 trustee, executor, administrator, receiver, or any person
15 acting in any fiduciary capacity for any person.

16 (8) Financial organization.

17 (A) The term "financial organization" means any
18 bank, bank holding company, trust company, savings
19 bank, industrial bank, land bank, safe deposit
20 company, private banker, savings and loan association,
21 building and loan association, credit union, currency
22 exchange, cooperative bank, small loan company, sales
23 finance company, investment company, or any person
24 which is owned by a bank or bank holding company. For
25 the purpose of this Section a "person" will include
26 only those persons which a bank holding company may

1 retail charge agreement within the meaning of
2 the Sales Finance Agency Act, the Retail
3 Installment Sales Act, or the Motor Vehicle
4 Retail Installment Sales Act;

5 (b) an installment, charge, credit, or
6 similar contract or agreement arising from the
7 sale of tangible personal property or services
8 in a transaction involving a deferred payment
9 price payable in one or more installments
10 subsequent to the sale; or

11 (c) the outstanding balance of a contract
12 or agreement described in provisions (a) or
13 (b) of this item (i).

14 A customer receivable need not provide for
15 payment of interest on deferred payments. A sales
16 finance company may purchase a customer receivable
17 from, or make a loan secured by a customer
18 receivable to, the seller in the original
19 transaction or to a person who purchased the
20 customer receivable directly or indirectly from
21 that seller.

22 (ii) A corporation meeting each of the
23 following criteria:

24 (a) the corporation must be a member of an
25 "affiliated group" within the meaning of
26 Section 1504(a) of the Internal Revenue Code,

1 determined without regard to Section 1504(b)
2 of the Internal Revenue Code;

3 (b) more than 50% of the gross income of
4 the corporation for the taxable year must be
5 interest income derived from qualifying loans.
6 A "qualifying loan" is a loan made to a member
7 of the corporation's affiliated group that
8 originates customer receivables (within the
9 meaning of item (i)) or to whom customer
10 receivables originated by a member of the
11 affiliated group have been transferred, to the
12 extent the average outstanding balance of
13 loans from that corporation to members of its
14 affiliated group during the taxable year do
15 not exceed the limitation amount for that
16 corporation. The "limitation amount" for a
17 corporation is the average outstanding
18 balances during the taxable year of customer
19 receivables (within the meaning of item (i))
20 originated by all members of the affiliated
21 group. If the average outstanding balances of
22 the loans made by a corporation to members of
23 its affiliated group exceed the limitation
24 amount, the interest income of that
25 corporation from qualifying loans shall be
26 equal to its interest income from loans to

1 members of its affiliated groups times a
2 fraction equal to the limitation amount
3 divided by the average outstanding balances of
4 the loans made by that corporation to members
5 of its affiliated group;

6 (c) the total of all shareholder's equity
7 (including, without limitation, paid-in
8 capital on common and preferred stock and
9 retained earnings) of the corporation plus the
10 total of all of its loans, advances, and other
11 obligations payable or owed to members of its
12 affiliated group may not exceed 20% of the
13 total assets of the corporation at any time
14 during the tax year; and

15 (d) more than 50% of all interest-bearing
16 obligations of the affiliated group payable to
17 persons outside the group determined in
18 accordance with generally accepted accounting
19 principles must be obligations of the
20 corporation.

21 This amendatory Act of the 91st General Assembly
22 is declaratory of existing law.

23 (D) Subparagraphs (B) and (C) of this paragraph
24 are declaratory of existing law and apply
25 retroactively, for all tax years beginning on or
26 before December 31, 1996, to all original returns, to

1 all amended returns filed no later than 30 days after
2 the effective date of this amendatory Act of 1996, and
3 to all notices issued on or before the effective date
4 of this amendatory Act of 1996 under subsection (a) of
5 Section 903, subsection (a) of Section 904, subsection
6 (e) of Section 909, or Section 912. A taxpayer that is
7 a "financial organization" that engages in any
8 transaction with an affiliate shall be a "financial
9 organization" for all purposes of this Act.

10 (E) For all tax years beginning on or before
11 December 31, 1996, a taxpayer that falls within the
12 definition of a "financial organization" under
13 subparagraphs (B) or (C) of this paragraph, but who
14 does not fall within the definition of a "financial
15 organization" under the Proposed Regulations issued by
16 the Department of Revenue on July 19, 1996, may
17 irrevocably elect to apply the Proposed Regulations
18 for all of those years as though the Proposed
19 Regulations had been lawfully promulgated, adopted,
20 and in effect for all of those years. For purposes of
21 applying subparagraphs (B) or (C) of this paragraph to
22 all of those years, the election allowed by this
23 subparagraph applies only to the taxpayer making the
24 election and to those members of the taxpayer's
25 unitary business group who are ordinarily required to
26 apportion business income under the same subsection of

1 Section 304 of this Act as the taxpayer making the
2 election. No election allowed by this subparagraph
3 shall be made under a claim filed under subsection (d)
4 of Section 909 more than 30 days after the effective
5 date of this amendatory Act of 1996.

6 (F) Finance Leases. For purposes of this
7 subsection, a finance lease shall be treated as a loan
8 or other extension of credit, rather than as a lease,
9 regardless of how the transaction is characterized for
10 any other purpose, including the purposes of any
11 regulatory agency to which the lessor is subject. A
12 finance lease is any transaction in the form of a lease
13 in which the lessee is treated as the owner of the
14 leased asset entitled to any deduction for
15 depreciation allowed under Section 167 of the Internal
16 Revenue Code.

17 (9) Fiscal year. The term "fiscal year" means an
18 accounting period of 12 months ending on the last day of
19 any month other than December.

20 (9.5) Fixed place of business. The term "fixed place
21 of business" has the same meaning as that term is given in
22 Section 864 of the Internal Revenue Code and the related
23 Treasury regulations.

24 (10) Includes and including. The terms "includes" and
25 "including" when used in a definition contained in this
26 Act shall not be deemed to exclude other things otherwise

1 within the meaning of the term defined.

2 (11) Internal Revenue Code. The term "Internal Revenue
3 Code" means the United States Internal Revenue Code of
4 1954 or any successor law or laws relating to federal
5 income taxes in effect for the taxable year.

6 (11.5) Investment partnership.

7 (A) The term "investment partnership" means any
8 entity that is treated as a partnership for federal
9 income tax purposes that meets the following
10 requirements:

11 (i) no less than 90% of the partnership's cost
12 of its total assets consists of qualifying
13 investment securities, deposits at banks or other
14 financial institutions, and office space and
15 equipment reasonably necessary to carry on its
16 activities as an investment partnership;

17 (ii) no less than 90% of its gross income
18 consists of interest, dividends, and gains from
19 the sale or exchange of qualifying investment
20 securities; and

21 (iii) the partnership is not a dealer in
22 qualifying investment securities.

23 (B) For purposes of this paragraph (11.5), the
24 term "qualifying investment securities" includes all
25 of the following:

26 (i) common stock, including preferred or debt

1 securities convertible into common stock, and
2 preferred stock;

3 (ii) bonds, debentures, and other debt
4 securities;

5 (iii) foreign and domestic currency deposits
6 secured by federal, state, or local governmental
7 agencies;

8 (iv) mortgage or asset-backed securities
9 secured by federal, state, or local governmental
10 agencies;

11 (v) repurchase agreements and loan
12 participations;

13 (vi) foreign currency exchange contracts and
14 forward and futures contracts on foreign
15 currencies;

16 (vii) stock and bond index securities and
17 futures contracts and other similar financial
18 securities and futures contracts on those
19 securities;

20 (viii) options for the purchase or sale of any
21 of the securities, currencies, contracts, or
22 financial instruments described in items (i) to
23 (vii), inclusive;

24 (ix) regulated futures contracts;

25 (x) commodities (not described in Section
26 1221(a)(1) of the Internal Revenue Code) or

1 futures, forwards, and options with respect to
2 such commodities, provided, however, that any item
3 of a physical commodity to which title is actually
4 acquired in the partnership's capacity as a dealer
5 in such commodity shall not be a qualifying
6 investment security;

7 (xi) derivatives; and

8 (xii) a partnership interest in another
9 partnership that is an investment partnership.

10 (12) Mathematical error. The term "mathematical error"
11 includes the following types of errors, omissions, or
12 defects in a return filed by a taxpayer which prevents
13 acceptance of the return as filed for processing:

14 (A) arithmetic errors or incorrect computations on
15 the return or supporting schedules;

16 (B) entries on the wrong lines;

17 (C) omission of required supporting forms or
18 schedules or the omission of the information in whole
19 or in part called for thereon; and

20 (D) an attempt to claim, exclude, deduct, or
21 improperly report, in a manner directly contrary to
22 the provisions of the Act and regulations thereunder
23 any item of income, exemption, deduction, or credit.

24 (13) Nonbusiness income. The term "nonbusiness income"
25 means all income other than business income or
26 compensation.

1 (14) Nonresident. The term "nonresident" means a
2 person who is not a resident.

3 (15) Paid, incurred and accrued. The terms "paid",
4 "incurred" and "accrued" shall be construed according to
5 the method of accounting upon the basis of which the
6 person's base income is computed under this Act.

7 (16) Partnership and partner. The term "partnership"
8 includes a syndicate, group, pool, joint venture or other
9 unincorporated organization, through or by means of which
10 any business, financial operation, or venture is carried
11 on, and which is not, within the meaning of this Act, a
12 trust or estate or a corporation; and the term "partner"
13 includes a member in such syndicate, group, pool, joint
14 venture or organization.

15 The term "partnership" includes any entity, including
16 a limited liability company formed under the Illinois
17 Limited Liability Company Act, classified as a partnership
18 for federal income tax purposes.

19 The term "partnership" does not include a syndicate,
20 group, pool, joint venture, or other unincorporated
21 organization established for the sole purpose of playing
22 the Illinois State Lottery.

23 (17) Part-year resident. The term "part-year resident"
24 means an individual who became a resident during the
25 taxable year or ceased to be a resident during the taxable
26 year. Under Section 1501(a)(20)(A)(i) residence commences

1 with presence in this State for other than a temporary or
2 transitory purpose and ceases with absence from this State
3 for other than a temporary or transitory purpose. Under
4 Section 1501(a)(20)(A)(ii) residence commences with the
5 establishment of domicile in this State and ceases with
6 the establishment of domicile in another State.

7 (18) Person. The term "person" shall be construed to
8 mean and include an individual, a trust, estate,
9 partnership, association, firm, company, corporation,
10 limited liability company, or fiduciary. For purposes of
11 Section 1301 and 1302 of this Act, a "person" means (i) an
12 individual, (ii) a corporation, (iii) an officer, agent,
13 or employee of a corporation, (iv) a member, agent or
14 employee of a partnership, or (v) a member, manager,
15 employee, officer, director, or agent of a limited
16 liability company who in such capacity commits an offense
17 specified in Section 1301 and 1302.

18 (18A) Records. The term "records" includes all data
19 maintained by the taxpayer, whether on paper, microfilm,
20 microfiche, or any type of machine-sensible data
21 compilation.

22 (19) Regulations. The term "regulations" includes
23 rules promulgated and forms prescribed by the Department.

24 (20) Resident. The term "resident" means:

25 (A) an individual (i) who is in this State for
26 other than a temporary or transitory purpose during

1 the taxable year; or (ii) who is domiciled in this
2 State but is absent from the State for a temporary or
3 transitory purpose during the taxable year;

4 (B) The estate of a decedent who at his or her
5 death was domiciled in this State;

6 (C) A trust created by a will of a decedent who at
7 his death was domiciled in this State; and

8 (D) An irrevocable trust, the grantor of which was
9 domiciled in this State at the time such trust became
10 irrevocable. For purpose of this subparagraph, a trust
11 shall be considered irrevocable to the extent that the
12 grantor is not treated as the owner thereof under
13 Sections 671 through 678 of the Internal Revenue Code.

14 (21) Sales. The term "sales" means all gross receipts
15 of the taxpayer not allocated under Sections 301, 302 and
16 303.

17 (22) State. The term "state" when applied to a
18 jurisdiction other than this State means any state of the
19 United States, the District of Columbia, the Commonwealth
20 of Puerto Rico, any Territory or Possession of the United
21 States, and any foreign country, or any political
22 subdivision of any of the foregoing. For purposes of the
23 foreign tax credit under Section 601, the term "state"
24 means any state of the United States, the District of
25 Columbia, the Commonwealth of Puerto Rico, and any
26 territory or possession of the United States, or any

1 political subdivision of any of the foregoing, effective
2 for tax years ending on or after December 31, 1989.

3 (23) Taxable year. The term "taxable year" means the
4 calendar year, or the fiscal year ending during such
5 calendar year, upon the basis of which the base income is
6 computed under this Act. "Taxable year" means, in the case
7 of a return made for a fractional part of a year under the
8 provisions of this Act, the period for which such return
9 is made.

10 (24) Taxpayer. The term "taxpayer" means any person
11 subject to the tax imposed by this Act.

12 (25) International banking facility. The term
13 international banking facility shall have the same meaning
14 as is set forth in the Illinois Banking Act or as is set
15 forth in the laws of the United States or regulations of
16 the Board of Governors of the Federal Reserve System.

17 (26) Income Tax Return Preparer.

18 (A) The term "income tax return preparer" means
19 any person who prepares for compensation, or who
20 employs one or more persons to prepare for
21 compensation, any return of tax imposed by this Act or
22 any claim for refund of tax imposed by this Act. The
23 preparation of a substantial portion of a return or
24 claim for refund shall be treated as the preparation
25 of that return or claim for refund.

26 (B) A person is not an income tax return preparer

1 if all he or she does is

2 (i) furnish typing, reproducing, or other
3 mechanical assistance;

4 (ii) prepare returns or claims for refunds for
5 the employer by whom he or she is regularly and
6 continuously employed;

7 (iii) prepare as a fiduciary returns or claims
8 for refunds for any person; or

9 (iv) prepare claims for refunds for a taxpayer
10 in response to any notice of deficiency issued to
11 that taxpayer or in response to any waiver of
12 restriction after the commencement of an audit of
13 that taxpayer or of another taxpayer if a
14 determination in the audit of the other taxpayer
15 directly or indirectly affects the tax liability
16 of the taxpayer whose claims he or she is
17 preparing.

18 (27) Unitary business group.

19 (A) The term "unitary business group" means a
20 group of persons related through common ownership
21 whose business activities are integrated with,
22 dependent upon and contribute to each other. The group
23 will not include those members whose business activity
24 outside the United States is 80% or more of any such
25 member's total business activity; for purposes of this
26 paragraph and clause (a)(3)(B)(ii) of Section 304,

1 business activity within the United States shall be
2 measured by means of the factors ordinarily applicable
3 under subsections (a), (b), (c), (d), or (h) of
4 Section 304 except that, in the case of members
5 ordinarily required to apportion business income by
6 means of the 3 factor formula of property, payroll and
7 sales specified in subsection (a) of Section 304,
8 including the formula as weighted in subsection (h) of
9 Section 304, such members shall not use the sales
10 factor in the computation and the results of the
11 property and payroll factor computations of subsection
12 (a) of Section 304 shall be divided by 2 (by one if
13 either the property or payroll factor has a
14 denominator of zero). The computation required by the
15 preceding sentence shall, in each case, involve the
16 division of the member's property, payroll, or revenue
17 miles in the United States, insurance premiums on
18 property or risk in the United States, or financial
19 organization business income from sources within the
20 United States, as the case may be, by the respective
21 worldwide figures for such items. Common ownership in
22 the case of corporations is the direct or indirect
23 control or ownership of more than 50% of the
24 outstanding voting stock of the persons carrying on
25 unitary business activity. Unitary business activity
26 can ordinarily be illustrated where the activities of

1 the members are: (1) in the same general line (such as
2 manufacturing, wholesaling, retailing of tangible
3 personal property, insurance, transportation or
4 finance); or (2) are steps in a vertically structured
5 enterprise or process (such as the steps involved in
6 the production of natural resources, which might
7 include exploration, mining, refining, and marketing);
8 and, in either instance, the members are functionally
9 integrated through the exercise of strong centralized
10 management (where, for example, authority over such
11 matters as purchasing, financing, tax compliance,
12 product line, personnel, marketing and capital
13 investment is not left to each member).

14 (B) In no event, for taxable years ending prior to
15 December 31, 2017, shall any unitary business group
16 include members which are ordinarily required to
17 apportion business income under different subsections
18 of Section 304 except that for tax years ending on or
19 after December 31, 1987 this prohibition shall not
20 apply to a holding company that would otherwise be a
21 member of a unitary business group with taxpayers that
22 apportion business income under any of subsections
23 (b), (c), (c-1), or (d) of Section 304. If a unitary
24 business group would, but for the preceding sentence,
25 include members that are ordinarily required to
26 apportion business income under different subsections

1 of Section 304, then for each subsection of Section
2 304 for which there are two or more members, there
3 shall be a separate unitary business group composed of
4 such members. For purposes of the preceding two
5 sentences, a member is "ordinarily required to
6 apportion business income" under a particular
7 subsection of Section 304 if it would be required to
8 use the apportionment method prescribed by such
9 subsection except for the fact that it derives
10 business income solely from Illinois. As used in this
11 paragraph, for taxable years ending before December
12 31, 2017, the phrase "United States" means only the 50
13 states and the District of Columbia, but does not
14 include any territory or possession of the United
15 States or any area over which the United States has
16 asserted jurisdiction or claimed exclusive rights with
17 respect to the exploration for or exploitation of
18 natural resources. For taxable years ending on or
19 after December 31, 2017, the phrase "United States",
20 as used in this paragraph, means only the 50 states,
21 the District of Columbia, and any area over which the
22 United States has asserted jurisdiction or claimed
23 exclusive rights with respect to the exploration for
24 or exploitation of natural resources, but does not
25 include any territory or possession of the United
26 States.

1 (C) Holding companies.

2 (i) For purposes of this subparagraph, a
3 "holding company" is a corporation (other than a
4 corporation that is a financial organization under
5 paragraph (8) of this subsection (a) of Section
6 1501 because it is a bank holding company under
7 the provisions of the Bank Holding Company Act of
8 1956 (12 U.S.C. 1841, et seq.) or because it is
9 owned by a bank or a bank holding company) that
10 owns a controlling interest in one or more other
11 taxpayers ("controlled taxpayers"); that, during
12 the period that includes the taxable year and the
13 2 immediately preceding taxable years or, if the
14 corporation was formed during the current or
15 immediately preceding taxable year, the taxable
16 years in which the corporation has been in
17 existence, derived substantially all its gross
18 income from dividends, interest, rents, royalties,
19 fees or other charges received from controlled
20 taxpayers for the provision of services, and gains
21 on the sale or other disposition of interests in
22 controlled taxpayers or in property leased or
23 licensed to controlled taxpayers or used by the
24 taxpayer in providing services to controlled
25 taxpayers; and that incurs no substantial expenses
26 other than expenses (including interest and other

1 costs of borrowing) incurred in connection with
2 the acquisition and holding of interests in
3 controlled taxpayers and in the provision of
4 services to controlled taxpayers or in the leasing
5 or licensing of property to controlled taxpayers.

6 (ii) The income of a holding company which is
7 a member of more than one unitary business group
8 shall be included in each unitary business group
9 of which it is a member on a pro rata basis, by
10 including in each unitary business group that
11 portion of the base income of the holding company
12 that bears the same proportion to the total base
13 income of the holding company as the gross
14 receipts of the unitary business group bears to
15 the combined gross receipts of all unitary
16 business groups (in both cases without regard to
17 the holding company) or on any other reasonable
18 basis, consistently applied.

19 (iii) A holding company shall apportion its
20 business income under the subsection of Section
21 304 used by the other members of its unitary
22 business group. The apportionment factors of a
23 holding company which would be a member of more
24 than one unitary business group shall be included
25 with the apportionment factors of each unitary
26 business group of which it is a member on a pro

1 rata basis using the same method used in clause
2 (ii).

3 (iv) The provisions of this subparagraph (C)
4 are intended to clarify existing law.

5 (D) If including the base income and factors of a
6 holding company in more than one unitary business
7 group under subparagraph (C) does not fairly reflect
8 the degree of integration between the holding company
9 and one or more of the unitary business groups, the
10 dependence of the holding company and one or more of
11 the unitary business groups upon each other, or the
12 contributions between the holding company and one or
13 more of the unitary business groups, the holding
14 company may petition the Director, under the
15 procedures provided under Section 304(f), for
16 permission to include all base income and factors of
17 the holding company only with members of a unitary
18 business group apportioning their business income
19 under one subsection of subsections (a), (b), (c), or
20 (d) of Section 304. If the petition is granted, the
21 holding company shall be included in a unitary
22 business group only with persons apportioning their
23 business income under the selected subsection of
24 Section 304 until the Director grants a petition of
25 the holding company either to be included in more than
26 one unitary business group under subparagraph (C) or

1 to include its base income and factors only with
2 members of a unitary business group apportioning their
3 business income under a different subsection of
4 Section 304.

5 (E) If the unitary business group members'
6 accounting periods differ, the common parent's
7 accounting period or, if there is no common parent,
8 the accounting period of the member that is expected
9 to have, on a recurring basis, the greatest Illinois
10 income tax liability must be used to determine whether
11 to use the apportionment method provided in subsection
12 (a) or subsection (h) of Section 304. The prohibition
13 against membership in a unitary business group for
14 taxpayers ordinarily required to apportion income
15 under different subsections of Section 304 does not
16 apply to taxpayers required to apportion income under
17 subsection (a) and subsection (h) of Section 304. The
18 provisions of this amendatory Act of 1998 apply to tax
19 years ending on or after December 31, 1998.

20 (28) Subchapter S corporation. The term "Subchapter S
21 corporation" means a corporation for which there is in
22 effect an election under Section 1362 of the Internal
23 Revenue Code, or for which there is a federal election to
24 opt out of the provisions of the Subchapter S Revision Act
25 of 1982 and have applied instead the prior federal
26 Subchapter S rules as in effect on July 1, 1982.

1 (30) Foreign person. The term "foreign person" means
2 any person who is a nonresident noncitizen ~~alien~~
3 individual and any nonindividual entity, regardless of
4 where created or organized, whose business activity
5 outside the United States is 80% or more of the entity's
6 total business activity.

7 (b) Other definitions.

8 (1) Words denoting number, gender, and so forth, when
9 used in this Act, where not otherwise distinctly expressed
10 or manifestly incompatible with the intent thereof:

11 (A) Words importing the singular include and apply
12 to several persons, parties or things;

13 (B) Words importing the plural include the
14 singular; and

15 (C) Words importing the masculine gender include
16 the feminine as well.

17 (2) "Company" or "association" as including successors
18 and assigns. The word "company" or "association", when
19 used in reference to a corporation, shall be deemed to
20 embrace the words "successors and assigns of such company
21 or association", and in like manner as if these last-named
22 words, or words of similar import, were expressed.

23 (3) Other terms. Any term used in any Section of this
24 Act with respect to the application of, or in connection
25 with, the provisions of any other Section of this Act

1 shall have the same meaning as in such other Section.

2 (Source: P.A. 99-213, eff. 7-31-15; 100-22, eff. 7-6-17.)

3 Section 30. The Interstate Insurance Receivership Compact
4 Act is amended by changing Section 5 as follows:

5 (45 ILCS 160/5)

6 Sec. 5. Ratification of Compact. The State of Illinois
7 ratifies and approves the Interstate Insurance Receivership
8 Compact and enters into that Compact with all other
9 jurisdictions legally joining in it in substantially the
10 following form:

11 ARTICLE I. PURPOSES

12 The purposes of this Compact are, through means of joint
13 and cooperative action among the compacting states:

14 (1) to promote, develop and facilitate orderly, efficient,
15 cost-effective, and uniform insurer receivership laws and
16 operations;

17 (2) to coordinate interaction between insurer receivership
18 and Guaranty Association operations;

19 (3) to create the Interstate Insurance Receivership
20 Commission; and

21 (4) to perform these and such other related functions as
22 may be consistent with the state regulation of the business of
23 insurance pursuant to the McCarran-Ferguson Act.

1 ARTICLE II. DEFINITIONS

2 For the purposes of this Compact:

3 (1) "By-laws" means those by-laws prescribed by the
4 Commission for its governance or for directing or controlling
5 the Commission's actions or conduct.6 (2) "Compacting state" means any state which has enacted
7 enabling legislation for this Compact.8 (3) "Commission" means the Interstate Insurance
9 Receivership Commission established by this Compact.10 (4) "Commissioner" means the chief insurance regulatory
11 official of a state.12 (5) "Deputy Receiver" means a person appointed or retained
13 by a Receiver and who is the Receiver's duly authorized
14 representative for administering one or more estates.15 (6) "Domiciliary state" means the state in which an
16 insurer is incorporated or organized; or, in the case of a
17 non-domestic ~~an alien~~ insurer, its state of entry; or in the
18 case of an unauthorized insurer not incorporated, organized,
19 or entered in any state, a state where the insurer is engaged
20 in or doing business.21 (7) "Estate" means the assets and liabilities of any
22 insurer in receivership.23 (8) "Guaranty Association" means an insurance guaranty
24 fund or association or any similar entity now or hereafter
25 created by statute in a compacting state, other than a

1 receivership, to pay or assume, in whole or in part, the
2 contractual claim obligations of insolvent insurers.

3 (9) "Insurer" means any person or entity that has done,
4 purports to do, is doing, or is licensed to do any insurance or
5 reinsurance business, or is or has been subject to the
6 authority of, or to liquidation, rehabilitation, supervision,
7 conservation, or ancillary receivership by, any Commissioner.

8 (10) "Member" means the Commissioner of a compacting state
9 or his or her designee, who shall be a person officially
10 connected with the Commissioner and who is wholly or
11 principally employed by the Commissioner.

12 (11) "Non-compacting state" means a state which has not
13 enacted enabling legislation for this Compact.

14 (12) "Operating procedures" means procedures promulgated
15 by the Commission implementing a rule, an existing law in a
16 compacting state, or a provision of this Compact.

17 (13) "Publication" means the act of publishing in the
18 official state publication in a compacting state or in such
19 other publication as may be established by the Commission.

20 (14) "Receiver" means receiver, liquidator, rehabilitator,
21 conservator, or ancillary receiver as the context requires.

22 (15) "Receivership" means any liquidation, rehabilitation,
23 conservation, or ancillary receivership proceeding as the
24 context requires.

25 (16) "Rules" means acts of the Commission, duly
26 promulgated pursuant to Article VII of this Compact,

1 substantially affecting interested parties in addition to the
2 Commission, which shall have the force and effect of law in the
3 compacting states.

4 (17) "State" means any state, district or territory of the
5 United States of America.

6 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

7 (1) The compacting states hereby create and establish an
8 entity known as the Interstate Insurance Receivership
9 Commission.

10 (2) The Commission is a body corporate of each compacting
11 state.

12 (3) The Commission is a not-for-profit entity, separate
13 and distinct from the compacting states.

14 (4) The Commission is solely responsible for its
15 liabilities except as otherwise provided in this Compact.

16 (5) Except as otherwise specifically provided in state or
17 federal law in the jurisdiction where the Commission's
18 principal office is located or where the Commission is acting
19 as Receiver, venue is proper and judicial proceedings by or
20 against the Commission shall be brought in a court of
21 competent jurisdiction where the Commission's principal office
22 is located.

23 ARTICLE IV. POWERS OF THE COMMISSION

24 The Commission shall have all of the following powers:

1 (1) To promulgate rules which shall have the force and
2 effect of statutory law and shall be binding in the compacting
3 states to the extent and in the manner provided in this
4 Compact.

5 (2) To promulgate operating procedures which shall be
6 binding in the compacting states to the extent and in the
7 manner provided in this Compact.

8 (3) To oversee, supervise, and coordinate the activities
9 of receivers in compacting states.

10 (4) To act as Receiver of insurers organized under the
11 laws of, engaged in, or doing the business of insurance in a
12 compacting state upon the request of the Commissioner of such
13 state or when grounds for receivership by the Commission exist
14 under Article IX of this Compact.

15 (5) To act as Deputy Receiver of insurers organized under
16 the laws of, engaged in, or doing the business of insurance in
17 a non-compacting state in accordance with Article IX of this
18 Compact.

19 (6) To act as ancillary Receiver in a compacting state of
20 an insurer domiciled in a non-compacting state.

21 (7) To monitor the activities and functions of Guaranty
22 Associations in the compacting states.

23 (8) To delegate its operating authority or functions;
24 provided, that its rulemaking authority under Article VII of
25 this Compact shall not be delegated.

26 (9) To bring or prosecute legal proceedings or actions in

1 its name as the Commission, or in the name of the Commission
2 acting as Receiver.

3 (10) To bring or prosecute legal proceedings or actions as
4 Receiver on behalf of an estate or its policyholders and
5 creditors; provided, that any Guaranty Association's standing
6 to sue or be sued under applicable law shall not be affected.

7 (11) To issue subpoenas requiring the attendance and
8 testimony of witnesses and the production of evidence.

9 (12) To establish and maintain offices.

10 (13) To purchase and maintain insurance and bonds.

11 (14) To borrow, accept, or contract for services of
12 personnel including, but not limited to, members and their
13 staff.

14 (15) To elect or appoint such officers, attorneys,
15 employees, or agents, and to fix their compensation, define
16 their duties, and determine their qualifications; and to
17 establish the Commission's personnel policies and programs
18 relating to, among other things, conflicts of interest, rates
19 of compensation, and qualifications of personnel.

20 (16) To accept any and all donations and grants of money,
21 equipment, supplies, materials, and services, and to receive,
22 utilize, and dispose of the same.

23 (17) To lease, purchase, accept gifts or donations of, or
24 otherwise to own, hold, improve or use, any property, real,
25 personal, or mixed.

26 (18) To sell, convey, mortgage, pledge, lease, exchange,

1 abandon, or otherwise dispose of any property, real, personal,
2 or mixed.

3 (19) To enforce compliance with Commission rules,
4 operating procedures, and by-laws.

5 (20) To provide for dispute resolution among compacting
6 states and Receivers.

7 (21) To represent and advise compacting states on issues
8 relating to insurers domiciled or doing business in
9 non-compacting jurisdictions, consistent with the purposes of
10 this compact.

11 (22) To provide advice and training to receivership
12 personnel of compacting states, and to be a resource for
13 compacting states by maintaining a reference library of
14 relevant materials.

15 (23) To establish a budget and make expenditures.

16 (24) To borrow money.

17 (25) To appoint committees including, but not limited to,
18 an industry advisory committee and an executive committee of
19 members.

20 (26) To provide and receive information relating to
21 receiverships and Guaranty Associations and to cooperate with
22 law enforcement agencies.

23 (27) To adopt and use a corporate seal.

24 (28) To perform such other functions as may be necessary
25 or appropriate to achieve the purposes of this Compact as may
26 be consistent with the state regulation of the business of

1 insurance pursuant to the McCarran-Ferguson Act.

2 ARTICLE V. ORGANIZATION OF THE COMMISSION

3 Section A. Membership, voting, and by-laws.

4 (1) A compacting state shall have and be limited to one
5 member. A member shall be qualified to serve in such capacity
6 under or pursuant to the applicable law of the compacting
7 state. A compacting state retains the discretionary right to
8 determine the due election or appointment and qualification of
9 its own Commissioner, and to fill all vacancies of its member.

10 (2) A member shall be entitled to one vote.

11 (3) The Commission shall, by a majority of the members,
12 prescribe by-laws to govern its conduct as may be necessary or
13 appropriate to carry out the purposes of the Compact,
14 including, but not limited to:

15 (a) establishing the fiscal year of the Commission;

16 (b) providing reasonable standards and procedures:

17 (i) for the establishment of committees, and (ii)
18 governing any general or specific delegation of any authority
19 or function of the Commission;

20 (c) providing reasonable procedures for calling and
21 conducting meetings of the Commission and for ensuring
22 reasonable notice of each such meeting;

23 (d) establishing the titles and responsibilities of
24 the officers of the Commission;

25 (e) providing reasonable standards and procedures for

1 the establishment of the personnel policies and programs
2 of the Commission. Notwithstanding any civil service or
3 other similar laws of any compacting state, the by-laws
4 shall exclusively govern the personnel policies and
5 programs of the Commission; and

6 (f) providing a mechanism for winding up the
7 operations of the Commission and the equitable return of
8 any surplus funds that may exist after the dissolution of
9 the Compact after the payment or reserving of all of its
10 debts and obligations, or both.

11 Section B. Officers and personnel.

12 (1) The Commission shall, by a majority of the members,
13 elect annually from among its members a chairperson and a vice
14 chairperson, each of whom shall have such authorities and
15 duties as may be specified in the by-laws. The chairperson or,
16 in his or her absence or disability, a member designated in
17 accordance with the by-laws, shall preside at all meetings of
18 the Commission. The officers so elected shall serve without
19 compensation or remuneration from the Commission; provided,
20 that subject to the availability of budgeted funds, the
21 officers shall be reimbursed for any actual and necessary
22 costs and expenses incurred by them in the performance of
23 their duties and responsibilities as officers of the
24 Commission.

25 (2) The Commission may, by a majority of the members,

1 appoint or retain an executive director for such period, upon
2 such terms and conditions and for such compensation as the
3 Commission may deem appropriate. The executive director shall
4 serve as secretary to the Commission, but shall not be a member
5 of the Commission. The executive director shall hire and
6 supervise such other staff as may be authorized by the
7 Commission.

8 Section C. Corporate records of the Commission. The
9 Commission shall maintain its corporate books and records in
10 accordance with the by-laws.

11 Section D. Qualified immunity, defense, and
12 indemnification.

13 (1) The members, officers, executive director, and
14 employees of the Commission shall be immune from suit and
15 liability, either personally or in their official capacity,
16 for any claim for damage to or loss of property or personal
17 injury or other civil liability caused or arising out of or
18 relating to any actual or alleged act, error, or omission that
19 occurred, or that such person had a reasonable basis for
20 believing occurred within the scope of Commission employment,
21 duties, or responsibilities; provided, that nothing in this
22 paragraph shall be construed to protect any such person from
23 suit or liability, or both, for any damage, loss, injury, or
24 liability caused by the intentional or willful and wanton

1 misconduct of any such person, or to protect the Commission
2 acting as Receiver under Article IX of this Compact.

3 (2) The Commission shall defend any Commissioner of a
4 compacting state, his or her representatives or employees, or
5 the Commission's representatives or employees in any civil
6 action seeking to impose liability against such person arising
7 out of or relating to any actual or alleged act, error, or
8 omission that occurred within the scope of Commission
9 employment, duties, or responsibilities or that such person
10 had a reasonable basis for believing occurred within the scope
11 of Commission employment, duties, or responsibilities;
12 provided, that the actual or alleged act, error, or omission
13 did not result from gross negligence or intentional wrongdoing
14 on the part of such person.

15 (3) The Commission shall indemnify and hold the
16 Commissioner of a compacting state, his or her representatives
17 or employees, or the Commission's representatives or employees
18 harmless in the amount of any settlement or judgment obtained
19 against such person arising out of or relating to any actual or
20 alleged act, error, or omission that occurred within the scope
21 of Commission employment, duties, or responsibilities or that
22 such person had a reasonable basis for believing occurred
23 within the scope of Commission employment, duties, or
24 responsibilities; provided, that the actual or alleged act,
25 error, or omission did not result from gross negligence or
26 intentional wrongdoing on the part of such person.

1 (4) The costs and expenses of defense and indemnification
2 of the Commission acting as Receiver of an estate shall be paid
3 as administrative expenses from the assets of that estate
4 unless such costs and expenses are covered by insurance
5 maintained by the Commission.

6 ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION

7 (1) The Commission shall meet and take such actions as are
8 consistent with the provisions of this Compact.

9 (2) Except as otherwise provided in this Compact and
10 unless a greater percentage is required by the by-laws, in
11 order to constitute an act of the Commission, such act shall
12 have been taken at a meeting of the Commission and shall have
13 received an affirmative vote of a majority of the members.

14 (3) Each member of the Commission shall have the right and
15 power to cast a vote to which that compacting state is entitled
16 and to participate in the business and affairs of the
17 Commission. A member shall vote in person and shall not
18 delegate his or her vote to another member. The by-laws may
19 provide for members' participation in meetings by telephone or
20 other means of telecommunication.

21 (4) The Commission shall meet at least once during each
22 calendar year. The chairperson of the Commission may call
23 additional meetings at any time and, upon the request of a
24 majority of the members, shall call additional meetings.

25 (5) The Commission's rules shall establish conditions and

1 procedures under which the Commission shall make its
2 information and official records available to the public for
3 inspection or copying. The Commission may exempt from
4 disclosure any information or official records to the extent
5 disclosure would adversely affect personal privacy rights or
6 proprietary interests. In promulgating such rules, the
7 Commission may consider any special circumstances pertaining
8 to insurer insolvencies, but shall be guided by the principles
9 embodied in state and federal freedom of information laws. The
10 Commission may promulgate additional rules under which it may
11 make available to law enforcement agencies records and
12 information otherwise exempt from disclosure and may enter
13 into agreements with law enforcement agencies to receive or
14 exchange information or records subject to nondisclosure and
15 confidentiality provisions.

16 (6) Public notice shall be given of all meetings, and all
17 meetings shall be open to the public, except as set forth in
18 the rules or as otherwise provided in this Compact. The
19 Commission shall promulgate rules consistent with the
20 principles contained in the federal Government in Sunshine
21 Act, 5 U.S.C. Section 552b, as may be amended. The Commission
22 and any of its committees may close a meeting to the public
23 where it determines by two-thirds vote that an open meeting
24 would be likely to:

25 (a) relate solely to the Commission's internal
26 personnel practices and procedures;

1 (b) disclose matters specifically exempted from
2 disclosure by statute;

3 (c) disclose trade secrets or commercial or financial
4 information which is privileged or confidential;

5 (d) involve accusing any person of a crime or formally
6 censuring any person;

7 (e) disclose information of a personal nature where
8 disclosure would constitute a clearly unwarranted invasion
9 of personal privacy;

10 (f) disclose investigatory records compiled for law
11 enforcement purposes;

12 (g) disclose information contained in or related to
13 examination, operating, or condition reports prepared by,
14 on behalf of, or for the use of the Commission with respect
15 to a regulated entity for the purpose of regulation or
16 supervision of such entity;

17 (h) disclose information, the premature disclosure of
18 which would significantly endanger the stability of a
19 regulated entity;

20 (i) specifically relate to the Commission's issuance
21 of a subpoena or its participation in a civil action or
22 proceeding.

23 (7) For every meeting closed pursuant to paragraph (6),
24 the Commission's chief legal officer shall publicly certify
25 that, in his or her opinion, the meeting may be closed to the
26 public and shall reference each relevant exemptive provision.

1 The Commission shall keep minutes which shall fully and
2 clearly describe all matters discussed in any meeting and
3 shall provide a full and accurate summary of any actions taken
4 and the reasons therefor, including a description of each of
5 the views expressed on any item and the record of any roll call
6 vote (reflected in the vote of each member on the question).
7 All documents considered in connection with any action shall
8 be identified in such minutes.

9 ARTICLE VII. RULEMAKING FUNCTIONS OF THE COMMISSION

10 (1) The Commission shall promulgate rules and operating
11 procedures in order to effectively and efficiently achieve the
12 purposes of this Compact; provided, that the Commission shall
13 not promulgate any rules: (i) directly relating to Guaranty
14 Associations including, but not limited to, rules governing
15 coverage, funding, or assessment mechanisms, or (ii) (except
16 pursuant to rules promulgated under Article VII(3) of this
17 Compact) altering the statutory priorities for distributing
18 assets out of an estate.

19 (2) Rulemaking shall occur pursuant to the criteria set
20 forth in this Article and the rules and operating procedures
21 promulgated pursuant thereto. Such rulemaking shall
22 substantially conform to the principles of the federal
23 Administrative Procedure Act, 5 U.S.C.S. Section 551 et seq.
24 and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2,
25 Section 1 et seq., as may be amended.

1 (3) Other than the promulgation of such rules as are
2 necessary for the orderly operation of the Commission, the
3 first rule to be considered by the Commission shall be uniform
4 provisions governing insurer receiverships including, but not
5 limited to, provisions requiring compacting states to
6 implement, execute, and administer in a fair, just, effective,
7 and efficient manner rules and operating procedures relating
8 to receiverships. The Commission shall within 3 years of the
9 adoption of this Compact by 2 or more states, promulgate such
10 uniform provisions through the rulemaking process. Such
11 uniform provisions shall become law in all of the compacting
12 states upon legislative enactment in a majority of the
13 compacting states.

14 (4) All rules and amendments shall become binding as of
15 the date specified in each rule or amendment; provided, that
16 if a compacting state expressly rejects such rule or amendment
17 through legislative enactment as of the expiration of the
18 second full calendar year after such rule is promulgated, such
19 rule or amendment shall have no further force or effect in the
20 rejecting compacting state. If a majority of compacting states
21 reject a rule, then such rule shall have no further force or
22 effect in any compacting state.

23 (5) When promulgating a rule or operating procedure, the
24 Commission shall:

25 (a) effect publication of the proposed rulemaking,
26 stating with particularity the text of the rule or

1 operating procedure which is proposed and the reason for
2 the proposed rule or operating procedure;

3 (b) allow persons to submit written data, facts,
4 opinions and arguments, which information the Commission
5 shall make publicly available;

6 (c) provide an opportunity for an informal hearing;
7 and

8 (d) promulgate a final rule or operating procedure and
9 its effective date, if appropriate, based on the
10 rulemaking record.

11 (6) Not later than 60 days after a rule or operating
12 procedure is promulgated, any interested person may file a
13 petition in a court of competent jurisdiction where the
14 Commission's principal office is located for judicial review
15 of such rule or operating procedure. If the court finds that
16 the Commission's action is not supported by substantial
17 evidence in the rulemaking record, the court shall hold the
18 rule unlawful and set it aside.

19 ARTICLE VIII. OVERSIGHT AND

20 DISPUTE RESOLUTION BY THE COMMISSION

21 Section A. Oversight.

22 (1) The Commission shall oversee the administration and
23 operations of receiverships in compacting states and shall
24 monitor receiverships being administered in non-compacting

1 states which may significantly affect compacting states.

2 (2) To aid its monitoring, oversight, and coordination
3 responsibilities, the Commission shall establish operating
4 procedures requiring each member to submit written reports to
5 the Commission as follows:

6 (a) An initial report to the Commission upon a finding
7 or other official action by the compacting state that
8 grounds exist for receivership of an insurer doing
9 business in more than one state. Thereafter, reports shall
10 be submitted periodically and as otherwise required
11 pursuant to the Commission's operating procedures. The
12 Commission shall be entitled to receive notice of, and
13 shall have standing to appear in, compacting states'
14 receiverships.

15 (b) An initial report of the status of an insurer
16 within a reasonable time after the initiation of a
17 receivership.

18 (3) The Commission shall promulgate operating procedures
19 requiring Receivers to submit to the Commission periodic
20 written reports and such additional information and
21 documentation as the Commission may reasonably request. Each
22 compacting state's Receivers shall establish the capability to
23 obtain and provide all such records, data, and information
24 required by the Commission in accordance with the Commission's
25 operating procedures.

26 (4) Except as to privileged records, data, and

1 information, the laws of any compacting state pertaining to
2 confidentiality or nondisclosure shall not relieve any
3 compacting state Commissioner of the responsibility to
4 disclose any relevant records, data, or information to the
5 Commission; provided, that disclosure to the Commission shall
6 not be deemed to waive or otherwise affect any confidentiality
7 requirement; and further provided, that the Commission shall
8 be subject to the compacting state's laws pertaining to
9 confidentiality and nondisclosure with respect to all such
10 records, data, and information in its possession.

11 (5) The courts and executive agencies in each compacting
12 state shall enforce this Compact and shall take all actions
13 necessary and appropriate to effectuate the Compact's purposes
14 and intent. In any receivership or other judicial or
15 administrative proceeding in a compacting state pertaining to
16 the subject matter of this Compact which may affect the
17 powers, responsibilities, or actions of the Commission, the
18 Commission shall be entitled to receive all service of process
19 in any such proceeding and shall have standing to intervene in
20 the receivership or proceeding for all purposes.

21 (6) The Commission shall analyze and correlate records,
22 data, information, and reports received from Receivers and
23 Guaranty Associations and shall make recommendations for
24 improving their performance to the compacting states. The
25 Commission shall include summary information and data
26 regarding its oversight functions in its annual report.

1 Section B. Dispute resolution.

2 (1) The Commission shall attempt, upon the request of a
3 member, to resolve any disputes or other issues which are
4 subject to this Compact and which may arise among compacting
5 states and non-compacting states.

6 (2) The compacting states shall report to the Commission
7 on issues or activities of concern to them and cooperate with
8 and support the Commission in the discharge of its duties and
9 responsibilities.

10 (3) The Commission shall promulgate an operating procedure
11 providing for binding dispute resolution for disputes among
12 Receivers.

13 (4) The Commission shall facilitate voluntary dispute
14 resolution for disputes among Guaranty Associations and
15 Receivers.

16 ARTICLE IX. RECEIVERSHIP FUNCTIONS OF THE COMMISSION

17 (1) The Commission has authority to act as Receiver of any
18 insurer domiciled, engaged in, or doing business in a
19 compacting state upon the request of the Commissioner of such
20 compacting state or as otherwise provided in this Compact.

21 (a) The Commission as Receiver shall have all powers
22 and duties pursuant to the receivership laws of the
23 domiciliary state.

24 (b) The Commission shall maintain accounts of receipts

1 and disbursements of the estates for which it is acting as
2 Receiver, consistent with the accounting practices and
3 procedures set forth in the by-laws.

4 (c) The Commission shall cause an annual audit of each
5 estate for which it is acting as Receiver, to be conducted
6 by an independent certified public accountant. The costs
7 and expenses of such audit shall be paid as administrative
8 expenses from the assets of the estate. The Commission
9 shall not cause an audit to be conducted of any estate that
10 lacks sufficient assets to conduct such audit.

11 (d) The Commission as Receiver is authorized to
12 delegate its receivership duties and functions and to
13 effectuate such delegation through contracts with others.

14 (2) The Commission shall act as Receiver of any insurer
15 domiciled or doing business in a compacting state in the event
16 that the member acting as Receiver in that compacting state
17 fails to comply with duly promulgated Commission rules or
18 operating procedures. The Commission shall notify such member
19 in writing of noncompliance with Commission rules or operating
20 procedures. If the member acting as Receiver fails to remedy
21 such noncompliance within 10 days after receipt of such
22 notification, the Commission may petition the supervising
23 court before which such receivership is pending for an order
24 substituting and appointing the Commission as Receiver of the
25 estate.

26 (3) The Commission shall not act as Receiver of an estate

1 which appears to lack sufficient assets to fund such
2 receivership unless the compacting state makes provisions for
3 the payment of the estate's administrative expenses
4 satisfactory to the Commission.

5 (4) The Commission may act as Deputy Receiver for any
6 insurer domiciled or doing business in a non-compacting state
7 in accordance with such state's laws upon request of that
8 non-compacting state's Commissioner and approval of the
9 Commission.

10 (5) With respect to receiverships pending in a compacting
11 state on the effective date of the enactment of this Compact by
12 the compacting state:

13 (a) the Commission may act as Receiver of an insurer
14 upon the request of that compacting state's member and
15 approval of the Commission; and

16 (b) the Commission shall oversee, monitor, and
17 coordinate the activities of all receiverships pending in
18 that compacting state regardless whether the Commission is
19 acting as Receiver of estates in such state.

20 ARTICLE X. FINANCE

21 (1) The Commission shall pay or provide for the payment of
22 the reasonable expenses of its establishment and organization.

23 (2) Except as otherwise provided in this Compact or by act
24 of the Commission, the costs and expenses of each compacting
25 state shall be the sole and exclusive responsibility of the

1 respective compacting state. The Commission may pay or provide
2 for actual and necessary costs and expenses for attendance of
3 its members at official meetings of the Commission or its
4 designated committees.

5 (3) The Commission shall levy on and collect an annual
6 assessment from each compacting state and each insurer
7 authorized to do business in a compacting state, and writing
8 direct insurance, to cover the cost of the internal operations
9 and activities of the Commission and its staff in a total
10 amount sufficient to cover the Commission's annual budget.

11 (a) The aggregate annual assessment amount shall be
12 allocated 75% to insurers, hereinafter referred to as the
13 "insurers' portion", and 25% to compacting states,
14 hereinafter referred to as the "compacting states'
15 portion". The insurer portion shall be allocated to each
16 insurer by the percentage derived from a fraction, the
17 numerator of which shall be the gross direct written
18 premium received on that insurer's business in all
19 compacting states and the denominator of which shall be
20 the gross direct written premium received by all insurers
21 on business in all compacting states. The compacting
22 states' portion shall be allocated to each compacting
23 state by the percentage derived from a fraction, the
24 numerator of which shall be the gross direct written
25 premium received by all insurers on business in that
26 compacting state and the denominator shall be the gross

1 direct written premium received on all insurers on
2 business in all compacting states. A compacting state's
3 portion shall be funded as designated by that state's
4 legislature. In no event shall an insurer's assessment be
5 less than \$50 or more than \$25,000; provided, that
6 affiliated insurers' combined assessments shall not exceed
7 \$50,000. Upon the request of an insurer, the Commission
8 may exempt or defer the assessment of any insurer if such
9 assessment would cause the insurer's financial impairment.

10 (b) These assessments shall not be used to pay any
11 costs or expenses incurred by the Commission and its staff
12 acting as Receiver of estates. Such costs and expenses
13 shall be paid as administrative expenses from the assets
14 of the estates as provided by law, except as otherwise
15 provided in this Compact.

16 (c) An insurer authorized to do business in a
17 compacting state shall timely pay assessments to the
18 Commission. Failure to pay such assessments shall not be
19 grounds for the revocation, suspension, or denial of an
20 insurer's authority to do business, but shall subject the
21 insurer to suit by the Commission for recovery of any
22 assessment due, attorneys' fees, and costs, together with
23 interest from the date the assessment is due at a rate of
24 10% per annum, and to civil forfeiture in an amount to be
25 determined by the Commissioner of that compacting state in
26 which the insurer received the greatest premium in the

1 year next preceding the first year for which the insurer
2 shall be delinquent in payment of assessments.

3 (4) The Commission shall be reimbursed in the following
4 manner for the costs and expenses incurred by the Commission
5 and its staff acting as Receiver of estates to the extent that
6 an insurer's assets may be insufficient for the effective
7 administration of its estate:

8 (a) if the insurer is domiciled in a compacting state,
9 the estate shall be closed unless that compacting state
10 makes provisions for reimbursing the Commission; and

11 (b) if the insurer is unauthorized to do business in a
12 compacting state or if the insurer is domiciled in a
13 non-compacting state and subject to ancillary
14 receivership, then the Commission and such state shall
15 make provisions for reimbursing the Commission prior to
16 the Commission becoming Receiver of such insurer.

17 (5) To fund the cost of the initial operations of the
18 Commission until its first annual budget is adopted and
19 related assessments have been made, contributions from
20 compacting states and others may be accepted and a one time
21 assessment on insurers doing a direct insurance business in
22 the compacting states may be made not to exceed \$450 per
23 insurer.

24 (6) The Commission's adopted budget for a fiscal year
25 shall not be approved until it has been subject to notice and
26 comment as set forth in Article VII of this Compact. The budget

1 shall determine the amount of the annual assessment. The
2 Commission may accumulate a net worth not to exceed 30% of its
3 then annual cost of operation to provide for contingencies and
4 events not contemplated. These accumulated funds shall be held
5 separately and shall not be used for any other purpose. The
6 Commission's budget may include a provision for a contribution
7 to the Commission's net worth.

8 (7) The Commission shall be exempt from all taxation in
9 and by the compacting states.

10 (8) The Commission shall not pledge the credit of any
11 compacting state, except by and with the appropriate legal
12 authority of that compacting state.

13 (9) The Commission shall keep complete and accurate
14 accounts of all its internal receipts (including grants and
15 donations) and disbursements of all funds, other than
16 receivership assets, under its control. The internal financial
17 accounts of the Commission shall be subject to the accounting
18 procedures established under its by-laws. The financial
19 accounts and reports including the system of internal controls
20 and procedures of the Commission shall be audited annually by
21 an independent certified public accountant. Upon the
22 determination of the Commission, but no less frequently than
23 every 3 years, the review of such independent auditor shall
24 include a management and performance audit of the Commission.
25 The report of such independent audit shall be made available
26 to the public and shall be included in and become part of the

1 annual report of the Commission to the Governors and
2 legislatures of the compacting states. The Commission's
3 internal accounts, any workpapers related to any internal
4 audit, and any workpapers related to the independent audit,
5 shall be confidential; provided, that such materials shall be
6 made available: (i) in compliance with the order of any court
7 of competent jurisdiction; (ii) pursuant to such reasonable
8 rules as the Commission shall promulgate; and (iii) to any
9 Commissioner, Governor of a compacting state, or their duly
10 authorized representatives.

11 (10) No compacting state shall have any claim to or
12 ownership of any property held by or vested in the Commission
13 or the Commission acting as Receiver or to any other
14 Commission funds held pursuant to the provisions of this
15 Compact.

16 ARTICLE XI. COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

17 (1) Any state is eligible to become a compacting state.

18 (2) The Compact shall become effective and binding upon
19 legislative enactment of the Compact into law by 2 compacting
20 states. Thereafter, it shall become effective and binding as
21 to any other compacting state upon enactment of the Compact
22 into law by that state.

23 (3) Amendments to the Compact may be proposed by the
24 Commission for enactment by the compacting states. No
25 amendment shall become effective and binding upon the

1 Commission and the compacting states unless and until it is
2 enacted into law by unanimous consent of the compacting
3 states.

4 ARTICLE XII. WITHDRAWAL, DEFAULT, AND TERMINATION

5 Section A. Withdrawal.

6 (1) Once effective, the Compact shall continue in force
7 and remain binding upon each and every compacting state;
8 provided, that a compacting state may withdraw from the
9 Compact ("withdrawing state") by enacting a statute
10 specifically repealing the statute which enacted the Compact
11 into law.

12 (2) The effective date of withdrawal is the effective date
13 of the repeal; provided, that the repeal shall not apply to any
14 receiverships, for which the Commission is acting as Receiver,
15 pending on the date of the repeal except by mutual agreement of
16 the Commission and the withdrawing state.

17 (3) The withdrawing state shall immediately notify the
18 Chairperson of the Commission in writing upon the introduction
19 of legislation repealing this Compact in the withdrawing
20 state.

21 (4) The Commission shall notify the other compacting
22 states of the withdrawing state's intent to withdraw within 60
23 days of its receipt thereof.

24 (5) The withdrawing state is responsible for all

1 assessments, obligations, and liabilities incurred through the
2 effective date of withdrawal, including any obligations, the
3 performance of which extend beyond the effective date of
4 withdrawal, except to the extent those obligations may have
5 been released or relinquished by mutual agreement of the
6 Commission and the withdrawing state. Notwithstanding the
7 foregoing, the withdrawing state is responsible for the costs
8 and expenses of its estates subject to this Compact pending on
9 the date of repeal; the Commission and the other estates
10 subject to this Compact shall not bear any costs and expenses
11 related to the withdrawing state's estates unless otherwise
12 mutually agreed upon between the Commission and the
13 withdrawing state.

14 (6) Reinstatement following withdrawal of any compacting
15 state shall occur upon the withdrawing state reenacting the
16 Compact or upon such later date as determined by the
17 Commission.

18 Section B. Default.

19 (1) If the Commission determines that any compacting state
20 has at any time defaulted ("defaulting state") in the
21 performance of any of its obligations or responsibilities
22 under this Compact, the by-laws, or duly promulgated rules,
23 all rights, privileges, and benefits conferred by this Compact
24 and any agreements entered into pursuant to this Compact shall
25 be suspended from the effective date of default as fixed by the

1 Commission. The grounds for default include, but are not
2 limited to, failure of a compacting state to perform such
3 obligations or responsibilities and any other grounds
4 designated in Commission rules. The Commission shall
5 immediately notify the defaulting state in writing of the
6 defaulting state's suspension pending a cure of the default.
7 The Commission shall stipulate the conditions and the time
8 period within which the defaulting state must cure its
9 default. If the defaulting state fails to cure the default
10 within the time period specified by the Commission, the
11 defaulting state shall be terminated from the Compact upon an
12 affirmative vote of a majority of the compacting states and
13 all rights, privileges, and benefits conferred by this Compact
14 shall be terminated from the effective date of termination.

15 (2) Within 60 days of the effective date of termination of
16 a defaulting state, the Commission shall notify the Governor
17 and the Majority and Minority Leaders of the defaulting
18 state's legislature of such termination.

19 (3) The termination of a defaulting state shall apply to
20 all receiverships, for which the Commission is acting as
21 Receiver, pending on the effective date of termination except
22 by mutual agreement of the Commission and the defaulting
23 state.

24 (4) The defaulting state is responsible for all
25 assessments, obligations, and liabilities incurred through the
26 effective date of termination and is responsible for the costs

1 and expenses relating to its estates subject to this Compact
2 pending on the date of the termination. The Commission and the
3 other estates subject to this Compact shall not bear any costs
4 or expenses relating the defaulting state's estates unless
5 otherwise mutually agreed upon between the Commission and the
6 defaulting state.

7 (5) Reinstatement following termination of any compacting
8 state requires both a reenactment of the Compact by the
9 defaulting state and the approval of the Commission pursuant
10 to the rules.

11 Section C. Dissolution of Compact.

12 (1) The Compact dissolves effective upon the date of the
13 withdrawal or the termination by default of the compacting
14 state which reduces membership in the Compact to one
15 compacting state.

16 (2) Upon the dissolution of this Compact, the Compact
17 becomes null and void and shall be of no further force or
18 effect, and the business and affairs of the Commission shall
19 be wound up and any surplus funds shall be distributed in
20 accordance with the by-laws.

21 ARTICLE XIII. SEVERABILITY AND CONSTRUCTION

22 (1) The provisions of this Compact shall be severable, and
23 if any phrase, clause, sentence, or provision is deemed
24 unenforceable, the remaining provisions of the Compact shall

1 be enforceable.

2 (2) The provisions of this Compact shall be liberally
3 construed to effectuate its purposes.

4 ARTICLE XIV. BINDING EFFECT OF COMPACT AND OTHER LAWS

5 Section A. Other laws.

6 (1) Nothing herein prevents the enforcement of any other
7 law of a compacting state that is not inconsistent with this
8 Compact.

9 (2) All compacting states' laws conflicting with this
10 Compact are superseded to the extent of the conflict.

11 Section B. Binding effect of this Compact.

12 (1) All lawful actions of the Commission, including all
13 rules and operating procedures promulgated by the Commission,
14 are binding upon the compacting states.

15 (2) All agreements between the Commission and the
16 compacting states are binding in accordance with their terms.

17 (3) Upon the request of a party to a conflict over meaning
18 or interpretation of Commission actions, and upon a majority
19 vote of the compacting states, the Commission may issue
20 advisory opinions regarding such meaning or interpretation.

21 (4) In the event any provision of this Compact exceeds the
22 constitutional limits imposed on the legislature of any
23 compacting state, the obligations, duties, powers, or

1 jurisdiction sought to be conferred by such provision upon the
2 Commission shall be ineffective and such obligations, duties,
3 powers or jurisdiction shall remain in the compacting state
4 and shall be exercised by the agency thereof to which such
5 obligations, duties, powers, or jurisdiction are delegated by
6 law in effect at the time this Compact becomes effective.

7 (Source: P.A. 95-331, eff. 8-21-07.)

8 Section 35. The Interstate Insurance Product Regulation
9 Compact is amended by changing Section 10 as follows:

10 (45 ILCS 162/10)

11 Sec. 10. Ratification. The State of Illinois ratifies,
12 approves, and adopts the following interstate compact:

13 Article I. PURPOSES

14 The purposes of this Compact are, through means of joint
15 and cooperative action among the Compacting States:

16 1. To promote and protect the interest of consumers of
17 individual and group annuity, life insurance, disability
18 income and long-term care insurance products;

19 2. To develop uniform standards for insurance products
20 covered under the Compact;

21 3. To establish a central clearinghouse to receive and
22 provide prompt review of insurance products covered under
23 the Compact and, in certain cases, advertisements related

1 thereto, submitted by insurers authorized to do business
2 in one or more Compacting States;

3 4. To give appropriate regulatory approval to those
4 product filings and advertisements satisfying the
5 applicable uniform standard;

6 5. To improve coordination of regulatory resources and
7 expertise between state insurance departments regarding
8 the setting of uniform standards and review of insurance
9 products covered under the Compact;

10 6. To create the Interstate Insurance Product
11 Regulation Commission; and

12 7. To perform these and such other related functions
13 as may be consistent with the state regulation of the
14 business of insurance.

15 Article II. DEFINITIONS

16 For purposes of this Compact:

17 1. "Advertisement" means any material designed to
18 create public interest in a Product, or induce the public
19 to purchase, increase, modify, reinstate, borrow on,
20 surrender, replace or retain a policy, as more
21 specifically defined in the Rules and Operating Procedures
22 of the Commission.

23 2. "Bylaws" mean those bylaws established by the
24 Commission for its governance, or for directing or
25 controlling the Commission's actions or conduct.

1 3. "Compacting State" means any State which has
2 enacted this Compact legislation and which has not
3 withdrawn pursuant to Article XIV, Section 1, or been
4 terminated pursuant to Article XIV, Section 2.

5 4. "Commission" means the "Interstate Insurance
6 Product Regulation Commission" established by this
7 Compact.

8 5. "Commissioner" means the chief insurance regulatory
9 official of a State including, but not limited to
10 commissioner, superintendent, director or administrator.

11 6. "Domiciliary State" means the state in which an
12 Insurer is incorporated or organized; or, in the case of a
13 non-domestic ~~an alien~~ Insurer, its state of entry.

14 7. "Insurer" means any entity licensed by a State to
15 issue contracts of insurance for any of the lines of
16 insurance covered by this Act.

17 8. "Member" means the person chosen by a Compacting
18 State as its representative to the Commission, or his or
19 her designee.

20 9. "Non-compacting State" means any State which is not
21 at the time a Compacting State.

22 10. "Operating Procedures" mean procedures promulgated
23 by the Commission implementing a Rule, Uniform Standard or
24 a provision of this Compact.

25 11. "Product" means the form of a policy or contract,
26 including any application, endorsement, or related form

1 which is attached to and made a part of the policy or
2 contract, and any evidence of coverage or certificate, for
3 an individual or group annuity, life insurance, disability
4 income or long-term care insurance product that an Insurer
5 is authorized to issue.

6 12. "Rule" means a statement of general or particular
7 applicability and future effect promulgated by the
8 Commission, including a Uniform Standard developed
9 pursuant to Article VII of this Compact, designed to
10 implement, interpret, or prescribe law or policy or
11 describing the organization, procedure, or practice
12 requirements of the Commission, which shall have the force
13 and effect of law in the Compacting States.

14 13. "State" means any state, district or territory of
15 the United States of America.

16 14. "Third-Party Filer" means an entity that submits a
17 Product filing to the Commission on behalf of an Insurer.

18 15. "Uniform Standard" means a standard adopted by the
19 Commission for a Product line, pursuant to Article VII of
20 this Compact, and shall include all of the Product
21 requirements in aggregate; provided, that each Uniform
22 Standard shall be construed, whether express or implied,
23 to prohibit the use of any inconsistent, misleading or
24 ambiguous provisions in a Product and the form of the
25 Product made available to the public shall not be unfair,
26 inequitable or against public policy as determined by the

1 Commission.

2 Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE

3 1. The Compacting States hereby create and establish a
4 joint public agency known as the "Interstate Insurance Product
5 Regulation Commission." Pursuant to Article IV, the Commission
6 will have the power to develop Uniform Standards for Product
7 lines, receive and provide prompt review of Products filed
8 therewith, and give approval to those Product filings
9 satisfying applicable Uniform Standards; provided, it is not
10 intended for the Commission to be the exclusive entity for
11 receipt and review of insurance product filings. Nothing
12 herein shall prohibit any Insurer from filing its product in
13 any State wherein the Insurer is licensed to conduct the
14 business of insurance; and any such filing shall be subject to
15 the laws of the State where filed.

16 2. The Commission is a body corporate and politic, and an
17 instrumentality of the Compacting States.

18 3. The Commission is solely responsible for its
19 liabilities except as otherwise specifically provided in this
20 Compact.

21 4. Venue is proper and judicial proceedings by or against
22 the Commission shall be brought solely and exclusively in a
23 Court of competent jurisdiction where the principal office of
24 the Commission is located.

1 Article IV. POWERS OF THE COMMISSION

2 The Commission shall have the following powers:

3 1. To promulgate Rules, pursuant to Article VII of
4 this Compact, which shall have the force and effect of law
5 and shall be binding in the Compacting States to the
6 extent and in the manner provided in this Compact;

7 2. To exercise its rule-making authority and establish
8 reasonable Uniform Standards for Products covered under
9 the Compact, and Advertisement related thereto, which
10 shall have the force and effect of law and shall be binding
11 in the Compacting States, but only for those Products
12 filed with the Commission, provided, that a Compacting
13 State shall have the right to opt out of such Uniform
14 Standard pursuant to Article VII, to the extent and in the
15 manner provided in this Compact, and, provided further,
16 that any Uniform Standard established by the Commission
17 for long-term care insurance products may provide the same
18 or greater protections for consumers as, but shall not
19 provide less than, those protections set forth in the
20 National Association of Insurance Commissioners' Long-Term
21 Care Insurance Model Act and Long-Term Care Insurance
22 Model Regulation, respectively, adopted as of 2001. The
23 Commission shall consider whether any subsequent
24 amendments to the NAIC Long-Term Care Insurance Model Act
25 or Long-Term Care Insurance Model Regulation adopted by
26 the NAIC require amending of the Uniform Standards

1 established by the Commission for long-term care insurance
2 products;

3 3. To receive and review in an expeditious manner
4 Products filed with the Commission, and rate filings for
5 disability income and long-term care insurance Products,
6 and give approval of those Products and rate filings that
7 satisfy the applicable Uniform Standard, where such
8 approval shall have the force and effect of law and be
9 binding on the Compacting States to the extent and in the
10 manner provided in the Compact;

11 4. To receive and review in an expeditious manner
12 Advertisement relating to long-term care insurance
13 products for which Uniform Standards have been adopted by
14 the Commission, and give approval to all Advertisement
15 that satisfies the applicable Uniform Standard. For any
16 product covered under this Compact, other than long-term
17 care insurance products, the Commission shall have the
18 authority to require an insurer to submit all or any part
19 of its Advertisement with respect to that product for
20 review or approval prior to use, if the Commission
21 determines that the nature of the product is such that an
22 Advertisement of the product could have the capacity or
23 tendency to mislead the public. The actions of Commission
24 as provided in this section shall have the force and
25 effect of law and shall be binding in the Compacting
26 States to the extent and in the manner provided in the

1 Compact;

2 5. To exercise its rule-making authority and designate
3 Products and Advertisement that may be subject to a
4 self-certification process without the need for prior
5 approval by the Commission.

6 6. To promulgate Operating Procedures, pursuant to
7 Article VII of this Compact, which shall be binding in the
8 Compacting States to the extent and in the manner provided
9 in this Compact;

10 7. To bring and prosecute legal proceedings or actions
11 in its name as the Commission; provided, that the standing
12 of any state insurance department to sue or be sued under
13 applicable law shall not be affected;

14 8. To issue subpoenas requiring the attendance and
15 testimony of witnesses and the production of evidence;

16 9. To establish and maintain offices;

17 10. To purchase and maintain insurance and bonds;

18 11. To borrow, accept or contract for services of
19 personnel, including, but not limited to, employees of a
20 Compacting State;

21 12. To hire employees, professionals or specialists,
22 and elect or appoint officers, and to fix their
23 compensation, define their duties and give them
24 appropriate authority to carry out the purposes of the
25 Compact, and determine their qualifications; and to
26 establish the Commission's personnel policies and programs

1 relating to, among other things, conflicts of interest,
2 rates of compensation and qualifications of personnel;

3 13. To accept any and all appropriate donations and
4 grants of money, equipment, supplies, materials and
5 services, and to receive, utilize and dispose of the same;
6 provided that at all times the Commission shall strive to
7 avoid any appearance of impropriety;

8 14. To lease, purchase, accept appropriate gifts or
9 donations of, or otherwise to own, hold, improve or use,
10 any property, real, personal or mixed; provided that at
11 all times the Commission shall strive to avoid any
12 appearance of impropriety;

13 15. To sell, convey, mortgage, pledge, lease,
14 exchange, abandon or otherwise dispose of any property,
15 real, personal or mixed;

16 16. To remit filing fees to Compacting States as may
17 be set forth in the Bylaws, Rules or Operating Procedures;

18 17. To enforce compliance by Compacting States with
19 Rules, Uniform Standards, Operating Procedures and Bylaws;

20 18. To provide for dispute resolution among Compacting
21 States;

22 19. To advise Compacting States on issues relating to
23 Insurers domiciled or doing business in Non-compacting
24 jurisdictions, consistent with the purposes of this
25 Compact;

26 20. To provide advice and training to those personnel

1 in state insurance departments responsible for product
2 review, and to be a resource for state insurance
3 departments;

4 21. To establish a budget and make expenditures;

5 22. To borrow money;

6 23. To appoint committees, including advisory
7 committees comprising Members, state insurance regulators,
8 state legislators or their representatives, insurance
9 industry and consumer representatives, and such other
10 interested persons as may be designated in the Bylaws;

11 24. To provide and receive information from, and to
12 cooperate with law enforcement agencies;

13 25. To adopt and use a corporate seal; and

14 26. To perform such other functions as may be
15 necessary or appropriate to achieve the purposes of this
16 Compact consistent with the state regulation of the
17 business of insurance.

18 Article V. ORGANIZATION OF THE COMMISSION

19 1. Membership, Voting and Bylaws.

20 a. Each Compacting State shall have and be limited to one
21 Member. Each Member shall be qualified to serve in that
22 capacity pursuant to applicable law of the Compacting State.
23 Any Member may be removed or suspended from office as provided
24 by the law of the State from which he or she shall be
25 appointed. Any vacancy occurring in the Commission shall be

1 filled in accordance with the laws of the Compacting State
2 wherein the vacancy exists. Nothing herein shall be construed
3 to affect the manner in which a Compacting State determines
4 the election or appointment and qualification of its own
5 Commissioner.

6 b. Each Member shall be entitled to one vote and shall have
7 an opportunity to participate in the governance of the
8 Commission in accordance with the Bylaws. Notwithstanding any
9 provision herein to the contrary, no action of the Commission
10 with respect to the promulgation of a Uniform Standard shall
11 be effective unless two-thirds (2/3) of the Members vote in
12 favor thereof.

13 c. The Commission shall, by a majority of the Members,
14 prescribe Bylaws to govern its conduct as may be necessary or
15 appropriate to carry out the purposes, and exercise the
16 powers, of the Compact, including, but not limited to:

17 i. establishing the fiscal year of the Commission;

18 ii. providing reasonable procedures for appointing
19 and electing members, as well as holding meetings, of
20 the Management Committee;

21 iii. providing reasonable standards and
22 procedures: (i) for the establishment and meetings of
23 other committees, and (ii) governing any general or
24 specific delegation of any authority or function of
25 the Commission;

26 iv. providing reasonable procedures for calling

1 and conducting meetings of the Commission that
2 consists of a majority of Commission members, ensuring
3 reasonable advance notice of each such meeting, and
4 providing for the right of citizens to attend each
5 such meeting with enumerated exceptions designed to
6 protect the public's interest, the privacy of
7 individuals, and insurers' proprietary information,
8 including trade secrets. The Commission may meet in
9 camera only after a majority of the entire membership
10 votes to close a meeting en toto or in part. As soon as
11 practicable, the Commission must make public (i) a
12 copy of the vote to close the meeting revealing the
13 vote of each Member with no proxy votes allowed, and
14 (ii) votes taken during such meeting;

15 v. establishing the titles, duties and authority
16 and reasonable procedures for the election of the
17 officers of the Commission;

18 vi. providing reasonable standards and procedures
19 for the establishment of the personnel policies and
20 programs of the Commission. Notwithstanding any civil
21 service or other similar laws of any Compacting State,
22 the Bylaws shall exclusively govern the personnel
23 policies and programs of the Commission;

24 vii. promulgating a code of ethics to address
25 permissible and prohibited activities of commission
26 members and employees; and

1 viii. providing a mechanism for winding up the
2 operations of the Commission and the equitable
3 disposition of any surplus funds that may exist after
4 the termination of the Compact after the payment
5 and/or reserving of all of its debts and obligations.

6 d. The Commission shall publish its bylaws in a convenient
7 form and file a copy thereof and a copy of any amendment
8 thereto, with the appropriate agency or officer in each of the
9 Compacting States.

10 2. Management Committee, Officers and Personnel.

11 a. A Management Committee comprising no more than fourteen
12 (14) members shall be established as follows:

13 (i) One (1) member from each of the six (6)
14 Compacting States with the largest premium volume for
15 individual and group annuities, life, disability
16 income and long-term care insurance products,
17 determined from the records of the NAIC for the prior
18 year;

19 (ii) Four (4) members from those Compacting States
20 with at least two percent (2%) of the market based on
21 the premium volume described above, other than the six
22 (6) Compacting States with the largest premium volume,
23 selected on a rotating basis as provided in the
24 Bylaws, and;

25 (iii) Four (4) members from those Compacting
26 States with less than two percent (2%) of the market,

1 based on the premium volume described above, with one
2 (1) selected from each of the four (4) zone regions of
3 the NAIC as provided in the Bylaws.

4 b. The Management Committee shall have such authority and
5 duties as may be set forth in the Bylaws, including but not
6 limited to:

7 i. managing the affairs of the Commission in a
8 manner consistent with the Bylaws and purposes of the
9 Commission;

10 ii. establishing and overseeing an organizational
11 structure within, and appropriate procedures for, the
12 Commission to provide for the creation of Uniform
13 Standards and other Rules, receipt and review of
14 product filings, administrative and technical support
15 functions, review of decisions regarding the
16 disapproval of a product filing, and the review of
17 elections made by a Compacting State to opt out of a
18 Uniform Standard; provided that a Uniform Standard
19 shall not be submitted to the Compacting States for
20 adoption unless approved by two-thirds (2/3) of the
21 members of the Management Committee;

22 iii. overseeing the offices of the Commission; and

23 iv. planning, implementing, and coordinating
24 communications and activities with other state,
25 federal and local government organizations in order to
26 advance the goals of the Commission.

1 c. The Commission shall elect annually officers from the
2 Management Committee, with each having such authority and
3 duties, as may be specified in the Bylaws.

4 d. The Management Committee may, subject to the approval
5 of the Commission, appoint or retain an executive director for
6 such period, upon such terms and conditions and for such
7 compensation as the Commission may deem appropriate. The
8 executive director shall serve as secretary to the Commission,
9 but shall not be a Member of the Commission. The executive
10 director shall hire and supervise such other staff as may be
11 authorized by the Commission.

12 3. Legislative and Advisory Committees.

13 a. A legislative committee comprising state legislators or
14 their designees shall be established to monitor the operations
15 of, and make recommendations to, the Commission, including the
16 Management Committee; provided that the manner of selection
17 and term of any legislative committee member shall be as set
18 forth in the Bylaws. Prior to the adoption by the Commission of
19 any Uniform Standard, revision to the Bylaws, annual budget or
20 other significant matter as may be provided in the Bylaws, the
21 Management Committee shall consult with and report to the
22 legislative committee.

23 b. The Commission shall establish two (2) advisory
24 committees, one of which shall comprise consumer
25 representatives independent of the insurance industry, and the
26 other comprising insurance industry representatives.

1 c. The Commission may establish additional advisory
2 committees as its Bylaws may provide for the carrying out of
3 its functions.

4 4. Corporate Records of the Commission. The Commission
5 shall maintain its corporate books and records in accordance
6 with the Bylaws.

7 5. Qualified Immunity, Defense and Indemnification.

8 a. The Members, officers, executive director, employees
9 and representatives of the Commission shall be immune from
10 suit and liability, either personally or in their official
11 capacity, for any claim for damage to or loss of property or
12 personal injury or other civil liability caused by or arising
13 out of any actual or alleged act, error or omission that
14 occurred, or that the person against whom the claim is made had
15 a reasonable basis for believing occurred within the scope of
16 Commission employment, duties or responsibilities; provided,
17 that nothing in this paragraph shall be construed to protect
18 any such person from suit and/or liability for any damage,
19 loss, injury or liability caused by the intentional or willful
20 and wanton misconduct of that person.

21 b. The Commission shall defend any Member, officer,
22 executive director, employee or representative of the
23 Commission in any civil action seeking to impose liability
24 arising out of any actual or alleged act, error or omission
25 that occurred within the scope of Commission employment,
26 duties or responsibilities, or that the person against whom

1 the claim is made had a reasonable basis for believing
2 occurred within the scope of Commission employment, duties or
3 responsibilities; provided, that nothing herein shall be
4 construed to prohibit that person from retaining his or her
5 own counsel; and provided further, that the actual or alleged
6 act, error or omission did not result from that person's
7 intentional or willful and wanton misconduct.

8 c. The Commission shall indemnify and hold harmless any
9 Member, officer, executive director, employee or
10 representative of the Commission for the amount of any
11 settlement or judgment obtained against that person arising
12 out of any actual or alleged act, error or omission that
13 occurred within the scope of Commission employment, duties or
14 responsibilities, or that such person had a reasonable basis
15 for believing occurred within the scope of Commission
16 employment, duties or responsibilities, provided, that the
17 actual or alleged act, error or omission did not result from
18 the intentional or willful and wanton misconduct of that
19 person.

20 Article VI. MEETINGS AND ACTS OF THE COMMISSION

21 1. The Commission shall meet and take such actions as are
22 consistent with the provisions of this Compact and the Bylaws.

23 2. Each Member of the Commission shall have the right and
24 power to cast a vote to which that Compacting State is entitled
25 and to participate in the business and affairs of the

1 Commission. A Member shall vote in person or by such other
2 means as provided in the Bylaws. The Bylaws may provide for
3 Members' participation in meetings by telephone or other means
4 of communication.

5 3. The Commission shall meet at least once during each
6 calendar year. Additional meetings shall be held as set forth
7 in the Bylaws.

8 Article VII. RULES & OPERATING PROCEDURES: RULEMAKING
9 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM
10 STANDARDS

11 1. Rulemaking Authority. The Commission shall promulgate
12 reasonable Rules, including Uniform Standards, and Operating
13 Procedures in order to effectively and efficiently achieve the
14 purposes of this Compact. Notwithstanding the foregoing, in
15 the event the Commission exercises its rulemaking authority in
16 a manner that is beyond the scope of the purposes of this Act,
17 or the powers granted hereunder, then such an action by the
18 Commission shall be invalid and have no force and effect.

19 2. Rulemaking Procedure. Rules and Operating Procedures
20 shall be made pursuant to a rulemaking process that conforms
21 to the Model State Administrative Procedure Act of 1981 as
22 amended, as may be appropriate to the operations of the
23 Commission. Before the Commission adopts a Uniform Standard,
24 the Commission shall give written notice to the relevant state
25 legislative committee(s) in each Compacting State responsible

1 for insurance issues of its intention to adopt the Uniform
2 Standard. The Commission in adopting a Uniform Standard shall
3 consider fully all submitted materials and issue a concise
4 explanation of its decision.

5 3. Effective Date and Opt Out of a Uniform Standard. A
6 Uniform Standard shall become effective ninety (90) days after
7 its promulgation by the Commission or such later date as the
8 Commission may determine; provided, however, that a Compacting
9 State may opt out of a Uniform Standard as provided in this
10 Article. "Opt out" shall be defined as any action by a
11 Compacting State to decline to adopt or participate in a
12 promulgated Uniform Standard. All other Rules and Operating
13 Procedures, and amendments thereto, shall become effective as
14 of the date specified in each Rule, Operating Procedure or
15 amendment.

16 4. Opt Out Procedure. A Compacting State may opt out of a
17 Uniform Standard, either by legislation or regulation duly
18 promulgated by the Insurance Department under the Compacting
19 State's Administrative Procedure Act. If a Compacting State
20 elects to opt out of a Uniform Standard by regulation, it must
21 (a) give written notice to the Commission no later than ten
22 (10) business days after the Uniform Standard is promulgated,
23 or at the time the State becomes a Compacting State and (b)
24 find that the Uniform Standard does not provide reasonable
25 protections to the citizens of the State, given the conditions
26 in the State. The Commissioner shall make specific findings of

1 fact and conclusions of law, based on a preponderance of the
2 evidence, detailing the conditions in the State which warrant
3 a departure from the Uniform Standard and determining that the
4 Uniform Standard would not reasonably protect the citizens of
5 the State. The Commissioner must consider and balance the
6 following factors and find that the conditions in the State
7 and needs of the citizens of the State outweigh: (i) the intent
8 of the legislature to participate in, and the benefits of, an
9 interstate agreement to establish national uniform consumer
10 protections for the Products subject to this Act; and (ii) the
11 presumption that a Uniform Standard adopted by the Commission
12 provides reasonable protections to consumers of the relevant
13 Product.

14 Notwithstanding the foregoing, a Compacting State may, at
15 the time of its enactment of this Compact, prospectively opt
16 out of all Uniform Standards involving long-term care
17 insurance products by expressly providing for such opt out in
18 the enacted Compact, and such an opt out shall not be treated
19 as a material variance in the offer or acceptance of any State
20 to participate in this Compact. Such an opt out shall be
21 effective at the time of enactment of this Compact by the
22 Compacting State and shall apply to all existing Uniform
23 Standards involving long-term care insurance products and
24 those subsequently promulgated.

25 5. Effect of Opt Out. If a Compacting State elects to opt
26 out of a Uniform Standard, the Uniform Standard shall remain

1 applicable in the Compacting State electing to opt out until
2 such time the opt out legislation is enacted into law or the
3 regulation opting out becomes effective.

4 Once the opt out of a Uniform Standard by a Compacting
5 State becomes effective as provided under the laws of that
6 State, the Uniform Standard shall have no further force and
7 effect in that State unless and until the legislation or
8 regulation implementing the opt out is repealed or otherwise
9 becomes ineffective under the laws of the State. If a
10 Compacting State opts out of a Uniform Standard after the
11 Uniform Standard has been made effective in that State, the
12 opt out shall have the same prospective effect as provided
13 under Article XIV for withdrawals.

14 6. Stay of Uniform Standard. If a Compacting State has
15 formally initiated the process of opting out of a Uniform
16 Standard by regulation, and while the regulatory opt out is
17 pending, the Compacting State may petition the Commission, at
18 least fifteen (15) days before the effective date of the
19 Uniform Standard, to stay the effectiveness of the Uniform
20 Standard in that State. The Commission may grant a stay if it
21 determines the regulatory opt out is being pursued in a
22 reasonable manner and there is a likelihood of success. If a
23 stay is granted or extended by the Commission, the stay or
24 extension thereof may postpone the effective date by up to
25 ninety (90) days, unless affirmatively extended by the
26 Commission; provided, a stay may not be permitted to remain in

1 effect for more than one (1) year unless the Compacting State
2 can show extraordinary circumstances which warrant a
3 continuance of the stay, including, but not limited to, the
4 existence of a legal challenge which prevents the Compacting
5 State from opting out. A stay may be terminated by the
6 Commission upon notice that the rulemaking process has been
7 terminated.

8 7. Not later than thirty (30) days after a Rule or
9 Operating Procedure is promulgated, any person may file a
10 petition for judicial review of the Rule or Operating
11 Procedure; provided, that the filing of such a petition shall
12 not stay or otherwise prevent the Rule or Operating Procedure
13 from becoming effective unless the court finds that the
14 petitioner has a substantial likelihood of success. The court
15 shall give deference to the actions of the Commission
16 consistent with applicable law and shall not find the Rule or
17 Operating Procedure to be unlawful if the Rule or Operating
18 Procedure represents a reasonable exercise of the Commission's
19 authority.

20 Article VIII. COMMISSION RECORDS AND ENFORCEMENT

21 1. The Commission shall promulgate Rules establishing
22 conditions and procedures for public inspection and copying of
23 its information and official records, except such information
24 and records involving the privacy of individuals and insurers'
25 trade secrets. The Commission may promulgate additional Rules

1 under which it may make available to federal and state
2 agencies, including law enforcement agencies, records and
3 information otherwise exempt from disclosure, and may enter
4 into agreements with such agencies to receive or exchange
5 information or records subject to nondisclosure and
6 confidentiality provisions.

7 2. Except as to privileged records, data and information,
8 the laws of any Compacting State pertaining to confidentiality
9 or nondisclosure shall not relieve any Compacting State
10 Commissioner of the duty to disclose any relevant records,
11 data or information to the Commission; provided, that
12 disclosure to the Commission shall not be deemed to waive or
13 otherwise affect any confidentiality requirement; and further
14 provided, that, except as otherwise expressly provided in this
15 Act, the Commission shall not be subject to the Compacting
16 State's laws pertaining to confidentiality and nondisclosure
17 with respect to records, data and information in its
18 possession. Confidential information of the Commission shall
19 remain confidential after such information is provided to any
20 Commissioner.

21 3. The Commission shall monitor Compacting States for
22 compliance with duly adopted Bylaws, Rules, including Uniform
23 Standards, and Operating Procedures. The Commission shall
24 notify any non-complying Compacting State in writing of its
25 noncompliance with Commission Bylaws, Rules or Operating
26 Procedures. If a non-complying Compacting State fails to

1 remedy its noncompliance within the time specified in the
2 notice of noncompliance, the Compacting State shall be deemed
3 to be in default as set forth in Article XIV.

4 4. The Commissioner of any State in which an Insurer is
5 authorized to do business, or is conducting the business of
6 insurance, shall continue to exercise his or her authority to
7 oversee the market regulation of the activities of the Insurer
8 in accordance with the provisions of the State's law. The
9 Commissioner's enforcement of compliance with the Compact is
10 governed by the following provisions:

11 a. With respect to the Commissioner's market regulation of
12 a Product or Advertisement that is approved or certified to
13 the Commission, the content of the Product or Advertisement
14 shall not constitute a violation of the provisions, standards
15 or requirements of the Compact except upon a final order of the
16 Commission, issued at the request of a Commissioner after
17 prior notice to the Insurer and an opportunity for hearing
18 before the Commission.

19 b. Before a Commissioner may bring an action for violation
20 of any provision, standard or requirement of the Compact
21 relating to the content of an Advertisement not approved or
22 certified to the Commission, the Commission, or an authorized
23 Commission officer or employee, must authorize the action.
24 However, authorization pursuant to this Paragraph does not
25 require notice to the Insurer, opportunity for hearing or
26 disclosure of requests for authorization or records of the

1 Commission's action on such requests.

2 Article IX. DISPUTE RESOLUTION

3 The Commission shall attempt, upon the request of a
4 Member, to resolve any disputes or other issues that are
5 subject to this Compact and which may arise between two or more
6 Compacting States, or between Compacting States and
7 Non-compacting States, and the Commission shall promulgate an
8 Operating Procedure providing for resolution of such disputes.

9 Article X. PRODUCT FILING AND APPROVAL

10 1. Insurers and Third-Party Filers seeking to have a
11 Product approved by the Commission shall file the Product
12 with, and pay applicable filing fees to, the Commission.
13 Nothing in this Act shall be construed to restrict or
14 otherwise prevent an insurer from filing its Product with the
15 insurance department in any State wherein the insurer is
16 licensed to conduct the business of insurance, and such filing
17 shall be subject to the laws of the States where filed.

18 2. The Commission shall establish appropriate filing and
19 review processes and procedures pursuant to Commission Rules
20 and Operating Procedures. Notwithstanding any provision herein
21 to the contrary, the Commission shall promulgate Rules to
22 establish conditions and procedures under which the Commission
23 will provide public access to Product filing information. In
24 establishing such Rules, the Commission shall consider the

1 interests of the public in having access to such information,
2 as well as protection of personal medical and financial
3 information and trade secrets, that may be contained in a
4 Product filing or supporting information.

5 3. Any Product approved by the Commission may be sold or
6 otherwise issued in those Compacting States for which the
7 Insurer is legally authorized to do business.

8 Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

9 1. Not later than thirty (30) days after the Commission
10 has given notice of a disapproved Product or Advertisement
11 filed with the Commission, the Insurer or Third Party Filer
12 whose filing was disapproved may appeal the determination to a
13 review panel appointed by the Commission. The Commission shall
14 promulgate Rules to establish procedures for appointing such
15 review panels and provide for notice and hearing. An
16 allegation that the Commission, in disapproving a Product or
17 Advertisement filed with the Commission, acted arbitrarily,
18 capriciously, or in a manner that is an abuse of discretion or
19 otherwise not in accordance with the law, is subject to
20 judicial review in accordance with Article III, section 5.

21 2. The Commission shall have authority to monitor, review
22 and reconsider Products and Advertisement subsequent to their
23 filing or approval upon a finding that the product does not
24 meet the relevant Uniform Standard. Where appropriate, the
25 Commission may withdraw or modify its approval after proper

1 notice and hearing, subject to the appeal process in section 1
2 above.

3 Article XII. FINANCE

4 1. The Commission shall pay or provide for the payment of
5 the reasonable expenses of its establishment and organization.
6 To fund the cost of its initial operations, the Commission may
7 accept contributions and other forms of funding from the
8 National Association of Insurance Commissioners, Compacting
9 States and other sources. Contributions and other forms of
10 funding from other sources shall be of such a nature that the
11 independence of the Commission concerning the performance of
12 its duties shall not be compromised.

13 2. The Commission shall collect a filing fee from each
14 Insurer and Third Party Filer filing a product with the
15 Commission to cover the cost of the operations and activities
16 of the Commission and its staff in a total amount sufficient to
17 cover the Commission's annual budget.

18 3. The Commission's budget for a fiscal year shall not be
19 approved until it has been subject to notice and comment as set
20 forth in Article VII of this Compact.

21 4. The Commission shall be exempt from all taxation in and
22 by the Compacting States.

23 5. The Commission shall not pledge the credit of any
24 Compacting State, except by and with the appropriate legal
25 authority of that Compacting State.

1 6. The Commission shall keep complete and accurate
2 accounts of all its internal receipts, including grants and
3 donations, and disbursements of all funds under its control.
4 The internal financial accounts of the Commission shall be
5 subject to the accounting procedures established under its
6 Bylaws. The financial accounts and reports including the
7 system of internal controls and procedures of the Commission
8 shall be audited annually by an independent certified public
9 accountant. Upon the determination of the Commission, but no
10 less frequently than every three (3) years, the review of the
11 independent auditor shall include a management and performance
12 audit of the Commission. The Commission shall make an Annual
13 Report to the Governor and legislature of the Compacting
14 States, which shall include a report of the independent audit.
15 The Commission's internal accounts shall not be confidential
16 and such materials may be shared with the Commissioner of any
17 Compacting State upon request, provided, however, that any
18 work papers related to any internal or independent audit and
19 any information regarding the privacy of individuals and
20 insurers' proprietary information, including trade secrets,
21 shall remain confidential.

22 7. No Compacting State shall have any claim to or
23 ownership of any property held by or vested in the Commission
24 or to any Commission funds held pursuant to the provisions of
25 this Compact.

1 Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

2 1. Any State is eligible to become a Compacting State.

3 2. The Compact shall become effective and binding upon
4 legislative enactment of the Compact into law by two
5 Compacting States; provided, the Commission shall become
6 effective for purposes of adopting Uniform Standards for,
7 reviewing, and giving approval or disapproval of, Products
8 filed with the Commission that satisfy applicable Uniform
9 Standards only after twenty-six (26) States are Compacting
10 States or, alternatively, by States representing greater than
11 forty percent (40%) of the premium volume for life insurance,
12 annuity, disability income and long-term care insurance
13 products, based on records of the NAIC for the prior year.
14 Thereafter, it shall become effective and binding as to any
15 other Compacting State upon enactment of the Compact into law
16 by that State.

17 3. Amendments to the Compact may be proposed by the
18 Commission for enactment by the Compacting States. No
19 amendment shall become effective and binding upon the
20 Commission and the Compacting States unless and until all
21 Compacting States enact the amendment into law.

22 Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION

23 1. Withdrawal.

24 a. Once effective, the Compact shall continue in force and
25 remain binding upon each and every Compacting State; provided,

1 that a Compacting State may withdraw from the Compact
2 ("Withdrawing State") by enacting a statute specifically
3 repealing the statute which enacted the Compact into law.

4 b. The effective date of withdrawal is the effective date
5 of the repealing statute. However, the withdrawal shall not
6 apply to any product filings approved or self-certified, or
7 any Advertisement of such products, on the date the repealing
8 statute becomes effective, except by mutual agreement of the
9 Commission and the Withdrawing State unless the approval is
10 rescinded by the Withdrawing State as provided in subsection
11 e. of this section.

12 c. The Commissioner of the Withdrawing State shall
13 immediately notify the Management Committee in writing upon
14 the introduction of legislation repealing this Compact in the
15 Withdrawing State.

16 d. The Commission shall notify the other Compacting States
17 of the introduction of such legislation within ten (10) days
18 after its receipt of notice thereof.

19 e. The Withdrawing State is responsible for all
20 obligations, duties and liabilities incurred through the
21 effective date of withdrawal, including any obligations, the
22 performance of which extend beyond the effective date of
23 withdrawal, except to the extent those obligations may have
24 been released or relinquished by mutual agreement of the
25 Commission and the Withdrawing State. The Commission's
26 approval of Products and Advertisement prior to the effective

1 date of withdrawal shall continue to be effective and be given
2 full force and effect in the Withdrawing State, unless
3 formally rescinded by the Withdrawing State in the same manner
4 as provided by the laws of the Withdrawing State for the
5 prospective disapproval of products or advertisement
6 previously approved under state law.

7 f. Reinstatement following withdrawal of any Compacting
8 State shall occur upon the effective date of the Withdrawing
9 State reenacting the Compact.

10 2. Default.

11 a. If the Commission determines that any Compacting State
12 has at any time defaulted ("Defaulting State") in the
13 performance of any of its obligations or responsibilities
14 under this Compact, the Bylaws or duly promulgated Rules or
15 Operating Procedures, then, after notice and hearing as set
16 forth in the Bylaws, all rights, privileges and benefits
17 conferred by this Compact on the Defaulting State shall be
18 suspended from the effective date of default as fixed by the
19 Commission. The grounds for default include, but are not
20 limited to, failure of a Compacting State to perform its
21 obligations or responsibilities, and any other grounds
22 designated in Commission Rules. The Commission shall
23 immediately notify the Defaulting State in writing of the
24 Defaulting State's suspension pending a cure of the default.
25 The Commission shall stipulate the conditions and the time
26 period within which the Defaulting State must cure its

1 default. If the Defaulting State fails to cure the default
2 within the time period specified by the Commission, the
3 Defaulting State shall be terminated from the Compact and all
4 rights, privileges and benefits conferred by this Compact
5 shall be terminated from the effective date of termination.

6 b. Product approvals by the Commission or product
7 self-certifications, or any Advertisement in connection with
8 such product, that are in force on the effective date of
9 termination shall remain in force in the Defaulting State in
10 the same manner as if the Defaulting State had withdrawn
11 voluntarily pursuant to paragraph 1 of this Article.

12 c. Reinstatement following termination of any Compacting
13 State requires a reenactment of the Compact.

14 3. Dissolution of Compact.

15 a. The Compact dissolves effective upon the date of the
16 withdrawal or default of the Compacting State which reduces
17 membership in the Compact to one Compacting State.

18 b. Upon the dissolution of this Compact, the Compact
19 becomes null and void and shall be of no further force or
20 effect, and the business and affairs of the Commission shall
21 be wound up and any surplus funds shall be distributed in
22 accordance with the Bylaws.

23 Article XV. SEVERABILITY AND CONSTRUCTION

24 1. The provisions of this Compact shall be severable; and
25 if any phrase, clause, sentence or provision is deemed

1 unenforceable, the remaining provisions of the Compact shall
2 be enforceable.

3 2. The provisions of this Compact shall be liberally
4 construed to effectuate its purposes.

5 Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

6 1. Other Laws.

7 a. Nothing herein prevents the enforcement of any other
8 law of a Compacting State, except as provided in paragraph b of
9 this Article.

10 b. For any Product approved or certified to the
11 Commission, the Rules, Uniform Standards and any other
12 requirements of the Commission shall constitute the exclusive
13 provisions applicable to the content, approval and
14 certification of such Products. For Advertisement that is
15 subject to the Commission's authority, any Rule, Uniform
16 Standard or other requirement of the Commission which governs
17 the content of the Advertisement shall constitute the
18 exclusive provision that a Commissioner may apply to the
19 content of the Advertisement. Notwithstanding the foregoing,
20 no action taken by the Commission shall abrogate or restrict:
21 (i) the access of any person to state courts; (ii) remedies
22 available under state law related to breach of contract, tort,
23 or other laws not specifically directed to the content of the
24 Product; (iii) state law relating to the construction of
25 insurance contracts; or (iv) the authority of the attorney

1 general of the state, including but not limited to maintaining
2 any actions or proceedings, as authorized by law.

3 c. All insurance products filed with individual States
4 shall be subject to the laws of those States.

5 2. Binding Effect of this Compact.

6 a. All lawful actions of the Commission, including all
7 Rules and Operating Procedures promulgated by the Commission,
8 are binding upon the Compacting States.

9 b. All agreements between the Commission and the
10 Compacting States are binding in accordance with their terms.

11 c. Upon the request of a party to a conflict over the
12 meaning or interpretation of Commission actions, and upon a
13 majority vote of the Compacting States, the Commission may
14 issue advisory opinions regarding the meaning or
15 interpretation in dispute.

16 d. In the event any provision of this Compact exceeds the
17 constitutional limits imposed on the legislature of any
18 Compacting State, the obligations, duties, powers or
19 jurisdiction sought to be conferred by that provision upon the
20 Commission shall be ineffective as to that Compacting State,
21 and those obligations, duties, powers or jurisdiction shall
22 remain in the Compacting State and shall be exercised by the
23 agency thereof to which those obligations, duties, powers or
24 jurisdiction are delegated by law in effect at the time this
25 Compact becomes effective.

26 (Source: P.A. 96-1481, eff. 11-29-10.)

1 Section 40. The Counties Code is amended by changing
2 Section 3-12007 as follows:

3 (55 ILCS 5/3-12007) (from Ch. 34, par. 3-12007)

4 Sec. 3-12007. Proposed rules for classified service. (a)
5 The Director of Personnel shall prepare and submit to the
6 commission proposed rules for the classified service. The
7 director shall give at least 10 days' notice to the heads of
8 all departments or agencies affected and they shall be given
9 an opportunity, upon their request, to appear before the
10 commission to express their views thereon before action is
11 taken by the commission.

12 (b) The rules, as adopted pursuant to subsection (a) of
13 Section 3-12005 shall provide for:

14 (1) preparation, maintenance and revision of a position
15 classification plan for all positions in the classified
16 service, based upon the similarity of duties performed and
17 responsibilities assumed, so that the same qualifications may
18 reasonably be required and the same schedule of pay may be
19 applied to all positions in the same class. Each position
20 authorized by the Board shall be allocated by the director to
21 the proper class and assigned to the appropriate pay range for
22 that class.

23 (2) promotion which shall give appropriate consideration
24 to the applicant's qualifications, record of performance,

1 seniority, and conduct. Vacancies shall be filled by promotion
2 whenever practicable and in the best interest of the county
3 service, and preference may be given to employees within the
4 department in which the vacancy occurs.

5 (3) open competitive examinations to determine the
6 relative fitness of applicants for the respective competitive
7 positions.

8 (4) competitive selection of employees for all classes in
9 the classified service.

10 (5) establishment of lists of eligibles for appointment
11 and promotion, upon which lists shall be placed the names of
12 successful candidates in the order of their relative
13 excellence in the respective examinations. The duration of
14 eligible lists for initial appointment shall be for no more
15 than one year unless extended by the director for not more than
16 one additional year; lists of eligibles for promotion shall be
17 maintained for as long as the tests on which they are based are
18 considered valid by the director.

19 (6) certification by the director to the appointing
20 authorities of not more than the top 5 names from the list of
21 eligibles for a single vacancy.

22 (7) rejection of candidates who do not comply with
23 reasonable job requirements in regard to such factors as age,
24 physical condition, training and experience, or who are
25 addicted to alcohol or narcotics or have been guilty of
26 infamous or disgraceful conduct or are illegal noncitizens

1 ~~aliens.~~

2 (8) periods of probationary employment. During the initial
3 probation period following appointment any employee may be
4 discharged or demoted without charges or hearing except that
5 any applicant or employee, regardless of status, who has
6 reason to believe that he/she has been discriminated against
7 because of religious opinions or affiliation, or race, sex, or
8 national origin in any personnel action may appeal to the
9 commission in accordance with the provisions of this Division
10 or in appropriate rules established by the commission pursuant
11 to subsection (a) of Section 3-12005.

12 (9) provisional employment without competitive
13 examinations when there is no appropriate eligible list
14 available. No person hired as a provisional employee shall
15 continue on the county payroll longer than 6 months per
16 calendar year nor shall successive provisional appointments be
17 allowed.

18 (10) transfer from a position in one department to a
19 position in another department involving similar
20 qualifications, duties, responsibilities and salary.

21 (11) procedures for authorized reinstatement within one
22 year of persons who resign in good standing.

23 (12) layoff by reason of lack of funds or work or abolition
24 of the position, or material changes in duties or
25 organization, and for the layoff of nontenured employees
26 first, and for the reemployment of permanent employees so laid

1 off, giving consideration in both layoff and reemployment to
2 performance record and seniority in service.

3 (13) keeping records of performance of all employees in
4 the classified service.

5 (14) suspension, demotion or dismissal of an employee for
6 misconduct, inefficiency, incompetence, insubordination,
7 malfeasance or other unfitness to render effective service and
8 for the investigation and hearing of appeals of any employee
9 recommended for suspension, demotion or dismissal by a
10 department head for any of the foregoing reasons.

11 (15) establishment of a plan for resolving employee
12 grievances and complaints, including an appeals procedure.

13 (16) hours of work, holidays and attendance regulations,
14 and for annual, sick and special leaves of absence, with or
15 without pay, or at reduced pay.

16 (17) development of employee morale, safety and training
17 programs.

18 (18) establishment of a period of probation, the length of
19 which shall be determined by the complexity of the work
20 involved, but which shall not exceed one year without special
21 written approval from the commission.

22 (19) such other rules, not inconsistent with this
23 Division, as may be proper and necessary for its enforcement.

24 (Source: P.A. 86-962.)

25 Section 45. The Illinois Municipal Code is amended by

1 changing Section 11-74.2-14 as follows:

2 (65 ILCS 5/11-74.2-14) (from Ch. 24, par. 11-74.2-14)

3 Sec. 11-74.2-14. The corporate authorities may at any time
4 transfer and sell the fee simple title, or any lesser estate
5 that they acquired to all or any part of the real property
6 within the redevelopment area. No such sale shall be
7 inconsistent with the provisions of paragraph (e) of Section
8 11-74.2-8.

9 Such sales and transfers may be made to:

10 (1) Any individual, association or corporation, organized
11 under the laws of this State or of any other State or country,
12 which may legally make such investments in this State,
13 including foreign and non-domestic ~~alien~~ insurance companies,
14 as defined in Section 2 of the "Illinois Insurance Code"; or

15 (2) Any body politic and corporate, public corporation or
16 private individual, corporation, association or interest
17 empowered by law to acquire, develop and use such real
18 property for such uses, public or private, as are in
19 accordance with the final redevelopment plan.

20 To provide that the real property sold by the corporate
21 authorities is used in accordance with the final redevelopment
22 plan, the corporate authorities shall inquire into and satisfy
23 themselves concerning the financial ability of the purchaser
24 to complete the redevelopment in accordance with the
25 redevelopment plan and shall require the purchaser to execute

1 in writing such undertakings as the corporate authorities may
2 deem necessary to obligate the purchaser to:

3 (1) Use the land for the purposes designated in the
4 approved plan;

5 (2) Commence and complete the building of the improvements
6 or the renovation of the property within the periods of time
7 which the corporate authorities fix as reasonable; and

8 (3) Comply with such other conditions as are necessary to
9 carry out the purposes of the final redevelopment plan.

10 Any redevelopment area may be sold either as an entirety
11 or in such parcels as the corporate authorities may select. It
12 is not necessary that title be acquired to all real property
13 within the redevelopment area before the sale of a part
14 thereof may be made as provided in this Section. All real
15 property sold shall be sold at its use value which may be less
16 than its acquisition cost. For purposes of this Division, use
17 value represents the value at which the corporate authorities
18 determine that such land should be made available in order
19 that it may be developed or redeveloped for the purposes
20 specified in the final redevelopment plan.

21 (Source: P.A. 81-3.)

22 Section 50. The Metropolitan Water Reclamation District
23 Act is amended by changing Section 11.15 as follows:

24 (70 ILCS 2605/11.15) (from Ch. 42, par. 331.15)

1 Sec. 11.15. No person shall be employed upon contracts for
2 work to be done by any such sanitary district unless he or she
3 is a citizen of the United States, a national of the United
4 States under Section 1401 of Title 8 of the United States Code,
5 a person ~~an alien~~ lawfully admitted for permanent residence
6 under Section 1101 of Title 8 of the United States Code, an
7 individual who has been granted asylum under Section 1158 of
8 Title 8 of the United States Code, or an individual who is
9 otherwise legally authorized to work in the United States.

10 (Source: P.A. 98-280, eff. 8-9-13; 99-231, eff. 8-3-15.)

11 Section 55. The Board of Higher Education Act is amended
12 by changing Section 9.16 as follows:

13 (110 ILCS 205/9.16) (from Ch. 144, par. 189.16)

14 Sec. 9.16. Underrepresentation of certain groups in higher
15 education. To require public institutions of higher education
16 to develop and implement methods and strategies to increase
17 the participation of minorities, women and individuals with
18 disabilities who are traditionally underrepresented in
19 education programs and activities. For the purpose of this
20 Section, minorities shall mean persons who are citizens of the
21 United States or lawful permanent resident noncitizens ~~aliens~~
22 of the United States and who are any of the following:

23 (1) American Indian or Alaska Native (a person having
24 origins in any of the original peoples of North and South

1 America, including Central America, and who maintains
2 tribal affiliation or community attachment).

3 (2) Asian (a person having origins in any of the
4 original peoples of the Far East, Southeast Asia, or the
5 Indian subcontinent, including, but not limited to,
6 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,
7 the Philippine Islands, Thailand, and Vietnam).

8 (3) Black or African American (a person having origins
9 in any of the black racial groups of Africa).

10 (4) Hispanic or Latino (a person of Cuban, Mexican,
11 Puerto Rican, South or Central American, or other Spanish
12 culture or origin, regardless of race).

13 (5) Native Hawaiian or Other Pacific Islander (a
14 person having origins in any of the original peoples of
15 Hawaii, Guam, Samoa, or other Pacific Islands).

16 The Board shall adopt any rules necessary to administer
17 this Section. The Board shall also do the following:

18 (a) require all public institutions of higher education to
19 develop and submit plans for the implementation of this
20 Section;

21 (b) conduct periodic review of public institutions of
22 higher education to determine compliance with this Section;
23 and if the Board finds that a public institution of higher
24 education is not in compliance with this Section, it shall
25 notify the institution of steps to take to attain compliance;

26 (c) provide advice and counsel pursuant to this Section;

1 (d) conduct studies of the effectiveness of methods and
2 strategies designed to increase participation of students in
3 education programs and activities in which minorities, women
4 and individuals with disabilities are traditionally
5 underrepresented, and monitor the success of students in such
6 education programs and activities;

7 (e) encourage minority student recruitment and retention
8 in colleges and universities. In implementing this paragraph,
9 the Board shall undertake but need not be limited to the
10 following: the establishment of guidelines and plans for
11 public institutions of higher education for minority student
12 recruitment and retention, the review and monitoring of
13 minority student programs implemented at public institutions
14 of higher education to determine their compliance with any
15 guidelines and plans so established, the determination of the
16 effectiveness and funding requirements of minority student
17 programs at public institutions of higher education, the
18 dissemination of successful programs as models, and the
19 encouragement of cooperative partnerships between community
20 colleges and local school attendance centers which are
21 experiencing difficulties in enrolling minority students in
22 four-year colleges and universities;

23 (f) mandate all public institutions of higher education to
24 submit data and information essential to determine compliance
25 with this Section. The Board shall prescribe the format and
26 the date for submission of this data and any other education

1 equity data; and

2 (g) report to the General Assembly and the Governor
3 annually with a description of the plans submitted by each
4 public institution of higher education for implementation of
5 this Section, including financial data relating to the most
6 recent fiscal year expenditures for specific minority
7 programs, the effectiveness of such plans and programs and the
8 effectiveness of the methods and strategies developed by the
9 Board in meeting the purposes of this Section, the degree of
10 compliance with this Section by each public institution of
11 higher education as determined by the Board pursuant to its
12 periodic review responsibilities, and the findings made by the
13 Board in conducting its studies and monitoring student success
14 as required by paragraph d) of this Section. With respect to
15 each public institution of higher education such report also
16 shall include, but need not be limited to, information with
17 respect to each institution's minority program budget
18 allocations; minority student admission, retention and
19 graduation statistics; admission, retention, and graduation
20 statistics of all students who are the first in their
21 immediate family to attend an institution of higher education;
22 number of financial assistance awards to undergraduate and
23 graduate minority students; and minority faculty
24 representation. This paragraph shall not be construed to
25 prohibit the Board from making, preparing or issuing
26 additional surveys or studies with respect to minority

1 education in Illinois.

2 (Source: P.A. 102-465, eff. 1-1-22.)

3 Section 60. The Dental Student Grant Act is amended by
4 changing Section 3.06 as follows:

5 (110 ILCS 925/3.06) (from Ch. 144, par. 1503.06)

6 Sec. 3.06. "Eligible dental student" means a person who
7 meets all of the following qualifications:

8 (a) That the individual is a resident of this State and a
9 citizen or lawful permanent resident noncitizen ~~alien~~ of the
10 United States;

11 (b) That the individual has been accepted in a dental
12 school located in Illinois;

13 (c) That the individual exhibits financial need as
14 determined by the Department;

15 (d) That the individual has earned an educational diploma
16 at an institution of education located in this State or has
17 been a resident of the State for no less than 3 years prior to
18 applying for the grant;

19 (e) That the individual is a member of a racial minority as
20 defined in Section 3.07; and

21 (f) That the individual meets other qualifications which
22 shall be established by the Department.

23 (Source: P.A. 87-665.)

1 Section 65. The Diversifying Higher Education Faculty in
2 Illinois Act is amended by changing Sections 2 and 7 as
3 follows:

4 (110 ILCS 930/2) (from Ch. 144, par. 2302)

5 Sec. 2. Definitions. As used in this Act, unless the
6 context otherwise requires:

7 "Board" means the Board of Higher Education.

8 "DFI" means the Diversifying Higher Education Faculty in
9 Illinois Program of financial assistance to minorities who are
10 traditionally underrepresented as participants in
11 postsecondary education. The program shall assist them in
12 pursuing a graduate or professional degree and shall also
13 assist program graduates to find employment at an Illinois
14 institution of higher education, including a community
15 college, in a faculty or staff position.

16 "Program Board" means the entity created to administer the
17 grant program authorized by this Act.

18 "Qualified institution of higher education" means a
19 qualifying publicly or privately operated educational
20 institution located within Illinois (i) that offers
21 instruction leading toward or prerequisite to an academic or
22 professional degree beyond the baccalaureate degree, excluding
23 theological schools, and (ii) that is authorized to operate in
24 the State of Illinois.

25 "Racial minority" means a person who is a citizen of the

1 United States or a lawful permanent resident noncitizen ~~alien~~
2 of the United States and who is any of the following:

3 (1) American Indian or Alaska Native (a person having
4 origins in any of the original peoples of North and South
5 America, including Central America, and who maintains
6 tribal affiliation or community attachment).

7 (2) Asian (a person having origins in any of the
8 original peoples of the Far East, Southeast Asia, or the
9 Indian subcontinent, including, but not limited to,
10 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,
11 the Philippine Islands, Thailand, and Vietnam).

12 (3) Black or African American (a person having origins
13 in any of the black racial groups of Africa).

14 (4) Hispanic or Latino (a person of Cuban, Mexican,
15 Puerto Rican, South or Central American, or other Spanish
16 culture or origin, regardless of race).

17 (5) Native Hawaiian or Other Pacific Islander (a
18 person having origins in any of the original peoples of
19 Hawaii, Guam, Samoa, or other Pacific Islands).

20 (Source: P.A. 102-465, eff. 1-1-22.)

21 (110 ILCS 930/7) (from Ch. 144, par. 2307)

22 Sec. 7. Eligibility for DFI grants. An individual is
23 eligible for an award under the provisions of this Act when the
24 Program Board finds:

25 (a) That the individual is a resident of this State

1 and a citizen or lawful permanent resident noncitizen
2 ~~alien~~ of the United States;

3 (b) That the individual is a member of a racial
4 minority as defined under the terms of this Act;

5 (c) That the individual has earned any educational
6 diploma at an institution of education located in this
7 State, or is a resident of the State for no less than three
8 years prior to applying for the grant, and the individual
9 must hold a baccalaureate degree from an institution of
10 higher learning;

11 (d) That the individual's financial resources are such
12 that, in the absence of a DFI grant, the individual will be
13 prevented from pursuing a graduate or professional degree
14 at a qualified institution of higher education of his or
15 her choice;

16 (e) That the individual has above average academic
17 ability to pursue a graduate or professional degree; and

18 (f) That the individual meets other qualifications
19 which shall be established by the Program Board.

20 Grant funds shall be awarded only to those persons
21 pursuing a graduate or professional degree program at a
22 qualified institution of higher education.

23 The Board shall by rule promulgate, pursuant to the
24 Illinois Administrative Procedure Act, precise standards to be
25 used by the Program Board to determine whether a program
26 applicant has above average academic ability to pursue a

1 graduate or professional degree.

2 (Source: P.A. 93-862, eff. 8-4-04.)

3 Section 70. The Higher Education Student Assistance Act is
4 amended by changing Sections 65.50 and 65.110 as follows:

5 (110 ILCS 947/65.50)

6 Sec. 65.50. Teacher training full-time undergraduate
7 scholarships.

8 (a) Five hundred new scholarships shall be provided each
9 year for qualified high school students or high school
10 graduates who desire to pursue full-time undergraduate studies
11 in teacher education at public or private universities or
12 colleges and community colleges in this State. The Commission,
13 in accordance with rules and regulations promulgated for this
14 program, shall provide funding and shall designate each year's
15 new recipients from among those applicants who qualify for
16 consideration by showing:

17 (1) that he or she is a resident of this State and a
18 citizen or a lawful permanent resident noncitizen ~~alien~~ of
19 the United States;

20 (2) that he or she has successfully completed the
21 program of instruction at an approved high school or is a
22 student in good standing at such a school and is engaged in
23 a program that will be completed by the end of the academic
24 year, and in either event that his or her cumulative grade

1 average was or is in the upper 1/4 of the high school
2 class;

3 (3) that he or she has superior capacity to profit by a
4 higher education; and

5 (4) that he or she agrees to teach in Illinois schools
6 in accordance with subsection (b).

7 No rule or regulation promulgated by the State Board of
8 Education prior to the effective date of this amendatory Act
9 of 1993 pursuant to the exercise of any right, power, duty,
10 responsibility or matter of pending business transferred from
11 the State Board of Education to the Commission under this
12 Section shall be affected thereby, and all such rules and
13 regulations shall become the rules and regulations of the
14 Commission until modified or changed by the Commission in
15 accordance with law.

16 If in any year the number of qualified applicants exceeds
17 the number of scholarships to be awarded, the Commission shall
18 give priority in awarding scholarships to students in
19 financial need. The Commission shall consider factors such as
20 the applicant's family income, the size of the applicant's
21 family and the number of other children in the applicant's
22 family attending college in determining the financial need of
23 the individual.

24 Unless otherwise indicated, these scholarships shall be
25 good for a period of up to 4 years while the recipient is
26 enrolled for residence credit at a public or private

1 university or college or at a community college. The
2 scholarship shall cover tuition, fees and a stipend of \$1,500
3 per year. For purposes of calculating scholarship awards for
4 recipients attending private universities or colleges, tuition
5 and fees for students at private colleges and universities
6 shall not exceed the average tuition and fees for students at
7 4-year public colleges and universities for the academic year
8 in which the scholarship is made.

9 (b) Upon graduation from or termination of enrollment in a
10 teacher education program, any person who accepted a
11 scholarship under the undergraduate scholarship program
12 continued by this Section, including persons whose graduation
13 or termination of enrollment occurred prior to the effective
14 date of this amendatory Act of 1993, shall teach in any school
15 in this State for at least 4 of the 7 years immediately
16 following his or her graduation or termination. If the
17 recipient spends up to 4 years in military service before or
18 after he or she graduates, the period of military service
19 shall be excluded from the computation of that 7 year period. A
20 recipient who is enrolled full-time in an academic program
21 leading to a graduate degree in education shall have the
22 period of graduate study excluded from the computation of that
23 7 year period.

24 Any person who fails to fulfill the teaching requirement
25 shall pay to the Commission an amount equal to one-fourth of
26 the scholarship received for each unfulfilled year of the

1 4-year teaching requirement, together with interest at 8% per
2 year on that amount. However, this obligation to repay does
3 not apply when the failure to fulfill the teaching requirement
4 results from involuntarily leaving the profession due to a
5 decrease in the number of teachers employed by the school
6 board or a discontinuation of a type of teaching service under
7 Section 24-12 of the School Code or from the death or
8 adjudication as incompetent of the person holding the
9 scholarship. No claim for repayment may be filed against the
10 estate of such a decedent or incompetent.

11 Each person applying for such a scholarship shall be
12 provided with a copy of this subsection at the time he or she
13 applies for the benefits of such scholarship.

14 (c) This Section is substantially the same as Sections
15 30-14.5 and 30-14.6 of the School Code, which are repealed by
16 this amendatory Act of 1993, and shall be construed as a
17 continuation of the teacher training undergraduate scholarship
18 program established by that prior law, and not as a new or
19 different teacher training undergraduate scholarship program.
20 The State Board of Education shall transfer to the Commission,
21 as the successor to the State Board of Education for all
22 purposes of administering and implementing the provisions of
23 this Section, all books, accounts, records, papers, documents,
24 contracts, agreements, and pending business in any way
25 relating to the teacher training undergraduate scholarship
26 program continued under this Section, and all scholarships at

1 any time awarded under that program by, and all applications
2 for any such scholarship at any time made to, the State Board
3 of Education shall be unaffected by the transfer to the
4 Commission of all responsibility for the administration and
5 implementation of the teacher training undergraduate
6 scholarship program continued under this Section. The State
7 Board of Education shall furnish to the Commission such other
8 information as the Commission may request to assist it in
9 administering this Section.

10 (Source: P.A. 88-228.)

11 (110 ILCS 947/65.110)

12 Sec. 65.110. Post-Master of Social Work School Social Work
13 Professional Educator License scholarship.

14 (a) Subject to appropriation, beginning with awards for
15 the 2022-2023 academic year, the Commission shall award
16 annually up to 250 Post-Master of Social Work School Social
17 Work Professional Educator License scholarships to a person
18 who:

19 (1) holds a valid Illinois-licensed clinical social
20 work license or social work license;

21 (2) has obtained a master's degree in social work from
22 an approved program;

23 (3) is a United States citizen or eligible noncitizen;
24 and

25 (4) submits an application to the Commission for such

1 scholarship and agrees to take courses to obtain an
2 Illinois Professional Educator License with an endorsement
3 in School Social Work.

4 (b) If an appropriation for this Section for a given
5 fiscal year is insufficient to provide scholarships to all
6 qualified applicants, the Commission shall allocate the
7 appropriation in accordance with this subsection (b). If funds
8 are insufficient to provide all qualified applicants with a
9 scholarship as authorized by this Section, the Commission
10 shall allocate the available scholarship funds for that fiscal
11 year to qualified applicants who submit a complete application
12 on or before a date specified by the Commission, based on the
13 following order of priority:

14 (1) firstly, to students who received a scholarship
15 under this Section in the prior academic year and who
16 remain eligible for a scholarship under this Section;

17 (2) secondly, to new, qualified applicants who are
18 members of a racial minority, as defined in subsection
19 (c); and

20 (3) finally, to other new, qualified applicants in
21 accordance with this Section.

22 (c) Scholarships awarded under this Section shall be
23 issued pursuant to rules adopted by the Commission. In
24 awarding scholarships, the Commission shall give priority to
25 those applicants who are members of a racial minority. Racial
26 minorities are underrepresented as school social workers in

1 elementary and secondary schools in this State, and the
2 General Assembly finds that it is in the interest of this State
3 to provide them with priority consideration for programs that
4 encourage their participation in this field and thereby foster
5 a profession that is more reflective of the diversity of
6 Illinois students and the parents they will serve. A more
7 reflective workforce in school social work allows improved
8 outcomes for students and a better utilization of services.
9 Therefore, the Commission shall give priority to those
10 applicants who are members of a racial minority. In this
11 subsection (c), "racial minority" means a person who is a
12 citizen of the United States or a lawful permanent resident
13 noncitizen ~~alien~~ of the United States and who is:

14 (1) Black (a person having origins in any of the black
15 racial groups in Africa);

16 (2) Hispanic (a person of Spanish or Portuguese
17 culture with origins in Mexico, South or Central America,
18 or the Caribbean Islands, regardless of race);

19 (3) Asian American (a person having origins in any of
20 the original peoples of the Far East, Southeast Asia, the
21 Indian Subcontinent, or the Pacific Islands); or

22 (4) American Indian or Alaskan Native (a person having
23 origins in any of the original peoples of North America).

24 (d) Each scholarship shall be applied to the payment of
25 tuition and mandatory fees at the University of Illinois,
26 Southern Illinois University, Chicago State University,

1 Eastern Illinois University, Governors State University,
2 Illinois State University, Northeastern Illinois University,
3 Northern Illinois University, and Western Illinois University.
4 Each scholarship may be applied to pay tuition and mandatory
5 fees required to obtain an Illinois Professional Educator
6 License with an endorsement in School Social Work.

7 (e) The Commission shall make tuition and fee payments
8 directly to the qualified institution of higher learning that
9 the applicant attends.

10 (f) Any person who has accepted a scholarship under this
11 Section must, within one year after graduation or termination
12 of enrollment in a Post-Master of Social Work Professional
13 Education License with an endorsement in School Social Work
14 program, begin working as a school social worker at a public or
15 nonpublic not-for-profit preschool, elementary school, or
16 secondary school located in this State for at least 2 of the 5
17 years immediately following that graduation or termination,
18 excluding, however, from the computation of that 5-year
19 period: (i) any time up to 3 years spent in the military
20 service, whether such service occurs before or after the
21 person graduates; (ii) the time that person is a person with a
22 temporary total disability for a period of time not to exceed 3
23 years, as established by the sworn affidavit of a qualified
24 physician; and (iii) the time that person is seeking and
25 unable to find full-time employment as a school social worker
26 at a State public or nonpublic not-for-profit preschool,

1 elementary school, or secondary school.

2 (g) If a recipient of a scholarship under this Section
3 fails to fulfill the work obligation set forth in subsection
4 (f), the Commission shall require the recipient to repay the
5 amount of the scholarships received, prorated according to the
6 fraction of the obligation not completed, at a rate of
7 interest equal to 5%, and, if applicable, reasonable
8 collection fees. The Commission is authorized to establish
9 rules relating to its collection activities for repayment of
10 scholarships under this Section. All repayments collected
11 under this Section shall be forwarded to the State Comptroller
12 for deposit into this State's General Revenue Fund.

13 A recipient of a scholarship under this Section is not
14 considered to be in violation of the failure to fulfill the
15 work obligation under subsection (f) if the recipient (i)
16 enrolls on a full-time basis as a graduate student in a course
17 of study related to the field of social work at a qualified
18 Illinois institution of higher learning; (ii) is serving, not
19 in excess of 3 years, as a member of the armed services of the
20 United States; (iii) is a person with a temporary total
21 disability for a period of time not to exceed 3 years, as
22 established by the sworn affidavit of a qualified physician;
23 (iv) is seeking and unable to find full-time employment as a
24 school social worker at an Illinois public or nonpublic
25 not-for-profit preschool, elementary school, or secondary
26 school that satisfies the criteria set forth in subsection (f)

1 and is able to provide evidence of that fact; or (v) becomes a
2 person with a permanent total disability, as established by
3 the sworn affidavit of a qualified physician.

4 (Source: P.A. 102-621, eff. 1-1-22.)

5 Section 75. The Mental Health Graduate Education
6 Scholarship Act is amended by changing Section 20 as follows:

7 (110 ILCS 952/20)

8 Sec. 20. Scholarships.

9 (a) Beginning with the fall term of the 2009-2010 academic
10 year, the Department, in accordance with rules adopted by it
11 for this program, shall provide scholarships to individuals
12 selected from among those applicants who qualify for
13 consideration by showing all of the following:

14 (1) That the individual has been a resident of this
15 State for at least one year prior to application and is a
16 citizen or a lawful permanent resident noncitizen ~~alien~~ of
17 the United States.

18 (2) That the individual enrolled in or accepted into a
19 mental health graduate program at an approved institution.

20 (3) That the individual agrees to meet the mental
21 health employment obligation.

22 (b) If in any year the number of qualified applicants
23 exceeds the number of scholarships to be awarded, the
24 Department shall, in consultation with the Advisory Council,

1 consider the following factors in granting priority in
2 awarding scholarships:

3 (1) Financial need, as shown on a standardized
4 financial needs assessment form used by an approved
5 institution.

6 (2) A student's merit, as shown through his or her
7 grade point average, class rank, and other academic and
8 extracurricular activities.

9 The Department may add to and further define these merit
10 criteria by rule.

11 (c) Unless otherwise indicated, scholarships shall be
12 awarded to recipients at approved institutions for a period of
13 up to 2 years if the recipient is enrolled in a master's degree
14 program and up to 4 years if the recipient is enrolled in a
15 doctoral degree program.

16 (Source: P.A. 96-672, eff. 8-25-09.)

17 Section 80. The Nursing Education Scholarship Law is
18 amended by changing Sections 5 and 6.5 as follows:

19 (110 ILCS 975/5) (from Ch. 144, par. 2755)

20 Sec. 5. Nursing education scholarships. Beginning with the
21 fall term of the 2004-2005 academic year, the Department, in
22 accordance with rules and regulations promulgated by it for
23 this program, shall provide scholarships to individuals
24 selected from among those applicants who qualify for

1 consideration by showing:

2 (1) that he or she has been a resident of this State
3 for at least one year prior to application, and is a
4 citizen or a lawful permanent resident noncitizen ~~alien~~ of
5 the United States;

6 (2) that he or she is enrolled in or accepted for
7 admission to an associate degree in nursing program,
8 hospital-based diploma in nursing program, baccalaureate
9 degree in nursing program, graduate degree in nursing
10 program, or practical nursing program at an approved
11 institution; and

12 (3) that he or she agrees to meet the nursing
13 employment obligation.

14 If in any year the number of qualified applicants exceeds
15 the number of scholarships to be awarded, the Department
16 shall, in consultation with the Illinois Nursing Workforce
17 Center Advisory Board, consider the following factors in
18 granting priority in awarding scholarships:

19 (A) Financial need, as shown on a standardized
20 financial needs assessment form used by an approved
21 institution, of students who will pursue their
22 education on a full-time or close to full-time basis
23 and who already have a certificate in practical
24 nursing, a diploma in nursing, or an associate degree
25 in nursing and are pursuing a higher degree.

26 (B) A student's status as a registered nurse who

1 is pursuing a graduate degree in nursing to pursue
2 employment in an approved institution that educates
3 licensed practical nurses and that educates registered
4 nurses in undergraduate and graduate nursing programs.

5 (C) A student's merit, as shown through his or her
6 grade point average, class rank, and other academic
7 and extracurricular activities. The Department may add
8 to and further define these merit criteria by rule.

9 Unless otherwise indicated, scholarships shall be awarded
10 to recipients at approved institutions for a period of up to 2
11 years if the recipient is enrolled in an associate degree in
12 nursing program, up to 3 years if the recipient is enrolled in
13 a hospital-based diploma in nursing program, up to 4 years if
14 the recipient is enrolled in a baccalaureate degree in nursing
15 program, up to 5 years if the recipient is enrolled in a
16 graduate degree in nursing program, and up to one year if the
17 recipient is enrolled in a certificate in practical nursing
18 program. At least 40% of the scholarships awarded shall be for
19 recipients who are pursuing baccalaureate degrees in nursing,
20 30% of the scholarships awarded shall be for recipients who
21 are pursuing associate degrees in nursing or a diploma in
22 nursing, 10% of the scholarships awarded shall be for
23 recipients who are pursuing a certificate in practical
24 nursing, and 20% of the scholarships awarded shall be for
25 recipients who are pursuing a graduate degree in nursing.

26 Beginning with the fall term of the 2021-2022 academic

1 year and continuing through the 2024-2025 academic year,
2 subject to appropriation from the Hospital Licensure Fund, in
3 addition to any other funds available to the Department for
4 such scholarships, the Department may award a total of
5 \$500,000 annually in scholarships under this Section.

6 (Source: P.A. 102-641, eff. 8-27-21.)

7 (110 ILCS 975/6.5)

8 Sec. 6.5. Nurse educator scholarships.

9 (a) Beginning with the fall term of the 2009-2010 academic
10 year, the Department shall provide scholarships to individuals
11 selected from among those applicants who qualify for
12 consideration by showing the following:

13 (1) that he or she has been a resident of this State
14 for at least one year prior to application and is a citizen
15 or a lawful permanent resident noncitizen ~~alien~~ of the
16 United States;

17 (2) that he or she is enrolled in or accepted for
18 admission to a graduate degree in nursing program at an
19 approved institution; and

20 (3) that he or she agrees to meet the nurse educator
21 employment obligation.

22 (b) If in any year the number of qualified applicants
23 exceeds the number of scholarships to be awarded under this
24 Section, the Department shall, in consultation with the
25 Illinois Nursing Workforce Center Advisory Board, consider the

1 following factors in granting priority in awarding
2 scholarships:

3 (1) Financial need, as shown on a standardized
4 financial needs assessment form used by an approved
5 institution, of students who will pursue their education
6 on a full-time or close to full-time basis and who already
7 have a diploma in nursing and are pursuing a higher
8 degree.

9 (2) A student's status as a registered nurse who is
10 pursuing a graduate degree in nursing to pursue employment
11 in an approved institution that educates licensed
12 practical nurses and that educates registered nurses in
13 undergraduate and graduate nursing programs.

14 (3) A student's merit, as shown through his or her
15 grade point average, class rank, experience as a nurse,
16 including supervisory experience, experience as a nurse in
17 the United States military, and other academic and
18 extracurricular activities.

19 (c) Unless otherwise indicated, scholarships under this
20 Section shall be awarded to recipients at approved
21 institutions for a period of up to 3 years.

22 (d) Within 12 months after graduation from a graduate
23 degree in nursing program for nurse educators, any recipient
24 who accepted a scholarship under this Section shall begin
25 meeting the required nurse educator employment obligation. In
26 order to defer his or her continuous employment obligation, a

1 recipient must request the deferment in writing from the
2 Department. A recipient shall receive a deferment if he or she
3 notifies the Department, within 30 days after enlisting, that
4 he or she is spending up to 4 years in military service. A
5 recipient shall receive a deferment if he or she notifies the
6 Department, within 30 days after enrolling, that he or she is
7 enrolled in an academic program leading to a graduate degree
8 in nursing. The recipient must begin meeting the required
9 nurse educator employment obligation no later than 6 months
10 after the end of the deferment or deferments.

11 Any person who fails to fulfill the nurse educator
12 employment obligation shall pay to the Department an amount
13 equal to the amount of scholarship funds received per year for
14 each unfulfilled year of the nurse educator employment
15 obligation, together with interest at 7% per year on the
16 unpaid balance. Payment must begin within 6 months following
17 the date of the occurrence initiating the repayment. All
18 repayments must be completed within 6 years from the date of
19 the occurrence initiating the repayment. However, this
20 repayment obligation may be deferred and re-evaluated every 6
21 months when the failure to fulfill the nurse educator
22 employment obligation results from involuntarily leaving the
23 profession due to a decrease in the number of nurses employed
24 in this State or when the failure to fulfill the nurse educator
25 employment obligation results from total and permanent
26 disability. The repayment obligation shall be excused if the

1 failure to fulfill the nurse educator employment obligation
2 results from the death or adjudication as incompetent of the
3 person holding the scholarship. No claim for repayment may be
4 filed against the estate of such a decedent or incompetent.

5 The Department may allow a nurse educator employment
6 obligation fulfillment alternative if the nurse educator
7 scholarship recipient is unsuccessful in finding work as a
8 nurse educator. The Department shall maintain a database of
9 all available nurse educator positions in this State.

10 (e) Each person applying for a scholarship under this
11 Section must be provided with a copy of this Section at the
12 time of application for the benefits of this scholarship.

13 (f) Rulemaking authority to implement this amendatory Act
14 of the 96th General Assembly, if any, is conditioned on the
15 rules being adopted in accordance with all provisions of the
16 Illinois Administrative Procedure Act and all rules and
17 procedures of the Joint Committee on Administrative Rules; any
18 purported rule not so adopted, for whatever reason, is
19 unauthorized.

20 (Source: P.A. 100-513, eff. 1-1-18.)

21 Section 85. The Residential Mortgage License Act of 1987
22 is amended by changing Section 1-4 as follows:

23 (205 ILCS 635/1-4)

24 Sec. 1-4. Definitions. The following words and phrases

1 have the meanings given to them in this Section:

2 (a) "Residential real property" or "residential real
3 estate" shall mean any real property located in Illinois,
4 upon which is constructed or intended to be constructed a
5 dwelling. Those terms include a manufactured home as
6 defined in subdivision (53) of Section 9-102 of the
7 Uniform Commercial Code which is real property as defined
8 in Section 5-35 of the Conveyance and Encumbrance of
9 Manufactured Homes as Real Property and Severance Act.

10 (b) "Making a residential mortgage loan" or "funding a
11 residential mortgage loan" shall mean for compensation or
12 gain, either directly or indirectly, advancing funds or
13 making a commitment to advance funds to a loan applicant
14 for a residential mortgage loan.

15 (c) "Soliciting, processing, placing, or negotiating a
16 residential mortgage loan" shall mean for compensation or
17 gain, either directly or indirectly, accepting or offering
18 to accept an application for a residential mortgage loan,
19 assisting or offering to assist in the processing of an
20 application for a residential mortgage loan on behalf of a
21 borrower, or negotiating or offering to negotiate the
22 terms or conditions of a residential mortgage loan with a
23 lender on behalf of a borrower including, but not limited
24 to, the submission of credit packages for the approval of
25 lenders, the preparation of residential mortgage loan
26 closing documents, including a closing in the name of a

1 broker.

2 (d) "Exempt person or entity" shall mean the
3 following:

4 (1) (i) Any banking organization or foreign
5 banking corporation licensed by the Illinois
6 Commissioner of Banks and Real Estate or the United
7 States Comptroller of the Currency to transact
8 business in this State; (ii) any national bank,
9 federally chartered savings and loan association,
10 federal savings bank, federal credit union; (iii)
11 (blank); (iv) any bank, savings and loan association,
12 savings bank, or credit union organized under the laws
13 of this or any other state; (v) any Illinois Consumer
14 Installment Loan Act licensee; (vi) any insurance
15 company authorized to transact business in this State;
16 (vii) any entity engaged solely in commercial mortgage
17 lending; (viii) any service corporation of a savings
18 and loan association or savings bank organized under
19 the laws of this State or the service corporation of a
20 federally chartered savings and loan association or
21 savings bank having its principal place of business in
22 this State, other than a service corporation licensed
23 or entitled to reciprocity under the Real Estate
24 License Act of 2000; or (ix) any first tier subsidiary
25 of a bank, the charter of which is issued under the
26 Illinois Banking Act by the Illinois Commissioner of

1 Banks and Real Estate, or the first tier subsidiary of
2 a bank chartered by the United States Comptroller of
3 the Currency and that has its principal place of
4 business in this State, provided that the first tier
5 subsidiary is regularly examined by the Illinois
6 Commissioner of Banks and Real Estate or the
7 Comptroller of the Currency, or a consumer compliance
8 examination is regularly conducted by the Federal
9 Reserve Board.

10 (1.5) Any employee of a person or entity mentioned
11 in item (1) of this subsection, when acting for such
12 person or entity, or any registered mortgage loan
13 originator when acting for an entity described in
14 subsection (tt) of this Section.

15 (1.8) Any person or entity that does not originate
16 mortgage loans in the ordinary course of business, but
17 makes or acquires residential mortgage loans with his
18 or her own funds for his or her or its own investment
19 without intent to make, acquire, or resell more than 3
20 residential mortgage loans in any one calendar year.

21 (2) (Blank).

22 (2.1) A bona fide nonprofit organization.

23 (2.2) An employee of a bona fide nonprofit
24 organization when acting on behalf of that
25 organization.

26 (3) Any person employed by a licensee to assist in

1 the performance of the residential mortgage licensee's
2 activities regulated by this Act who is compensated in
3 any manner by only one licensee.

4 (4) (Blank).

5 (5) Any individual, corporation, partnership, or
6 other entity that originates, services, or brokers
7 residential mortgage loans, as these activities are
8 defined in this Act, and who or which receives no
9 compensation for those activities, subject to the
10 Commissioner's regulations and the federal Secure and
11 Fair Enforcement for Mortgage Licensing Act of 2008
12 and the rules promulgated under that Act with regard
13 to the nature and amount of compensation.

14 (6) (Blank).

15 (7) Any entity engaged solely in providing loan
16 processing services through the sponsoring of
17 individuals acting pursuant to subsection (d) of
18 Section 7-1A of this Act.

19 (e) "Licensee" or "residential mortgage licensee"
20 shall mean a person, partnership, association,
21 corporation, or any other entity who or which is licensed
22 pursuant to this Act to engage in the activities regulated
23 by this Act.

24 (f) "Mortgage loan" "residential mortgage loan" or
25 "home mortgage loan" shall mean any loan primarily for
26 personal, family, or household use that is secured by a

1 mortgage, deed of trust, or other equivalent consensual
2 security interest on a dwelling as defined in Section
3 103(v) of the federal Truth in Lending Act, or residential
4 real estate upon which is constructed or intended to be
5 constructed a dwelling.

6 (g) "Lender" shall mean any person, partnership,
7 association, corporation, or any other entity who either
8 lends or invests money in residential mortgage loans.

9 (h) "Ultimate equitable owner" shall mean a person
10 who, directly or indirectly, owns or controls an ownership
11 interest in a corporation, foreign corporation,
12 non-domestic ~~alien~~ business organization, trust, or any
13 other form of business organization regardless of whether
14 the person owns or controls the ownership interest through
15 one or more persons or one or more proxies, powers of
16 attorney, nominees, corporations, associations,
17 partnerships, trusts, joint stock companies, or other
18 entities or devices, or any combination thereof.

19 (i) "Residential mortgage financing transaction" shall
20 mean the negotiation, acquisition, sale, or arrangement
21 for or the offer to negotiate, acquire, sell, or arrange
22 for, a residential mortgage loan or residential mortgage
23 loan commitment.

24 (j) "Personal residence address" shall mean a street
25 address and shall not include a post office box number.

26 (k) "Residential mortgage loan commitment" shall mean

1 a contract for residential mortgage loan financing.

2 (l) "Party to a residential mortgage financing
3 transaction" shall mean a borrower, lender, or loan broker
4 in a residential mortgage financing transaction.

5 (m) "Payments" shall mean payment of all or any of the
6 following: principal, interest and escrow reserves for
7 taxes, insurance and other related reserves, and
8 reimbursement for lender advances.

9 (n) "Commissioner" shall mean the Commissioner of
10 Banks and Real Estate, except that, beginning on April 6,
11 2009 (the effective date of Public Act 95-1047), all
12 references in this Act to the Commissioner of Banks and
13 Real Estate are deemed, in appropriate contexts, to be
14 references to the Secretary of Financial and Professional
15 Regulation, or his or her designee, including the Director
16 of the Division of Banking of the Department of Financial
17 and Professional Regulation.

18 (n-1) "Director" shall mean the Director of the
19 Division of Banking of the Department of Financial and
20 Professional Regulation, except that, beginning on July
21 31, 2009 (the effective date of Public Act 96-112), all
22 references in this Act to the Director are deemed, in
23 appropriate contexts, to be the Secretary of Financial and
24 Professional Regulation, or his or her designee, including
25 the Director of the Division of Banking of the Department
26 of Financial and Professional Regulation.

1 (o) "Loan brokering", "brokering", or "brokerage
2 service" shall mean the act of helping to obtain from
3 another entity, for a borrower, a loan secured by
4 residential real estate situated in Illinois or assisting
5 a borrower in obtaining a loan secured by residential real
6 estate situated in Illinois in return for consideration to
7 be paid by either the borrower or the lender including,
8 but not limited to, contracting for the delivery of
9 residential mortgage loans to a third party lender and
10 soliciting, processing, placing, or negotiating
11 residential mortgage loans.

12 (p) "Loan broker" or "broker" shall mean a person,
13 partnership, association, corporation, or limited
14 liability company, other than those persons, partnerships,
15 associations, corporations, or limited liability companies
16 exempted from licensing pursuant to Section 1-4,
17 subsection (d), of this Act, who performs the activities
18 described in subsections (c), (o), and (yy) of this
19 Section.

20 (q) "Servicing" shall mean the collection or
21 remittance for or the right or obligation to collect or
22 remit for any lender, noteowner, noteholder, or for a
23 licensee's own account, of payments, interests, principal,
24 and trust items such as hazard insurance and taxes on a
25 residential mortgage loan in accordance with the terms of
26 the residential mortgage loan; and includes loan payment

1 follow-up, delinquency loan follow-up, loan analysis and
2 any notifications to the borrower that are necessary to
3 enable the borrower to keep the loan current and in good
4 standing. "Servicing" includes management of third-party
5 entities acting on behalf of a residential mortgage
6 licensee for the collection of delinquent payments and the
7 use by such third-party entities of said licensee's
8 servicing records or information, including their use in
9 foreclosure.

10 (r) "Full service office" shall mean an office,
11 provided by the licensee and not subleased from the
12 licensee's employees, and staff in Illinois reasonably
13 adequate to handle efficiently communications, questions,
14 and other matters relating to any application for, or an
15 existing home mortgage secured by residential real estate
16 situated in Illinois with respect to which the licensee is
17 brokering, funding originating, purchasing, or servicing.
18 The management and operation of each full service office
19 must include observance of good business practices such as
20 proper signage; adequate, organized, and accurate books
21 and records; ample phone lines, hours of business, staff
22 training and supervision, and provision for a mechanism to
23 resolve consumer inquiries, complaints, and problems. The
24 Commissioner shall issue regulations with regard to these
25 requirements and shall include an evaluation of compliance
26 with this Section in his or her periodic examination of

1 each licensee.

2 (s) "Purchasing" shall mean the purchase of
3 conventional or government-insured mortgage loans secured
4 by residential real estate situated in Illinois from
5 either the lender or from the secondary market.

6 (t) "Borrower" shall mean the person or persons who
7 seek the services of a loan broker, originator, or lender.

8 (u) "Originating" shall mean the issuing of
9 commitments for and funding of residential mortgage loans.

10 (v) "Loan brokerage agreement" shall mean a written
11 agreement in which a broker or loan broker agrees to do
12 either of the following:

13 (1) obtain a residential mortgage loan for the
14 borrower or assist the borrower in obtaining a
15 residential mortgage loan; or

16 (2) consider making a residential mortgage loan to
17 the borrower.

18 (w) "Advertisement" shall mean the attempt by
19 publication, dissemination, or circulation to induce,
20 directly or indirectly, any person to enter into a
21 residential mortgage loan agreement or residential
22 mortgage loan brokerage agreement relative to a mortgage
23 secured by residential real estate situated in Illinois.

24 (x) (Blank).

25 (y) "Government-insured mortgage loan" shall mean any
26 mortgage loan made on the security of residential real

1 estate insured by the Department of Housing and Urban
2 Development or Farmers Home Loan Administration, or
3 guaranteed by the Veterans Administration.

4 (z) "Annual audit" shall mean a certified audit of the
5 licensee's books and records and systems of internal
6 control performed by a certified public accountant in
7 accordance with generally accepted accounting principles
8 and generally accepted auditing standards.

9 (aa) "Financial institution" shall mean a savings and
10 loan association, savings bank, credit union, or a bank
11 organized under the laws of Illinois or a savings and loan
12 association, savings bank, credit union or a bank
13 organized under the laws of the United States and
14 headquartered in Illinois.

15 (bb) "Escrow agent" shall mean a third party,
16 individual or entity charged with the fiduciary obligation
17 for holding escrow funds on a residential mortgage loan
18 pending final payout of those funds in accordance with the
19 terms of the residential mortgage loan.

20 (cc) "Net worth" shall have the meaning ascribed
21 thereto in Section 3-5 of this Act.

22 (dd) "Affiliate" shall mean:

23 (1) any entity that directly controls or is
24 controlled by the licensee and any other company that
25 is directly affecting activities regulated by this Act
26 that is controlled by the company that controls the

1 licensee;

2 (2) any entity:

3 (A) that is controlled, directly or
4 indirectly, by a trust or otherwise, by or for the
5 benefit of shareholders who beneficially or
6 otherwise control, directly or indirectly, by
7 trust or otherwise, the licensee or any company
8 that controls the licensee; or

9 (B) a majority of the directors or trustees of
10 which constitute a majority of the persons holding
11 any such office with the licensee or any company
12 that controls the licensee;

13 (3) any company, including a real estate
14 investment trust, that is sponsored and advised on a
15 contractual basis by the licensee or any subsidiary or
16 affiliate of the licensee.

17 (ee) "First tier subsidiary" shall be defined by
18 regulation incorporating the comparable definitions used
19 by the Office of the Comptroller of the Currency and the
20 Illinois Commissioner of Banks and Real Estate.

21 (ff) "Gross delinquency rate" means the quotient
22 determined by dividing (1) the sum of (i) the number of
23 government-insured residential mortgage loans funded or
24 purchased by a licensee in the preceding calendar year
25 that are delinquent and (ii) the number of conventional
26 residential mortgage loans funded or purchased by the

1 licensee in the preceding calendar year that are
2 delinquent by (2) the sum of (i) the number of
3 government-insured residential mortgage loans funded or
4 purchased by the licensee in the preceding calendar year
5 and (ii) the number of conventional residential mortgage
6 loans funded or purchased by the licensee in the preceding
7 calendar year.

8 (gg) "Delinquency rate factor" means the factor set by
9 rule of the Commissioner that is multiplied by the average
10 gross delinquency rate of licensees, determined annually
11 for the immediately preceding calendar year, for the
12 purpose of determining which licensees shall be examined
13 by the Commissioner pursuant to subsection (b) of Section
14 4-8 of this Act.

15 (hh) (Blank).

16 (ii) "Confidential supervisory information" means any
17 report of examination, visitation, or investigation
18 prepared by the Commissioner under this Act, any report of
19 examination visitation, or investigation prepared by the
20 state regulatory authority of another state that examines
21 a licensee, any document or record prepared or obtained in
22 connection with or relating to any examination,
23 visitation, or investigation, and any record prepared or
24 obtained by the Commissioner to the extent that the record
25 summarizes or contains information derived from any
26 report, document, or record described in this subsection.

1 "Confidential supervisory information" does not include
2 any information or record routinely prepared by a licensee
3 and maintained in the ordinary course of business or any
4 information or record that is required to be made publicly
5 available pursuant to State or federal law or rule.

6 (jj) "Mortgage loan originator" means an individual
7 who for compensation or gain or in the expectation of
8 compensation or gain:

9 (i) takes a residential mortgage loan application;

10 or

11 (ii) offers or negotiates terms of a residential
12 mortgage loan.

13 "Mortgage loan originator" includes an individual
14 engaged in loan modification activities as defined in
15 subsection (yy) of this Section. A mortgage loan
16 originator engaged in loan modification activities shall
17 report those activities to the Department of Financial and
18 Professional Regulation in the manner provided by the
19 Department; however, the Department shall not impose a fee
20 for reporting, nor require any additional qualifications
21 to engage in those activities beyond those provided
22 pursuant to this Act for mortgage loan originators.

23 "Mortgage loan originator" does not include an
24 individual engaged solely as a loan processor or
25 underwriter except as otherwise provided in subsection (d)
26 of Section 7-1A of this Act.

1 "Mortgage loan originator" does not include a person
2 or entity that only performs real estate brokerage
3 activities and is licensed in accordance with the Real
4 Estate License Act of 2000, unless the person or entity is
5 compensated by a lender, a mortgage broker, or other
6 mortgage loan originator, or by any agent of that lender,
7 mortgage broker, or other mortgage loan originator.

8 "Mortgage loan originator" does not include a person
9 or entity solely involved in extensions of credit relating
10 to timeshare plans, as that term is defined in Section
11 101(53D) of Title 11, United States Code.

12 (kk) "Depository institution" has the same meaning as
13 in Section 3 of the Federal Deposit Insurance Act, and
14 includes any credit union.

15 (ll) "Dwelling" means a residential structure or
16 mobile home which contains one to 4 family housing units,
17 or individual units of condominiums or cooperatives.

18 (mm) "Immediate family member" means a spouse, child,
19 sibling, parent, grandparent, or grandchild, and includes
20 step-parents, step-children, step-siblings, or adoptive
21 relationships.

22 (nn) "Individual" means a natural person.

23 (oo) "Loan processor or underwriter" means an
24 individual who performs clerical or support duties as an
25 employee at the direction of and subject to the
26 supervision and instruction of a person licensed, or

1 exempt from licensing, under this Act. "Clerical or
2 support duties" includes subsequent to the receipt of an
3 application:

4 (i) the receipt, collection, distribution, and
5 analysis of information common for the processing or
6 underwriting of a residential mortgage loan; and

7 (ii) communicating with a consumer to obtain the
8 information necessary for the processing or
9 underwriting of a loan, to the extent that the
10 communication does not include offering or negotiating
11 loan rates or terms, or counseling consumers about
12 residential mortgage loan rates or terms. An
13 individual engaging solely in loan processor or
14 underwriter activities shall not represent to the
15 public, through advertising or other means of
16 communicating or providing information, including the
17 use of business cards, stationery, brochures, signs,
18 rate lists, or other promotional items, that the
19 individual can or will perform any of the activities
20 of a mortgage loan originator.

21 (pp) "Nationwide Multistate Licensing System and
22 Registry" means a mortgage licensing system developed and
23 maintained by the Conference of State Bank Supervisors and
24 the American Association of Residential Mortgage
25 Regulators for the licensing and registration of licensed
26 mortgage loan originators.

1 (qq) "Nontraditional mortgage product" means any
2 mortgage product other than a 30-year fixed rate mortgage.

3 (rr) "Person" means a natural person, corporation,
4 company, limited liability company, partnership, or
5 association.

6 (ss) "Real estate brokerage activity" means any
7 activity that involves offering or providing real estate
8 brokerage services to the public, including:

9 (1) acting as a real estate agent or real estate
10 broker for a buyer, seller, lessor, or lessee of real
11 property;

12 (2) bringing together parties interested in the
13 sale, purchase, lease, rental, or exchange of real
14 property;

15 (3) negotiating, on behalf of any party, any
16 portion of a contract relating to the sale, purchase,
17 lease, rental, or exchange of real property, other
18 than in connection with providing financing with
19 respect to any such transaction;

20 (4) engaging in any activity for which a person
21 engaged in the activity is required to be registered
22 or licensed as a real estate agent or real estate
23 broker under any applicable law; or

24 (5) offering to engage in any activity, or act in
25 any capacity, described in this subsection (ss).

26 (tt) "Registered mortgage loan originator" means any

1 individual that:

2 (1) meets the definition of mortgage loan
3 originator and is an employee of:

4 (A) a depository institution;

5 (B) a subsidiary that is:

6 (i) owned and controlled by a depository
7 institution; and

8 (ii) regulated by a federal banking
9 agency; or

10 (C) an institution regulated by the Farm
11 Credit Administration; and

12 (2) is registered with, and maintains a unique
13 identifier through, the Nationwide Multistate
14 Licensing System and Registry.

15 (uu) "Unique identifier" means a number or other
16 identifier assigned by protocols established by the
17 Nationwide Multistate Licensing System and Registry.

18 (vv) "Residential mortgage license" means a license
19 issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

20 (ww) "Mortgage loan originator license" means a
21 license issued pursuant to Section 7-1A, 7-3, or 7-6 of
22 this Act.

23 (xx) "Secretary" means the Secretary of the Department
24 of Financial and Professional Regulation, or a person
25 authorized by the Secretary or by this Act to act in the
26 Secretary's stead.

1 (yy) "Loan modification" means, for compensation or
2 gain, either directly or indirectly offering or
3 negotiating on behalf of a borrower or homeowner to adjust
4 the terms of a residential mortgage loan in a manner not
5 provided for in the original or previously modified
6 mortgage loan.

7 (zz) "Short sale facilitation" means, for compensation
8 or gain, either directly or indirectly offering or
9 negotiating on behalf of a borrower or homeowner to
10 facilitate the sale of residential real estate subject to
11 one or more residential mortgage loans or debts
12 constituting liens on the property in which the proceeds
13 from selling the residential real estate will fall short
14 of the amount owed and the lien holders are contacted to
15 agree to release their lien on the residential real estate
16 and accept less than the full amount owed on the debt.

17 (aaa) "Bona fide nonprofit organization" means an
18 organization that is described in Section 501(c)(3) of the
19 Internal Revenue Code, is exempt from federal income tax
20 under Section 501(a) of the Internal Revenue Code, does
21 not operate in a commercial context, and does all of the
22 following:

23 (1) Promotes affordable housing or provides home
24 ownership education or similar services.

25 (2) Conducts its activities in a manner that
26 serves public or charitable purposes.

1 (3) Receives funding and revenue and charges fees
2 in a manner that does not create an incentive for
3 itself or its employees to act other than in the best
4 interests of its clients.

5 (4) Compensates its employees in a manner that
6 does not create an incentive for its employees to act
7 other than in the best interests of its clients.

8 (5) Provides to, or identifies for, the borrower
9 residential mortgage loans with terms favorable to the
10 borrower and comparable to residential mortgage loans
11 and housing assistance provided under government
12 housing assistance programs.

13 The Commissioner may define by rule and regulation any
14 terms used in this Act for the efficient and clear
15 administration of this Act.

16 (Source: P.A. 100-783, eff. 8-10-18; 100-851, eff. 8-14-18;
17 100-1153, eff. 12-19-18; 101-81, eff. 7-12-19.)

18 Section 90. The Illinois Insurance Code is amended by
19 changing Sections 2, 35A-5, 37, and 58 and the heading of
20 Article III.5 and Sections 60a, 60b, 60c, 60d, 60e, 60f, 60g,
21 60h, 60i, 60j, 63, 86, 87, 88, 103, 104, and 105 and the
22 heading of Article VI and Sections 108, 109, 110, 111, 112,
23 113, 113.1, 114, 115, 116, 117, 118, 119, 120, 123, 123.1,
24 123.3, 123C-8, 126.1, 126.12, 126.25, 131.13, 132.3, 133, 136,
25 141a, 144, 144.1, 146, 148, 154.5, 156, 156.1, 157, 161, 162,

1 163, 164, 166, 169, 170, 173.1, 179A-5, and 179E-5 and the
2 heading of Article XII and Sections 180, 185.1, 188, 188.1,
3 197, 201, 223, 241, 292.1, 302.1, 308.1, 309.1, 310.1, 357.29,
4 370, 404, 408, 412, 413, 415, 444, 444.1, 445, 448, 451,
5 531.09, 531.11, 534.5, 543.1, and 1103 as follows:

6 (215 ILCS 5/2) (from Ch. 73, par. 614)

7 Sec. 2. General definitions.

8 In this Code, unless the context otherwise requires,

9 (a) "Director" means the Director of Insurance.

10 (b) "Department" means the Department of Insurance.

11 (c) "State" or "State of the United States" includes the
12 District of Columbia and a territory or possession of the
13 United States.

14 (d) "Country" or "Foreign Country" includes a state,
15 province or political subdivision thereof.

16 (e) "Company" means an insurance or surety company and
17 shall be deemed to include a corporation, company,
18 partnership, association, society, order, individual or
19 aggregation of individuals engaging in or proposing or
20 attempting to engage in any kind of insurance or surety
21 business, including the exchanging of reciprocal or
22 inter-insurance contracts between individuals, partnerships
23 and corporations.

24 (f) "Domestic Company" means a company incorporated or
25 organized under the laws of this State.

1 (g) "Foreign Company" means a company incorporated or
2 organized under the laws of any state of the United States
3 other than this State.

4 (h) "Non-domestic ~~Alien~~ Company" means a company
5 incorporated or organized under the laws of any country other
6 than the United States.

7 (i) "Mutual Legal Reserve Life Company" means a mutual
8 life company issuing contracts without contingent liability on
9 the policyholder.

10 (j) "Assessment Legal Reserve Life Company" means a life
11 company issuing contracts providing for contingent liability
12 on the policyholder.

13 (k) "Reciprocal" includes Inter-Insurance Exchange.

14 (l) "Person" includes an individual, aggregation of
15 individuals, corporation, association and partnership.

16 (m) Personal pronouns include all genders, the singular
17 includes the plural and the plural includes the singular.

18 (n) "Policy" means an insurance policy or contract and
19 includes certificates of fraternal benefit societies,
20 assessment companies, mutual benefit associations, and burial
21 societies.

22 (o) "Policyholder" means a holder of an insurance policy
23 or contract and includes holders of certificates of fraternal
24 benefit societies, assessment companies, mutual benefit
25 associations, and burial societies.

26 (p) "Articles of Incorporation" means the basic instrument

1 of an incorporated company and all amendments thereto and
2 includes "Charter," "Articles of Organization," "Articles of
3 Reorganization," "Articles of Association," and "Deed of
4 Settlement."

5 (q) "Officer" when used to refer to an officer of a company
6 includes an attorney-in-fact for a reciprocal or Lloyds.

7 (Source: Laws 1937, p. 696.)

8 (215 ILCS 5/35A-5)

9 Sec. 35A-5. Definitions. As used in this Article, the
10 terms listed in this Section have the meaning given herein.

11 "Adjusted RBC Report" means an RBC Report that has been
12 adjusted by the Director in accordance with subsection (f) of
13 Section 35A-10.

14 "Authorized control level RBC" means the number determined
15 under the risk-based capital formula in accordance with the
16 RBC Instructions.

17 "Company action level RBC" means the product of 2.0 and
18 the insurer's authorized control level RBC.

19 "Corrective Order" means an order issued by the Director
20 in accordance with Article XII 1/2 specifying corrective
21 actions that the Director determines are required.

22 "Domestic insurer" means any insurance company domiciled
23 in this State under Article II, Article III, Article III 1/2,
24 or Article IV or a health organization as defined by this
25 Article, except this shall include only those health

1 maintenance organizations that are "domestic companies" in
2 accordance with Section 5-3 of the Health Maintenance
3 Organization Act and only those limited health service
4 organizations that are "domestic companies" in accordance with
5 Section 4003 of the Limited Health Service Organization Act.

6 "Fraternal benefit society" means any insurance company
7 licensed under Article XVII of this Code.

8 "Foreign insurer" means any foreign or non-domestic ~~alien~~
9 insurance company licensed under Article VI that is not
10 domiciled in this State and any health maintenance
11 organization that is not a "domestic company" in accordance
12 with Section 5-3 of the Health Maintenance Organization Act
13 and any limited health service organization that is not a
14 "domestic company" in accordance with Section 4003 of the
15 Limited Health Service Organization Act.

16 "Health organization" means an entity operating under a
17 certificate of authority issued pursuant to the Health
18 Maintenance Organization Act, the Dental Service Plan Act, the
19 Limited Health Service Organization Act, or the Voluntary
20 Health Services Plans Act, unless the entity is otherwise
21 defined as a "life, health, or life and health insurer"
22 pursuant to this Act.

23 "Life, health, or life and health insurer" means an
24 insurance company that has authority to transact the kinds of
25 insurance described in either or both clause (a) or clause (b)
26 of Class 1 of Section 4 or a licensed property and casualty

1 insurer writing only accident and health insurance.

2 "Mandatory control level RBC" means the product of 0.70
3 and the insurer's authorized control level RBC.

4 "NAIC" means the National Association of Insurance
5 Commissioners.

6 "Negative trend" means, with respect to a life, health, or
7 life and health insurer or a fraternal benefit society, a
8 negative trend over a period of time, as determined in
9 accordance with the trend test calculation included in the
10 Life or Fraternal RBC Instructions.

11 "Property and casualty insurer" means an insurance company
12 that has authority to transact the kinds of insurance in
13 either or both Class 2 or Class 3 of Section 4 or a licensed
14 insurer writing only insurance authorized under clause (c) of
15 Class 1, but does not include monoline mortgage guaranty
16 insurers, financial guaranty insurers, and title insurers.

17 "RBC" means risk-based capital.

18 "RBC Instructions" means the RBC Report including
19 risk-based capital instructions adopted by the NAIC as those
20 instructions may be amended by the NAIC from time to time in
21 accordance with the procedures adopted by the NAIC.

22 "RBC level" means an insurer's company action level RBC,
23 regulatory action level RBC, authorized control level RBC, or
24 mandatory control level RBC.

25 "RBC Plan" means a comprehensive financial plan containing
26 the elements specified in subsection (b) of Section 35A-15.

1 "RBC Report" means the risk-based capital report required
2 under Section 35A-10.

3 "Receivership" means conservation, rehabilitation, or
4 liquidation under Article XIII.

5 "Regulatory action level RBC" means the product of 1.5 and
6 the insurer's authorized control level RBC.

7 "Revised RBC Plan" means an RBC Plan rejected by the
8 Director and revised by the insurer with or without the
9 Director's recommendations.

10 "Total adjusted capital" means the sum of (1) an insurer's
11 statutory capital and surplus and (2) any other items that the
12 RBC Instructions may provide.

13 (Source: P.A. 98-157, eff. 8-2-13.)

14 (215 ILCS 5/37) (from Ch. 73, par. 649)

15 (Section scheduled to be repealed on January 1, 2027)

16 Sec. 37. Name. The corporate name of any company organized
17 under this Article shall contain the word "Mutual" and shall
18 not be the same as, or deceptively similar to, the name of any
19 domestic company, or of any foreign or non-domestic ~~alien~~
20 company authorized to transact business in this State.

21 (Source: Laws 1937, p. 696.)

22 (215 ILCS 5/58) (from Ch. 73, par. 670)

23 (Section scheduled to be repealed on January 1, 2027)

24 Sec. 58. Governmental agencies and corporations may be

1 members. Any government or governmental agency, state or
2 political subdivision thereof, public or private corporation,
3 board, association, estate, trustee or fiduciary in this State
4 or elsewhere, may make application, enter into agreements for
5 and hold policies or contracts in or with, and be a member of,
6 any domestic, foreign or non-domestic ~~alien~~ mutual company
7 subject to the provisions of this Code. Any officer,
8 representative, trustee, receiver or legal representative of
9 any such member or policyholder, shall be recognized as acting
10 for or on its behalf for the purpose of such contract or
11 membership, but shall not be personally liable upon such
12 contract by reason of acting in such representative capacity.

13 (Source: Laws 1937, p. 696.)

14 (215 ILCS 5/Art. III.5 heading)

15 ARTICLE III 1/2. NON-DOMESTIC ~~ALIEN~~ COMPANIES

16 (215 ILCS 5/60a) (from Ch. 73, par. 672a)

17 Sec. 60a. Non-domestic ~~Alien~~ companies; Illinois State of
18 entry.

19 (1) A non-domestic ~~An alien~~ company may use Illinois as a
20 state of entry to transact insurance in the United States by
21 obtaining a certificate of authority pursuant to Section 111
22 and maintaining in this State a deposit of assets in trust in
23 accordance with the provisions of Section 60b.

24 (2) A United States branch of a non-domestic ~~an alien~~

1 company that uses Illinois as a state of entry to transact
2 insurance in the United States shall be considered a domestic
3 company, and as such shall be subject to all applicable
4 provisions of this Code. Transactions between the United
5 States branch and the home office of a non-domestic ~~an alien~~
6 company shall not be subject to the provisions of Section
7 131.20 and subsection (1) of Section 131.20a, but remittances
8 of profits of the United States branch to the home office of a
9 non-domestic ~~an alien~~ company shall be considered dividends
10 subject to the requirements of subsection (2) of Section
11 131.20a.

12 (Source: P.A. 89-97, eff. 7-7-95.)

13 (215 ILCS 5/60b) (from Ch. 73, par. 672b)

14 Sec. 60b. Non-domestic ~~Alien~~ companies; Illinois trusteed
15 assets.

16 (1) A non-domestic ~~An alien~~ company may not use Illinois
17 as a state of entry to transact insurance in the United States
18 unless it maintains in this State a deposit of assets in trust
19 for the benefit of policyholders in the United States, which
20 assets shall be its "Trusteed Assets". The United States
21 branch of a non-domestic ~~an alien~~ company shall maintain
22 Trusteed Assets at least equal to (a) the sum of (i) its
23 minimum capital and surplus, and (ii) the amount of its
24 liabilities to policyholders, net of reinsurance for which
25 credit is allowed pursuant to Article XI, as reflected in its

1 most recent financial statement on file with the Director,
2 minus (b) the sum of (i) the amount of all of its general state
3 deposits (including all interest accrued and due and payable
4 to the holder of the deposit), (ii) the amount of its special
5 state deposits (including all interest accrued and due and
6 payable to the holder of the deposit), (iii) the amount of its
7 reinsurance recoverable on paid losses (where such reinsurance
8 is the type for which credit would be allowed pursuant to
9 Article XI), (iv) the amounts of its notes and bills
10 receivable, taken for premiums; (v) with respect to a company
11 authorized to write the kinds of insurance specified in
12 Classes 2 and 3 of Section 4 of this Code, the amount of its
13 agents' balances and uncollected premiums; and (vi) the amount
14 of its funds held by or deposited with reinsureds.

15 (2) Only those assets that qualify as authorized
16 investments as provided in Article VIII (and in Sections 131.2
17 and 131.3) shall be included in a non-domestic ~~an alien~~
18 company's Trusteed Assets.

19 (Source: P.A. 88-45; 89-97, eff. 7-7-95.)

20 (215 ILCS 5/60c) (from Ch. 73, par. 672c)

21 Sec. 60c. Requirements and contents of trust agreement.
22 Trust agreements governing Trusteed Assets required by Section
23 60b shall satisfy the following conditions:

24 (1) Legal title to the Trusteed Assets shall be vested in
25 the trustee or trustees, and their successors lawfully

1 appointed, in trust for the benefit and security of
2 policyholders of the non-domestic ~~alien~~ company in the United
3 States.

4 (2) The agreement shall provide for substitution of a new
5 trustee or trustees, subject to the Director's approval.

6 (3) All Trusteed Assets shall at all times be maintained
7 as a trust fund separate and distinct from all other assets.

8 (4) The trustee or trustees shall maintain a record at all
9 times sufficient to identify the assets of the trust.

10 (5) Withdrawal of or from the Trusteed Assets shall be
11 made only as provided in Section 60d.

12 (Source: P.A. 85-1373.)

13 (215 ILCS 5/60d) (from Ch. 73, par. 672d)

14 Sec. 60d. Withdrawal of Trusteed Assets. (1) The trust
15 agreement shall provide that no withdrawals of Trusteed Assets
16 shall be made by the non-domestic ~~alien~~ company or permitted
17 by the trustee or trustees without the prior approval of the
18 Director, except as follows:

19 (a) Any or all income, earnings, dividends, or interest
20 accumulations of the Trusteed Assets may be paid over to the
21 United States branch of the non-domestic ~~alien~~ company upon
22 request of the company or its manager, provided that no
23 withdrawal shall be made that reduces the Trusteed Assets
24 below the amount required by Section 60b.

25 (b) For the purpose of substituting other assets

1 authorized for investment by Article VIII and at least equal
2 in value (as reflected in the most recent financial statement
3 on file with the Director) to those being withdrawn, if such
4 withdrawal is requested in writing by the non-domestic ~~alien~~
5 company's (i) United States manager or (ii) other United
6 States representative pursuant to general or specific written
7 authority previously given or delegated by the non-domestic
8 ~~alien~~ company's board of directors or other similar governing
9 body, and a copy of such authority has been filed with the
10 trustee or trustees.

11 (c) For the purpose of making deposits required by law in
12 any state for the protection of the non-domestic ~~alien~~
13 company's policyholders in the United States. The trustee or
14 trustees shall transfer any assets so withdrawn, and in the
15 amount so required to be deposited in the other state,
16 directly to the depository required to receive such deposit in
17 such other state.

18 (d) For the payment of obligations due from the United
19 States branch of the non-domestic ~~alien~~ company to
20 policyholders in the United States, provided that no
21 withdrawal shall be made that reduces the Trusteed Assets
22 below the amount required by Section 60b.

23 (e) For the purpose of withdrawing any amount of the
24 Trusteed Assets in excess of the amount required by Section
25 60b, as determined by the non-domestic ~~alien~~ company's then
26 most current annual statement on file with the Director.

1 (f) For the purpose of transferring the Trusteed Assets to
2 an appointed liquidator, conservator, or rehabilitator
3 pursuant to the order of a court of competent jurisdiction.

4 (2) If at any time the non-domestic ~~alien~~ company becomes
5 insolvent, or if its Trusteed Assets are less than required
6 under Section 60b, the Director shall in writing order the
7 trustee to suspend the right of the non-domestic ~~alien~~ company
8 or any other person to withdraw assets as otherwise authorized
9 under paragraphs (a), (b), (c), (d) and (e) of subsection (1);
10 and the trustee shall comply with such order until otherwise
11 ordered by the Director.

12 (Source: P.A. 85-1373.)

13 (215 ILCS 5/60e) (from Ch. 73, par. 672e)

14 Sec. 60e. Domestication of Non-domestic ~~Alien~~ Company;
15 definitions. As used in Sections 60e through 60i:

16 (1) "Domestication" means the reorganization of the United
17 States branch of a non-domestic ~~an alien~~ company as the result
18 of which a domestic company shall succeed to all the business
19 and assets and assume all the liabilities of the United States
20 branch of the non-domestic ~~alien~~ company.

21 (2) "United States branch" means the business unit through
22 which business is transacted within the United States by a
23 non-domestic ~~an alien~~ company and the assets and liabilities
24 of such insurer within the United States pertaining to such
25 business.

1 (3) "Domestic Company" means a stock or mutual insurer
2 incorporated under the laws of this State.

3 (Source: P.A. 85-1373.)

4 (215 ILCS 5/60f) (from Ch. 73, par. 672f)

5 Sec. 60f. Domestication procedure. (1) Upon compliance
6 with Sections 60e through 60i, any non-domestic ~~alien~~ company
7 authorized to do business in this State may, with the prior
8 written approval of the Director, domesticate its United
9 States branch by entering into an agreement in writing with a
10 domestic company providing for the acquisition by the domestic
11 company of all of the assets and the assumption of all of the
12 liabilities of the United States branch.

13 (2) The acquisition of assets and assumption of
14 liabilities of the United States branch by the domestic
15 company shall be effected by filing with the Director an
16 instrument of transfer and assumption in form satisfactory to
17 the Director and executed by the non-domestic ~~alien~~ company
18 and the domestic company.

19 (Source: P.A. 85-1373.)

20 (215 ILCS 5/60g) (from Ch. 73, par. 672g)

21 Sec. 60g. Domestication agreement; authorization;
22 execution. (1) The domestication agreement referred to in
23 Section 60f shall be authorized, adopted, approved, signed,
24 and acknowledged by the non-domestic ~~alien~~ company in

1 accordance with the laws of the country under which it is
2 organized.

3 (2) In the case of a domestic company, the domestication
4 agreement shall be approved, adopted, and authorized by its
5 board of directors and executed by its president or any vice
6 president and attested by its secretary or assistant secretary
7 under its corporate seal.

8 (Source: P.A. 85-1373.)

9 (215 ILCS 5/60h) (from Ch. 73, par. 672h)

10 Sec. 60h. Director's approval of domestication agreement.
11 An executed counterpart of the domestication agreement,
12 together with certified copies of the corporate proceedings of
13 the domestic company and the non-domestic ~~alien~~ company,
14 approving, adopting and authorizing the execution of the
15 domestication agreement, shall be submitted to the Director
16 for approval. The Director shall thereupon consider the
17 agreement, and, if the Director finds that the same is in
18 accordance with the provisions hereof and that the interests
19 of policyholders of the United States branch of the
20 non-domestic ~~alien~~ insurer and of the domestic company are not
21 materially adversely affected, the Director shall approve the
22 domestication agreement and authorize the consummation thereof
23 in compliance with the provisions of Section 60i. The Director
24 shall approve or disapprove the domestication agreement within
25 60 days after it is submitted to the Director.

1 (Source: P.A. 85-1373.)

2 (215 ILCS 5/60i) (from Ch. 73, par. 672i)

3 Sec. 60i. Consummation of domestication; transfer of
4 assets and deposits. (1) Upon the filing with the Director of a
5 certified copy of the instrument of transfer and assumption
6 pursuant to which a domestic company succeeds to the business
7 and assets of the United States branch of a non-domestic ~~an~~
8 ~~alien~~ company and assumes all its liabilities, the
9 domestication of the United States branch shall be deemed to
10 be effective; and thereupon all the rights, franchises, and
11 interests of the United States branch in and to every species
12 of property, real, personal, and mixed, and things in actions
13 thereunder belonging shall be deemed as transferred to and
14 vested in the domestic company, and simultaneously therewith
15 the domestic company shall be deemed to have assumed all of the
16 liabilities of the United States branch. The domestic company
17 shall be considered as having the age as the oldest of the 2
18 parties to the domestication agreement for purposes of
19 complying with the requirements of laws relating to age of
20 company.

21 (2) All deposits of the United States branch held by the
22 Director, or by state officers or other state regulatory
23 agencies pursuant to requirements of state laws, shall be
24 deemed to be held as security for the satisfaction by the
25 domestic company of all liabilities to policyholders within

1 the United States assumed from the United States branch; and
2 such deposits shall be deemed to be assets of the domestic
3 company and shall be reported as such in the annual financial
4 statements and other reports which the domestic company may be
5 required to file. Upon the ultimate release by any such state
6 officer or agency of any such deposits, the securities and
7 cash constituting such released deposit shall be delivered and
8 paid over to the domestic company as the lawful successor in
9 interest to the United States branch.

10 (3) Contemporaneously with the consummation of the
11 domestication of the United States branch, the Director shall
12 direct the trustee, if any, of the U. S. branch's Trusteed
13 Assets to transfer and deliver to the domestic company all
14 assets, if any, held by such trustee.

15 (Source: P.A. 85-1373.)

16 (215 ILCS 5/60j) (from Ch. 73, par. 672j)

17 Sec. 60j. Trustees of non-domestic ~~alien~~ companies. (1)
18 The directors of a non-domestic ~~an alien~~ company may appoint
19 citizens or corporations of the United States as its trustees
20 to hold funds and assets in trust for the benefit of the
21 policyholders and creditors of the company in the United
22 States. A certified copy of the record of such appointment and
23 of the deed of trust, approved by the Director, shall be filed
24 with him.

25 (2) The Director may examine such trustee and any officers

1 and agents, books and papers thereof, with respect to the
2 affairs of such non-domestic ~~alien~~ company in the same manner
3 as he may examine officers, agents, books, papers and affairs
4 of companies.

5 (3) The funds and assets so held by such trustees shall,
6 with the deposits otherwise made by the United States branch
7 of the non-domestic ~~alien~~ company in the United States
8 together with loans in connection with its policies to
9 policyholders, and all other funds and assets held by the
10 United States branch of the non-domestic ~~alien~~ company in the
11 United States, constitute the assets of the company for the
12 purpose of making its financial statements required by this
13 Code. For purposes of making financial statements required by
14 this Code, the liabilities of a non-domestic ~~an alien~~ company
15 shall be limited to only those liabilities incurred in
16 connection with its United States business.

17 (4) In applying the risk limitations as provided in
18 Section 144 or any limit on premium volume, the Director shall
19 calculate such limitations based solely on the non-domestic
20 ~~alien~~ company's assets in the United States that, pursuant to
21 subsection (3) of this Section, constitute the assets of the
22 company for purposes of making its financial statements
23 required by this Code and its surplus as regards policyholders
24 as reflected in the most recent financial statement on file
25 with the Director.

26 (Source: P.A. 85-1373.)

1 (215 ILCS 5/63) (from Ch. 73, par. 675)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 63. Name. The name or designation under which
4 contracts are to be exchanged shall include the words
5 "Reciprocal" or "Inter-Insurance Exchange" or be supplemented
6 by the following words immediately below the name or
7 designation under which such contracts are exchanged: "A
8 Reciprocal" or "An Inter-Insurance Exchange." Such name or
9 designation shall not be the same as or deceptively similar to
10 the name or designation adopted by any other domestic company
11 or any foreign or non-domestic ~~alien~~ company authorized to
12 transact business in this State.

13 (Source: Laws 1937, p. 696.)

14 (215 ILCS 5/86) (from Ch. 73, par. 698)

15 (Section scheduled to be repealed on January 1, 2027)

16 Sec. 86. Scope of Article.

17 (1) This Article applies to all groups including
18 incorporated and individual unincorporated underwriters
19 transacting an insurance business in this State through an
20 attorney-in-fact under the name Lloyds or under a Lloyds plan
21 of operation. Groups that meet the requirements of subsection
22 (3) are referred to in this Code as "Lloyds", and incorporated
23 and individual unincorporated underwriters are referred to as
24 "underwriters".

1 (2) As used in this Code:

2 "Domestic Lloyds" means a Lloyds having its home office in
3 this State.

4 "Foreign Lloyds" means a Lloyds having its home office in
5 any state of the United States other than this State.

6 "Non-domestic ~~Alien~~ Lloyds" means a Lloyds having its home
7 office or principal place of business in any country other
8 than the United States.

9 (3) A domestic Lloyds must: (i) be established pursuant to
10 a statute or written charter; (ii) provide for governance by a
11 board of directors or similar body; and (iii) establish and
12 monitor standards of solvency of its underwriters. A foreign
13 or non-domestic ~~alien~~ Lloyds must be subject to requirements
14 of its state or country of domicile. Those requirements must
15 be substantially similar to those required of domestic Lloyds.
16 Domestic, foreign, and non-domestic ~~alien~~ Lloyds shall not be
17 subject to Section 144 of this Code.

18 (4) All foreign and non-domestic ~~alien~~ entities and
19 individuals transacting an insurance business as domestic,
20 foreign, or non-domestic ~~alien~~ Lloyds shall notify the
21 Director and the Secretary of State under the provisions of
22 this Article, shall be regulated exclusively by the Director,
23 and shall not be required to obtain a certificate of authority
24 from the Secretary of State pursuant to any other law of this
25 State so long as they solely transact business as a domestic,
26 foreign, or non-domestic ~~alien~~ Lloyds. Upon notification, the

1 Secretary of State may require submission of additional
2 information to determine whether a foreign or non-domestic
3 ~~alien~~ individual or entity is transacting business solely as a
4 domestic, foreign, or non-domestic ~~alien~~ Lloyds.
5 (Source: P.A. 100-863, eff. 8-14-18.)

6 (215 ILCS 5/87) (from Ch. 73, par. 699)

7 (Section scheduled to be repealed on January 1, 2027)

8 Sec. 87. Certificate of authority. It shall be unlawful
9 for any domestic, foreign or non-domestic ~~alien~~ Lloyds to
10 transact business in this State unless it has first obtained
11 and has in force a certificate of authority issued by the
12 Director. All certificates of authority issued under the
13 provisions of this Article shall terminate on the thirtieth
14 day of June next following the date of issuance and may be
15 renewed upon compliance with this Code.

16 (Source: Laws 1937, p. 696.)

17 (215 ILCS 5/88) (from Ch. 73, par. 700)

18 (Section scheduled to be repealed on January 1, 2027)

19 Sec. 88. Name. The name of any Lloyds authorized to
20 transact business under this Article shall not be the same as,
21 or deceptively similar to, the name of any domestic company or
22 of any foreign or non-domestic ~~alien~~ company authorized to
23 transact business in this State.

24 (Source: Laws 1937, p. 696.)

1 (215 ILCS 5/103) (from Ch. 73, par. 715)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 103. Non-domestic ~~Alien~~ Lloyds.

4 (1) Each non-domestic ~~alien~~ Lloyds authorized to transact
5 business in this State shall

6 (a) maintain in this State or any other state of the
7 United States in which they are authorized to transact
8 business, cash or securities of a character conformable to
9 the requirements of Article VIII of this Code for domestic
10 companies at least equal at all times to the minimum of
11 admitted assets required by this Article for a domestic
12 Lloyds doing the same kind or kinds of business;

13 (b) make deposits of underwriters in this State in
14 accordance with the requirements imposed upon domestic
15 Lloyds;

16 (c) file with the Director an authenticated copy of
17 its power of attorney and an authenticated copy of the
18 trust agreement or other agreement under which deposits
19 made by underwriters in this State are held;

20 (d) notify the Director forthwith of any amendment to
21 its power of attorney, deposit agreement or other
22 documents by filing with the Director an authenticated
23 copy of such document as amended; and

24 (e) notify the Director forthwith of any change in its
25 name or change of attorney-in-fact or change of address of

1 its attorney-in-fact.

2 (2) A non-domestic ~~An alien~~ Lloyds shall not establish
3 branches under other or different names or titles.

4 (3) There shall be filed with the Director by the
5 attorney-in-fact for such Lloyds, who or which shall be a
6 resident person or corporation of this State, at the time of
7 filing the annual statement, or more often if required by the
8 Director, a verified statement setting forth

9 (a) the names and addresses of all underwriters of
10 such Lloyds; and

11 (b) a description of the cash and securities deposited
12 in trust by each underwriter.

13 (4) Additional underwriters may join and be included in
14 any such Lloyds subject to such conditions and requirements as
15 may from time to time be imposed by such Lloyds and upon
16 meeting the requirements of this Section, such additional
17 underwriters who may so join such Lloyds shall be bound by the
18 documents on file with the Director in the same manner as
19 though they had personally executed the same and shall have
20 the same rights, powers and duties as all other underwriters
21 of such Lloyds. The attorney-in-fact authorized by the
22 underwriters to act for them shall thereafter be the
23 attorney-in-fact for such additional underwriters to the
24 extent of the power of attorney or other document or
25 authorization by such underwriters to the attorney-in-fact.

26 (Source: P.A. 90-794, eff. 8-14-98.)

1 (215 ILCS 5/104) (from Ch. 73, par. 716)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 104. Policy forms. Every policy issued in this State
4 by any domestic, foreign or non-domestic ~~alien~~ Lloyds shall
5 have printed upon its face and back the name of such Lloyds,
6 the name and address of its attorney-in-fact in this State or
7 agent for service of process in this State, and in type not
8 smaller than ten point the words "Not Incorporated."

9 (Source: Laws 1937, p. 696.)

10 (215 ILCS 5/105) (from Ch. 73, par. 717)

11 (Section scheduled to be repealed on January 1, 2027)

12 Sec. 105. Director as agent; service of process.

13 (1) The attorney-in-fact of every Lloyds transacting
14 business in this State shall file with the Director a duly
15 executed instrument whereby such Lloyds shall appoint and
16 constitute the Director, his successor or successors in
17 office, the true and lawful agent of such Lloyds upon whom all
18 lawful process in any action or legal proceeding against such
19 Lloyds may be served, and shall agree that any lawful process
20 against such Lloyds which may be served upon said agent shall
21 be of the same force and validity as if served upon the
22 attorney-in-fact, and that the authority thereof shall
23 continue in force irrevocably so long as any liability of such
24 Lloyds in this State shall remain outstanding.

1 (2) In any suit instituted against any domestic, foreign
2 or non-domestic ~~alien~~ Lloyds transacting business in this
3 State, it shall not be necessary to name the underwriters as
4 parties defendant, but such Lloyds may be named as the party
5 defendant in any such suit and service may be had upon all the
6 underwriters by service upon the last appointed
7 attorney-in-fact or by service upon the Director, and not
8 otherwise. Any such suit may be brought in the county in which
9 the cause of action arises or in which the claimant resides.
10 When such process is served upon the Director as agent to
11 accept service, duplicate copies of such process shall be
12 delivered to him and he shall immediately forward one copy of
13 each such process to the last appointed attorney-in-fact by
14 certified or registered mail, postage prepaid, giving the day
15 and hour of such service.

16 (Source: P.A. 88-535.)

17 (215 ILCS 5/Art. VI heading)

18 ARTICLE VI. FOREIGN OR NON-DOMESTIC ~~ALIEN~~ COMPANIES

19 (Article scheduled to be repealed on January 1, 2027)

20 (215 ILCS 5/108) (from Ch. 73, par. 720)

21 (Section scheduled to be repealed on January 1, 2027)

22 Sec. 108. Companies that may be admitted to do business.

23 (1) Upon complying with the provisions of this Article, a
24 foreign or non-domestic ~~alien~~ company organized as a stock

1 company, mutual company, reciprocal, Lloyds or fraternal
2 benefit society may be admitted to transact in this State the
3 kind or kinds of business which a domestic company similarly
4 organized may be authorized to transact under this Code. Any
5 certificate of authority issued to a non-domestic ~~an alien~~
6 Lloyds shall be subject to all of the provisions of Section
7 103.

8 (2) No foreign or non-domestic ~~alien~~ mutual benefit
9 society or burial society shall hereafter be admitted to
10 transact business in this State.

11 (3) No foreign or non-domestic ~~alien~~ company shall
12 transact in this State any insurance business not classified
13 under Section 4.

14 (Source: P.A. 82-498.)

15 (215 ILCS 5/109) (from Ch. 73, par. 721)

16 (Section scheduled to be repealed on January 1, 2027)

17 Sec. 109. Application for certificate of authority.

18 (1) A foreign or non-domestic ~~alien~~ company in order to
19 procure a certificate of authority to transact business in
20 this State shall make application therefor to the Director.
21 The application shall set forth:

22 (a) the name of the company, and the state or country
23 under the laws of which it is organized or authorized;

24 (b) the title of the Act under or by which it was
25 incorporated or organized, the date of its incorporation

1 or organization and, if a corporation, the period of its
2 duration;

3 (c) the class or classes of insurance business, as
4 provided in Section 4, in which it proposes to engage in
5 this State, and the kinds of insurances in each class it
6 proposes to write in this State;

7 (d) if a life company, that it is not engaged in any
8 state in practices which, if engaged in in this State,
9 would constitute a violation of Section 237;

10 (e) whether or not it was authorized to transact
11 business in this State during any part of the 3-year
12 period prior to its application and, if so, for what
13 period;

14 (f) whether or not it survives or was formed by a
15 merger, consolidation, reorganization, or reincorporation
16 effected within 3 years prior to its application and, if
17 so, whether and for what period or periods any of the
18 companies that are parties to the merger, consolidation,
19 reorganization, or reincorporation were authorized to
20 transact business in this State within the 3-year period
21 prior to its application; and

22 (g) such additional information as the Director may
23 require to enable the Director to determine whether the
24 company is entitled to a certificate of authority to
25 transact business in this State and to determine and
26 assess the taxes, fees and charges payable as in this Code

1 prescribed.

2 (2) Such application shall be made on forms prescribed and
3 furnished by the Director and shall be executed by the company
4 by its president or a vice-president or executive officer
5 corresponding thereto, and verified by such officer, and if a
6 corporation, the corporate seal shall be thereto affixed,
7 attested by its secretary or other proper officer.

8 (Source: P.A. 90-655, eff. 7-30-98.)

9 (215 ILCS 5/110) (from Ch. 73, par. 722)

10 (Section scheduled to be repealed on January 1, 2027)

11 Sec. 110. Delivery to director of application and
12 documents. There shall be delivered to the Director

13 (a) the application of the company for a certificate
14 of authority;

15 (b) a copy of its articles of incorporation or
16 articles of association as amended, duly certified by the
17 proper officer of the state or country under whose laws
18 the company is organized or incorporated, or if a
19 reciprocal or Lloyds the power of attorney of the
20 attorney-in-fact;

21 (c) if a non-domestic ~~an alien~~ company, a copy of the
22 appointment and authority of its United States manager,
23 certified by a proper officer of the company;

24 (d) a copy of its by-laws or regulations, and if a
25 fraternal benefit society, a copy of its constitution,

1 certified by its secretary or officer corresponding
2 thereto;

3 (e) the instrument authorizing service of process on
4 the Director required by section 112;

5 (f) a statement of its financial condition and
6 business as of the end of the preceding calendar year
7 complying as to form, content and verification with the
8 requirements of this Code for annual statements, or a
9 financial statement as of such later date as the Director
10 may require;

11 (g) a copy of the last report of examination certified
12 to by an insurance commissioner or other proper
13 supervisory official; and

14 (h) a certificate from the proper official of the
15 state or country wherein it is incorporated or organized
16 that it is duly incorporated or organized and is
17 authorized to write the kind or kinds of insurance which
18 it proposes to write in this State.

19 (Source: Laws 1965, p. 422.)

20 (215 ILCS 5/111) (from Ch. 73, par. 723)

21 (Section scheduled to be repealed on January 1, 2027)

22 Sec. 111. Conditions of issuance of certificate of
23 authority.

24 (1) Before a certificate of authority to transact business
25 in this State is issued to a foreign or non-domestic ~~alien~~

1 company, such company shall satisfy the Director that:

2 (a) the company is duly organized under the laws of
3 the state or country under whose laws it professes to be
4 organized and authorized to do the business it is
5 transacting or proposes to transact;

6 (b) its name is not the same as, or deceptively
7 similar to, the name of any domestic company, or of any
8 foreign or non-domestic ~~alien~~ company authorized to
9 transact business in this State;

10 (c) if a company transacting business of the kind or
11 kinds enumerated in Class 1 of Section 4, it is not
12 engaging in practices in any state which if engaged in
13 this State, would constitute a violation of Section 237;
14 and it is not transacting any kinds of business other than
15 those enumerated in Class 1 of Section 4;

16 (d) if a stock company, it has a paid up capital and
17 surplus at least equal to the capital and original surplus
18 required by this Code for a domestic company doing the
19 same kind or kinds of business or, if a mutual company or
20 reciprocal, it has a surplus and provision for contingent
21 liability of policyholders, at least equal to the original
22 surplus and provision for contingent liability of
23 policyholders required for a similar domestic company
24 doing the same kind or kinds of business, or, if a
25 fraternal benefit society, it meets the requirements
26 prescribed in this Code for the organization of a domestic

1 company or society, or if a Lloyds it meets the
2 requirements of Article V;

3 (e) its funds are invested in accordance with the laws
4 of its domicile; and

5 (f) in the case of a stock company its minimum capital
6 and surplus and required reserves, or in the case of a
7 mutual company or a reciprocal proposing to issue policies
8 without contingent liability, its minimum surplus and
9 required reserves, or in the case of any other company,
10 all its funds, are invested in securities or property
11 which afford a degree of financial security equal to that
12 required for similar domestic companies, provided that
13 this clause shall not be construed as requiring the
14 application of limitations relating either to the kind or
15 amount of securities prescribed by this Code for the
16 investments of domestic companies.

17 (2) In determining whether a non-domestic ~~an alien~~ company
18 complies with the provisions of subsection (1) of this section
19 the Director shall consider only business transacted in the
20 United States, only the assets described in Section 60j and
21 only liabilities in connection with its United States
22 business.

23 (3) Before a certificate of authority is issued to a
24 foreign or non-domestic ~~alien~~ company, other than a Lloyds, it
25 shall deposit with the Director securities which are
26 authorized investments for similar domestic companies under

1 Section 126.11A(1), 126.11A(2), 126.24A(1), or 126.24A(2) of
2 the amount, if any, required of a domestic company similarly
3 organized and doing the same kind or kinds of business; or in
4 lieu of such deposit such foreign or non-domestic ~~alien~~
5 company shall satisfy the Director that it has on deposit with
6 an official of a state of the United States or a depository
7 designated or authorized for such purpose by such official,
8 authorized by the law of such state to accept such deposit,
9 securities of at least a like amount, for the benefit and
10 security of all creditors, policyholders and policy
11 obligations of such company.

12 (4) Before issuing a certificate of authority to a foreign
13 or non-domestic ~~alien~~ company, the Director may cause an
14 examination to be made of the condition and affairs of such
15 company.

16 (Source: P.A. 90-418, eff. 8-15-97; 90-794, eff. 8-14-98.)

17 (215 ILCS 5/112) (from Ch. 73, par. 724)

18 (Section scheduled to be repealed on January 1, 2027)

19 Sec. 112. Service of process - Director as attorney.

20 (1) Every foreign or non-domestic ~~alien~~ company desiring
21 to transact business in this State shall file with the
22 Director a duly executed instrument whereby the company shall
23 appoint and constitute the Director and his successor or
24 successors in office the true and lawful attorney of such
25 company upon whom all lawful process in any action or legal

1 proceeding against it may be served and shall agree that any
2 such lawful process against it which may be served upon its
3 said attorney as provided in this section shall be of the same
4 force and validity as if served upon the company and that the
5 authority thereof shall continue in force irrevocably so long
6 as any liability of the company in the State shall remain
7 outstanding.

8 (2) Process authorized by such instrument or by any
9 similar instrument heretofore executed shall be served by
10 delivering to and leaving with the Director duplicate copies
11 of such process with payment of the fee prescribed by this
12 Code, and the service thereof upon such attorney shall be
13 deemed service upon the company. The Director shall forthwith
14 forward one copy of each such process by certified or
15 registered mail prepaid to the company, or in the case of a
16 non-domestic ~~an alien~~ company, to the United States Manager or
17 last appointed United States general agent of the company,
18 giving the day and the hour of such service. Service of such
19 process shall not be complete until the copy thereof has been
20 so mailed and received by the company, and the certified
21 receipt or registry receipt shall be prima facie evidence of
22 the completion of such service. Service of process on a
23 reciprocal or Lloyds shall be governed by sections 77 and 105
24 respectively.

25 (Source: P.A. 83-598.)

1 (215 ILCS 5/113) (from Ch. 73, par. 725)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 113. When certificate of authority to issue. When a
4 foreign or non-domestic ~~alien~~ company has complied with the
5 requirements of this Article and all other requirements
6 imposed on such company by existing laws and has paid the
7 taxes, fees and charges imposed by law, and the operational
8 history of the company when reviewed in conjunction with its
9 loss experience, the kinds and nature of risks insured, the
10 financial condition of the company and its ownership and the
11 ratio of annual premium volume to incurred acquisition
12 expenses and to its policyholders' surplus indicates a
13 condition such that the expanded operation of the company in
14 this State will not create a condition which might be
15 hazardous to its policyholders, creditors or the general
16 public, the Director must file in his office the documents
17 delivered to him and must issue to the company a certificate of
18 authority to transact in this State the kind or kinds of
19 business specified therein. Such certificate shall expire on
20 the 30th day of June of the calendar year succeeding the
21 calendar year in which such certificate is issued.

22 (Source: P.A. 77-1513.)

23 (215 ILCS 5/113.1) (from Ch. 73, par. 725.1)

24 (Section scheduled to be repealed on January 1, 2027)

25 Sec. 113.1. Effect of acceptance of certificate of

1 authority.

2 (1) No foreign or non-domestic ~~alien~~ company which accepts
3 a certificate of authority or renewal certificate of authority
4 to transact in this State any insurance business as described
5 in Section 4 of this Code shall transfer by sale,
6 contribution, merger, consolidation, reinsurance or otherwise,
7 its direct policy obligations under insurance contracts with
8 Illinois policyholders unless:

9 a. the transfer is made to a company authorized to
10 transact in this State the type of insurance business
11 transferred; or

12 b. the transferring company gives 30 days prior
13 written notice to each policyholder to be transferred
14 stating that the insurance contract and the company's
15 liabilities thereunder are to be transferred to a
16 specified insurer which is not subject to regulation by
17 the Illinois Insurance Department or the administrative
18 requirements of the Illinois Insurance Code; and

19 c. the unauthorized company to which the insurance
20 business is to be transferred makes and maintains a
21 special deposit with the Director for the protection and
22 benefit of all Illinois policyholders of such unauthorized
23 company, in assets acceptable to the Director and having a
24 fair market value not less than the required statutory
25 reserves for the Illinois insurance business to be
26 transferred.

1 (2) Any and all transfers resulting in the violation of
2 this Section shall be construed as a violation of all
3 applicable provisions of Article VII of this Code; including,
4 but not limited to, Section 121-4 providing for liability to
5 insureds for claims or insured losses not honored by the
6 unauthorized insurer.

7 (3) Unless permitted by and obtained in compliance with
8 this Section, or specifically authorized by another provision
9 of this Code, it shall be unlawful for any unauthorized
10 company to obtain as direct insurer any insurance contracts
11 written in this State.

12 (Source: P.A. 86-753.)

13 (215 ILCS 5/114) (from Ch. 73, par. 726)

14 (Section scheduled to be repealed on January 1, 2027)

15 Sec. 114. Renewal of certificate of authority.

16 (1) The Director shall renew for one year the certificate
17 of authority of a foreign or non-domestic ~~alien~~ company on the
18 first day of July of the calendar year following the calendar
19 year in which it is admitted to transact business in this State
20 and annually thereafter, without application by the company,
21 upon payment of the annual privilege tax imposed by this Code,
22 if any, provided the Director is satisfied that

23 (a) none of the facts specified in this article as
24 grounds for revoking a certificate of authority exists;
25 and

1 (b) the company is complying with the conditions for
2 admission in respect to capital, contingent liability, the
3 investment of its assets or the maintenance of deposits in
4 this or another state and maintains the surplus which
5 similar domestic companies transacting the same kind or
6 kinds of business are required to maintain.

7 (2) Except in case of nonpayment of taxes, the Director
8 shall give notice of his intention to refuse to renew the
9 certificate of authority of a foreign or non-domestic ~~alien~~
10 company and the grounds therefor at least twenty days before
11 the end of the term for which the existing certificate was
12 issued, and, the company shall be given an opportunity for a
13 hearing before the end of such term.

14 (3) In the event that a company admitted to transact
15 business in this State prior to the effective date of this Code
16 has been and is transacting in this State or in any other state
17 or country the kind or kinds of business enumerated in Class 1
18 of Section 4 and in addition thereto any of the kinds of
19 business not enumerated in such class, the Director may for a
20 period of three years renew annually its certificate of
21 authority to transact such kinds of business. At the end of
22 such three year period or at the end of any extended period as
23 herein provided for, the Director may extend the period during
24 which the certificate of authority of such company may be
25 renewed annually, upon a showing by the company at a hearing
26 before the Director that

1 (a) it has made reasonable progress in the
2 discontinuance of kinds of business other than those
3 enumerated in Class 1 of Section 4; and

4 (b) complete and immediate discontinuance of such
5 kinds of business would result in undue loss to the
6 company and the policyholders would suffer materially
7 thereby; or

8 (c) there are other reasons for such extension deemed
9 by the Director to be good and sufficient. The extension
10 herein provided for shall be for such period as the
11 Director may deem proper on the showing made, but the
12 total of such extended periods shall not exceed three
13 years.

14 (Source: P.A. 82-498.)

15 (215 ILCS 5/115) (from Ch. 73, par. 727)

16 (Section scheduled to be repealed on January 1, 2027)

17 Sec. 115. Amended certificate of authority.

18 (1) In the event that a foreign or non-domestic ~~alien~~
19 company authorized to transact business in this State changes
20 its name or desires to transact in this State a kind or kinds
21 of business other than those it is then authorized to
22 transact, it shall file with the Director an application for
23 an amended certificate of authority.

24 (2) Such application shall comply as to form and manner of
25 execution with the requirements of this Article for an

1 original application and shall set forth the name of the
2 company, the respects in which the company desires its
3 certificate of authority amended, and such other information
4 as is necessary or appropriate to enable the Director to
5 determine whether such an amended certificate of authority
6 should be issued.

7 (3) The Director shall issue such amended certificate if
8 he is satisfied that

9 (a) the company might lawfully be authorized to
10 transact the kind or kinds of business it desires to
11 transact if application for such authority were made in an
12 original application; and

13 (b) the conditions provided for in Section 111 are
14 complied with.

15 (Source: Laws 1937, p. 696.)

16 (215 ILCS 5/116) (from Ch. 73, par. 728)

17 (Section scheduled to be repealed on January 1, 2027)

18 Sec. 116. Amendments to articles of incorporation.
19 Whenever the articles of incorporation or articles of
20 association of a foreign or non-domestic ~~alien~~ company
21 authorized to transact business in this State shall be
22 amended, such company shall, within thirty days after the
23 effective date of such amendment, file with the Director a
24 copy thereof duly authenticated by the proper officer of the
25 state or country under the laws of which such company is

1 organized. The filing of such copy shall not of itself enlarge
2 the authority of the company in the transaction of business in
3 this State, nor authorize such company to transact business in
4 this State under any other name than the name set forth in its
5 certificate of authority.

6 (Source: Laws 1937, p. 696.)

7 (215 ILCS 5/117) (from Ch. 73, par. 729)

8 (Section scheduled to be repealed on January 1, 2027)

9 Sec. 117. Merger or consolidation.

10 (1) Whenever a foreign or non-domestic ~~alien~~ company
11 authorized to transact business in this State shall be the
12 surviving company of a statutory merger permitted by the laws
13 of the state or country under which it is organized, and such
14 merger is not subject to the provisions of Article X; it shall
15 forthwith file with the Director

16 (a) copies of the agreement and certificate of merger
17 duly authenticated by the proper officer of the state or
18 country under the laws of which such statutory merger was
19 effected; and

20 (b) if any of the companies party to such merger were
21 not admitted to transact business in this State, a
22 statement of the financial condition and business of each
23 of such companies, as of the end of the preceding calendar
24 year complying as to form, content and verification with
25 the requirements of this Code for annual statements, or a

1 financial statement as of such later date as the Director
2 may require.

3 (2) It shall not be necessary for such surviving company
4 to procure a new certificate of authority to transact business
5 in this State nor an amended certificate unless the name of
6 such company be changed thereby or unless the company desires
7 to transact in this State a kind or kinds of business other
8 than those which it is then authorized to transact.

9 (3) Whenever a foreign or non-domestic ~~alien~~ company
10 authorized to transact business in this State shall be a party
11 to a statutory merger and such company shall not be the
12 surviving company, or if such foreign or non-domestic ~~alien~~
13 company shall be a party to a consolidation, then the
14 certificate of authority of such foreign or non-domestic ~~alien~~
15 company shall terminate upon such merger or consolidation, and
16 the surviving company, if not previously authorized to
17 transact business in this State, or the new company, in the
18 case of consolidation, shall be subject to the same
19 requirements for admission to transact business in this State
20 as any other foreign or non-domestic ~~alien~~ company.

21 (Source: Laws 1937, p. 696.)

22 (215 ILCS 5/118) (from Ch. 73, par. 730)

23 (Section scheduled to be repealed on January 1, 2027)

24 Sec. 118. Withdrawal from the State.

25 (1) Any foreign or non-domestic ~~alien~~ company admitted to

1 do business in this State may withdraw from this State by
2 filing with the Director a statement of withdrawal, signed and
3 verified by a president, vice-president or an executive
4 officer corresponding thereto, or in the case of a reciprocal
5 or Lloyds, by the attorney-in-fact, and setting forth

6 (a) that the company surrenders its authority to
7 transact business in this State and returns for
8 cancellation its certificate of authority;

9 (b) except in the case of a reciprocal or Lloyds, that
10 the withdrawal of the company from this State has been
11 duly authorized by the board of directors, trustees or
12 other governing body of such company; and

13 (c) a postoffice address to which the Director may
14 mail a copy of any process against the withdrawing company
15 that may be served upon him.

16 (2) Upon the filing of such statement together with its
17 certificate of authority with the Director and payment of any
18 taxes or charges that may be due, the Director shall cancel the
19 certificate of authority and return the cancelled certificate
20 to the company. The authority of the company to transact
21 business in this State shall thereupon cease.

22 (Source: Laws 1937, p. 696.)

23 (215 ILCS 5/119) (from Ch. 73, par. 731)

24 (Section scheduled to be repealed on January 1, 2027)

25 Sec. 119. Revocation and suspension of certificate of

1 authority.

2 (1) The Director may revoke or suspend the certificate of
3 authority of a foreign or non-domestic ~~alien~~ company or may by
4 order require such insurance company to pay to the people of
5 the State of Illinois a penalty in a sum not exceeding \$500,
6 and upon the failure of such insurance company to pay such
7 penalty within 20 days after the mailing of such order,
8 postage prepaid, certified or registered, and addressed to the
9 last known place of business of such insurance company, unless
10 such order is stayed by an order of a court of competent
11 jurisdiction, the Director of Insurance may revoke or suspend
12 the license of such insurance company for any period of time up
13 to, but not exceeding a period of, 2 years whenever he finds
14 that such company

15 (a) is insolvent;

16 (b) fails to comply with the requirements for
17 admission in respect to capital, contingent liability, the
18 investment of its assets or the maintenance of deposits in
19 this or another state or fails to maintain the surplus
20 which similar domestic companies transacting the same kind
21 or kinds of business are required to maintain;

22 (c) is in such a financial condition that its further
23 transaction of business in this State would be hazardous
24 to policyholders and creditors in this State and to the
25 public;

26 (d) has refused or neglected to pay a valid final

1 judgment against such company within 30 days after the
2 rendition of such judgment;

3 (e) has violated any law of this State or has in this
4 State violated its charter or exceeded its corporate
5 powers;

6 (f) has refused to submit its books, papers, accounts,
7 records, or affairs to the reasonable inspection or
8 examination of the Director, his actuaries, deputies or
9 examiners;

10 (g) has an officer who has refused upon reasonable
11 demand to be examined under oath touching its affairs;

12 (h) fails to file its annual statement within 30 days
13 after the date when it is required by law to file such
14 statement;

15 (i) fails to file with the Director a copy of an
16 amendment to its charter or articles of association within
17 30 days after the effective date of such amendment;

18 (j) fails to file with the Director copies of the
19 agreement and certificate of merger and the financial
20 statements of the merged companies, if required, within 30
21 days after the effective date of the merger;

22 (k) fails to pay any fees, taxes or charges prescribed
23 by this Code within 30 days after they are due and payable;
24 provided, however, that in case of objection or legal
25 contest the company shall not be required to pay the tax
26 until 30 days after final disposition of the objection or

1 legal contest.

2 (l) fails to file any report or reports for the
3 purpose of enabling the Director to compute the taxes to
4 be paid by such company within 30 days after the date when
5 it is required by law to file such report or reports;

6 (m) has had its corporate existence dissolved or its
7 certificate of authority revoked in the state in which it
8 was organized; or

9 (n) has had all its risks reinsured in their entirety
10 in another company.

11 (2) Except for the grounds stated in clauses (a), (c) or
12 (k) of subsection (1) of this section the Director shall not
13 revoke or suspend the certificate of authority of a foreign or
14 non-domestic ~~alien~~ company until he has given the company at
15 least twenty days' notice of the revocation or suspension and
16 of the grounds therefor and has afforded the company an
17 opportunity for a hearing.

18 (Source: P.A. 83-598.)

19 (215 ILCS 5/120) (from Ch. 73, par. 732)

20 (Section scheduled to be repealed on January 1, 2027)

21 Sec. 120. Withdrawal of deposits. When a foreign or
22 non-domestic ~~alien~~ company has withdrawn from this State or
23 has had its certificate of authority to transact business in
24 this State revoked and such company desires to withdraw any
25 deposit made in this State pursuant to this Code, the Director

1 shall upon the application of the company and at its expense,
2 give notice of such intention to the insurance commissioner or
3 other proper supervisory official of each state or country
4 where it appears from information on file with the Director,
5 the company is authorized to transact business, and shall
6 publish notice of such intention in a newspaper of general
7 circulation in this State once a week for four consecutive
8 weeks. After such notice and publication the Director shall
9 deliver to such company or its assigns the securities so
10 deposited when he is satisfied upon examination and
11 investigation made by him, or under his authority, and upon
12 the oaths of the president and secretary or other chief
13 officers of the company that all debts and liabilities of
14 every kind due and to become due which the deposit was made to
15 secure have been paid or otherwise extinguished.

16 (Source: Laws 1937, p. 696.)

17 (215 ILCS 5/123) (from Ch. 73, par. 735)

18 Sec. 123. Service of process upon an unauthorized foreign
19 or non-domestic ~~alien~~ company.

20 (1) The purpose of this Section is to subject unauthorized
21 foreign and non-domestic ~~alien~~ companies to the jurisdiction
22 of courts of this State in actions by or on behalf of insureds,
23 reinsureds, or beneficiaries under insurance or reinsurance
24 contracts. The Legislature declares that it is a subject of
25 concern that many residents of this State or corporations

1 authorized to do business in this State hold policies of
2 insurance or reinsurance issued by companies not authorized to
3 do business in this State, thus presenting to such residents
4 or corporations authorized to do business in this State the
5 often insuperable obstacle of resorting to distant forums for
6 the purpose of asserting legal rights under such policies. In
7 furtherance of such State interest, the Legislature herein
8 provides a method of substituted service of process upon such
9 companies and declares that in so doing it exercises its power
10 to protect its residents and corporations authorized to do
11 business in this State and to define, for the purpose of this
12 statute, what constitutes doing business in this State, and
13 also exercises powers and privileges available to the State by
14 virtue of Public Law 15, 79th Congress of the United States,
15 Chapter 20, 1st. Sess., S. 340, as amended, which declares
16 that the business of insurance and every person engaged
17 therein shall be subject to the laws of the several states.

18 (2) Any of the following acts in this State, effected by
19 mail or otherwise, by an unauthorized foreign or non-domestic
20 ~~alien~~ company: (a) the issuance or delivery of contracts of
21 insurance or reinsurance to residents of this State or to
22 corporations authorized to do business therein, (b) the
23 solicitation of applications for such contracts, (c) the
24 collection of premiums, membership fees, assessments or other
25 considerations for such contracts, or (d) any other
26 transaction of business, is equivalent to and shall constitute

1 an appointment by such company, of the Director and his or her
2 successor or successors in office, to be its true and lawful
3 attorney upon whom may be served all lawful process in any
4 action or proceeding against it, arising out of such policy or
5 contract of insurance or reinsurance, and the acts shall be a
6 signification of its agreement that any such process against
7 it which is so served shall be of the same legal force and
8 validity as if served upon the company.

9 (3) Service of such process shall be made by delivering
10 and leaving with the Director a copy thereof and the payment to
11 the Director of the fee prescribed by this Code. The Director
12 shall keep a record of all process so served upon him or her.
13 Such process shall be sufficient service upon such foreign or
14 non-domestic ~~alien~~ company provided notice of such service and
15 a copy of the process are, within 10 days thereafter, sent by
16 certified or registered mail by the plaintiff's attorney of
17 record to the defendant at the last known principal place of
18 business of the defendant, and the defendant's receipt and the
19 plaintiff's attorney's affidavit of compliance herewith are
20 filed with the Clerk of the Court in which such action is
21 pending on or before the return date of the process or within
22 such further time as the court may allow.

23 (4) Service of process in any such action against any such
24 company shall in addition to the mode hereinabove described be
25 valid and legal if served upon any person within this State
26 who, in this State on behalf of such company, is

1 (a) soliciting insurance or reinsurance, or
2 (b) making, issuing, or delivering any policies or
3 contracts of insurance or reinsurance, or
4 (c) collecting or receiving any premium, membership
5 fee, assessment or other consideration for insurance or
6 reinsurance, or
7 (d) in any manner aiding or assisting in doing any of
8 the things enumerated in clauses (a), (b), or (c) of this
9 subsection; and a copy of such process is within 10 days
10 thereafter sent by certified or registered mail by the
11 plaintiff's attorney of record to the defendant at the
12 last known principal place of business of the defendant
13 and the defendant's receipt and the plaintiff's attorney's
14 affidavit of compliance herewith are filed with the clerk
15 of the court in which such action is pending on or before
16 the return date of the process or within such further time
17 as the court may allow.

18 (5) Before any unauthorized foreign or non-domestic ~~alien~~
19 company shall file or cause to be filed any pleading in any
20 action or proceeding, including any arbitration, instituted
21 against it, such unauthorized company shall either (1) deposit
22 with the clerk of the court in which such action or proceeding
23 is pending or with the clerk of the court in the jurisdiction
24 in which the arbitration is pending cash or securities or file
25 with such clerk a bond with good and sufficient sureties, to be
26 approved by the court, in an amount to be fixed by the court

1 sufficient to secure the payment of any final judgment which
2 may be rendered in such action, proceeding, or arbitration; or
3 (2) where the unauthorized company continues to transact the
4 business of insurance by issuing new contracts of insurance or
5 reinsurance, procure a certificate of authority to transact
6 the business of insurance in this State.

7 The court in any action or proceeding, in which service is
8 made in the manner provided in subsections (3) or (4) may, in
9 its discretion, order such postponement as may be necessary to
10 afford the defendant reasonable opportunity to comply with the
11 provisions of this subsection and to defend such action.

12 Nothing in this Section is to be construed to prevent an
13 unauthorized foreign or non-domestic ~~alien~~ company from filing
14 a motion to quash process or to set aside service thereof made
15 in the manner provided in subsections (3) or (4) on the ground
16 either (a) that such unauthorized company has not done any of
17 the acts enumerated in subsection (2) or (b) that the person on
18 whom service was made pursuant to subsection (4) was not doing
19 any of the acts therein enumerated.

20 (6) In any action against an unauthorized foreign or
21 non-domestic ~~alien~~ company upon a contract of insurance or
22 reinsurance issued or delivered in this State to a resident
23 thereof or to a corporation authorized to do business therein,
24 if the company has failed for 30 days after demand prior to the
25 commencement of the action to make payment in accordance with
26 the terms of the contract, and it appears to the court that

1 such refusal was vexatious and without reasonable cause, the
2 court may allow to the plaintiff a reasonable attorney fee and
3 include such fee in any judgment that may be rendered in such
4 action. Such fee shall not exceed 12-1/2 per cent of the amount
5 which the court or jury finds the plaintiff is entitled to
6 recover against the insurer, but in no event shall such fee be
7 less than \$25. Failure of a company to defend any such action
8 shall be deemed prima facie evidence that its failure to make
9 payment was vexatious and without reasonable cause.

10 (7) No plaintiff shall be entitled to a judgment by
11 default under this Section until the expiration of 30 days
12 from the date of the filing of the affidavit of compliance.

13 (8) The provisions of this Section shall not apply to any
14 action or proceeding against any unauthorized foreign or
15 non-domestic ~~alien~~ company arising out of any contract of
16 direct insurance

17 (a) effected in accordance with Section 445, or

18 (b) covering ocean marine, aircraft, railway insurance
19 risks, or

20 (c) against legal liability arising out of the
21 ownership, operation or maintenance of any property having
22 a permanent situs outside this State, or

23 (d) against loss of or damage to any property having a
24 permanent situs outside this State,

25 where such contract of insurance contains a provision
26 designating the Director and his or her successor or

1 successors in office or a bona fide resident of Illinois to be
2 the true and lawful attorney of such non-admitted insurer upon
3 whom may be served all lawful process in any action or
4 proceeding arising out of any such contract of insurance or
5 where the insurer enters a general appearance in any such
6 action or proceeding.

7 (9) Nothing in this Section contained shall limit or
8 affect the right to serve any process, notice or demand
9 required or permitted by law to be served upon any company in
10 any other manner now or hereafter permitted by law.

11 (Source: P.A. 90-53, eff. 7-3-97.)

12 (215 ILCS 5/123.1) (from Ch. 73, par. 735.1)

13 Sec. 123.1. Service of process upon unauthorized insurers
14 for false advertising.

15 (1) (a) The purpose of this Act is to subject to the
16 jurisdiction of the Director of Insurance of this State and to
17 the jurisdiction of the courts of this State insurers not
18 authorized to transact business in this State which place in
19 or send into this State any false advertising designed to
20 induce residents of this State to purchase insurance from
21 insurers not authorized to transact business in this State.
22 The Legislature declares it is in the interest of the citizens
23 of this State who purchase insurance from insurers which
24 solicit insurance business in this State in the manner set
25 forth in the preceding sentence that such insurers be subject

1 to the provisions of this Act. In furtherance of such state
2 interest, the Legislature herein provides a method of
3 substituted service of process upon such insurers and declares
4 that in so doing, it exercises its power to protect its
5 residents and also exercises powers and privileges available
6 to the State by virtue of Public Law 15, 79th Congress of the
7 United States, Chapter 20, 1st Session, S. 340, which declares
8 that the business of insurance and every person engaged
9 therein shall be subject to the laws of the several states; the
10 authority provided herein to be in addition to any existing
11 powers of this State.

12 (b) The provisions of this Section shall be liberally
13 construed.

14 (2) No unauthorized foreign or non-domestic ~~alien~~ insurer
15 of the kind described in subsection (1) shall make, issue,
16 circulate or cause to be made, issued or circulated, to
17 residents of this State any estimate, illustration, circular,
18 pamphlet, or letter, or cause to be made in any newspaper,
19 magazine or other publication or over any radio or television
20 station, any announcement or statement to such residents
21 misrepresenting its financial condition or the terms of any
22 contracts issued or to be issued or the benefits or advantages
23 promised thereby, or the dividends or share of the surplus to
24 be received thereon in violation of Article XXVI, and whenever
25 the Director shall have reason to believe that any such
26 insurer is engaging in such unlawful advertising, it shall be

1 his duty to give notice of such fact by certified or registered
2 mail to such insurer and to the insurance supervisory official
3 of the domiciliary state of such insurer. For the purpose of
4 this Section the domiciliary state of a non-domestic ~~an alien~~
5 insurer shall be deemed to be the state of entry or the state
6 of the principal office in the United States.

7 (3) If after thirty days following the giving of the
8 notice mentioned in subsection (2) such insurer has failed to
9 cease making, issuing, or circulating such false
10 misrepresentations or causing the same to be made, issued or
11 circulated in this State, and if the Director has reason to
12 believe that a proceeding by him in respect to such matters
13 would be to the interest of the public, and that such insurer
14 is issuing or delivering contracts of insurance to residents
15 of this State or collecting premiums on such contracts or
16 doing any of the acts enumerated in subsection (4), he shall
17 take action against such insurer under Article XXVI.

18 (4) (a) Any of the following acts in this State, effected
19 by mail or otherwise, by any such unauthorized foreign or
20 non-domestic ~~alien~~ insurer:

21 (i) the issuance or delivery of contracts or insurance
22 to residents of this State; or

23 (ii) the solicitation of applications for such
24 contracts; or

25 (iii) the collection of premiums, membership fees,
26 assessments or other considerations for such contracts; or

1 (iv) any other transaction of insurance business;
2 is equivalent to and shall constitute an appointment by such
3 insurer of the Director and his successor or successors in
4 office, to be its true and lawful attorney, upon whom may be
5 served all statements of charges, notices and lawful process
6 in any proceeding instituted in respect to the
7 misrepresentations set forth in subsection (2) hereof under
8 the provisions of Article XXVI, or in any action, suit or
9 proceeding for the recovery of any penalty therein provided,
10 and any such act shall be signification of its agreement that
11 such service of statement of charges, notices or process is of
12 the same legal force and validity as personal service of such
13 statement of charges, notices or process in this State, upon
14 such insurer.

15 (b) Service of a statement of charges and notices under
16 Article XXVI shall be made by any deputy or employee of the
17 Department of Insurance delivering to and leaving with the
18 Director or some person in apparent charge of his office, two
19 copies thereof. Service of process issued by any court in any
20 action, suit or proceeding to collect any penalty under
21 Article XXVI provided, shall be made by delivering and leaving
22 with the Director, or some person in apparent charge of his
23 office, two copies thereof. The Director shall forthwith cause
24 to be mailed by certified or registered mail one of the copies
25 of such statement of charges, notices or process to the
26 defendant at its last known principal place of business, and

1 shall keep a record of all statements of charges, notices and
2 process so served. Such service of statement of charges,
3 notices or process shall be sufficient provided they shall
4 have been so mailed and the defendant's receipt or receipt
5 issued by the post office with which the letter is certified or
6 registered, showing the name of the sender of the letter and
7 the name and address of the person to whom the letter is
8 addressed, and the affidavit of the person mailing such letter
9 showing a compliance herewith are filed with the Director in
10 the case of any statement of charges or notices, or with the
11 clerk of the court in which such action is pending in the case
12 of any process, on or before the date the defendant is required
13 to appear or within such further time as may be allowed.

14 (c) Service of statement of charges, notices and process
15 in any such proceeding, action or suit shall in addition to the
16 manner provided in paragraph (b) of this subsection be valid
17 if served upon any person within this State who on behalf of
18 such insurer is

19 (i) soliciting insurance; or

20 (ii) making, issuing or delivering any policies or
21 contracts of insurance; or

22 (iii) collecting or receiving in this State any
23 premium, membership fee, assessment or other consideration
24 for insurance; or

25 (iv) in any manner aiding or assisting in doing any of
26 the things enumerated in clauses (i), (ii) or (iii) of

1 this paragraph;
2 and a copy of such statement of charges, notices or process is
3 sent within ten days thereafter by certified or registered
4 mail by or on behalf of the Director to the defendant at the
5 last known principal place of business of the defendant, and
6 the defendant's receipt, or the receipt issued by the post
7 office with which the letter is certified or registered,
8 showing the name of the sender of the letter, the name and
9 address of the person to whom the letter is addressed, and the
10 affidavit of the person mailing the same showing a compliance
11 herewith, are filed with the Director in the case of any
12 statement of charges or notices, or with the clerk of the court
13 in which such action is pending in the case of any process, on
14 or before the date the defendant is required to appear or
15 within such further time as the court may allow.

16 (d) No cease or desist order or judgment by default under
17 this section shall be entered until the expiration of thirty
18 days from the date of the filing of the affidavit of
19 compliance.

20 (e) Service of process and notice under the provisions of
21 this section shall be in addition to all other methods of
22 service provided by law, and nothing in this section shall
23 limit or prohibit the right to serve any statement of charges,
24 notices or process upon any insurer in any other manner now or
25 hereafter permitted by law.

26 (5) When used in this Act, "residents" shall mean and

1 include person, partnership or corporation, domestic,
2 non-domestic, ~~alien~~ or foreign.

3 (Source: P.A. 83-598.)

4 (215 ILCS 5/123.3) (from Ch. 73, par. 735.3)

5 Sec. 123.3. Insurance Sales by Companies in Hazardous
6 Financial Condition Prohibited. Notwithstanding any other
7 provision of this Code, no unauthorized foreign or
8 non-domestic ~~alien~~ company officer, director, trustee, agent
9 or employee of such company may renew, issue, or deliver or
10 cause to be renewed, issued or delivered any policy, contract,
11 or certificate of insurance for which a premium is charged or
12 collected if the Director of Insurance has found that such
13 company is in a hazardous financial condition and such
14 officer, director, trustee, agent or employee is aware of such
15 finding.

16 If upon request of the Director, such company officer,
17 director, trustee or employee is unable or unwilling to submit
18 to the Director a copy of such unauthorized company's most
19 recent financial statement, such unwillingness or inability
20 shall be deemed prima facie evidence of a hazardous financial
21 condition.

22 However, a finding of hazardous financial condition does
23 not prevent the issuance or renewal of a policy when an insured
24 or owner exercises an option granted to him under an existing
25 policy to obtain new, renewed or converted insurance coverage.

1 Any company officer, director, trustee, agent, or employee
2 of such company violating this Section shall be guilty of a
3 Class A misdemeanor.

4 (Source: P.A. 85-1139.)

5 (215 ILCS 5/123C-8) (from Ch. 73, par. 735C-8)

6 (Section scheduled to be repealed on January 1, 2027)

7 Sec. 123C-8. Merger, consolidation, plans of exchange and
8 reorganization.

9 A. The provisions of Article X shall apply to captive
10 insurance companies; provided, however, that:

11 (1) if the surviving or new company is to be a domestic
12 captive insurance company,

13 (a) the Director shall, in determining whether
14 such company meets the requirements set forth in
15 paragraph (b) of subsection (2) of Section 162, refer
16 only to the provisions of this Article VIIC and the
17 other provisions of Article X;

18 (b) the Director shall, in determining whether
19 such company meets the requirements of Sections 123C-3
20 and 123C-4, take into account the capital and surplus
21 of the company to be merged into the domestic captive
22 insurance company or the companies to be consolidated
23 into the domestic captive insurance company (but any
24 approval by the Director of such merger or
25 consolidation shall be contingent upon the receipt of

1 such capital and surplus by the domestic captive
2 insurance company and satisfactory evidence thereof
3 being presented to the Director);

4 (c) notwithstanding the provisions of paragraph
5 (c) of subsection (1) of Section 166, such surviving
6 or new company shall have all of the rights,
7 privileges, immunities and powers and shall be subject
8 to all of the duties and liabilities granted or
9 imposed by this Article VIIC (and not by the entire
10 Code); and

11 (2) in the event that such merger or consolidation is
12 to be effected in conjunction with the formation and
13 licensing of a new domestic captive insurance company in
14 this State, the Director shall follow procedures for the
15 contemporaneous and expeditious review of the materials
16 presented to the Director for his approval of such
17 formation, licensing and merger or consolidation.

18 B. (1) Any domestic, foreign or non-domestic ~~alien~~ stock
19 company, mutual company, or reciprocal company, authorized or
20 which may be authorized to do business in this State, may
21 reorganize as a domestic captive insurance company under the
22 laws of this State, by complying with the provisions of
23 Article XII. Domestic companies are hereby authorized to
24 reorganize as domestic captive insurance companies.

25 (2) In the event that such reorganization is to be
26 effected in conjunction with the formation and licensing

1 of a new captive insurance company in this State, the
2 Director shall follow procedures for the contemporaneous
3 and expeditious review of the materials presented to the
4 Director for his approval of such formation, licensing and
5 reorganization.

6 (Source: P.A. 85-131.)

7 (215 ILCS 5/126.1)

8 Sec. 126.1. Purpose and scope.

9 A. Purpose. The purpose of this Article is to protect the
10 interests of insureds by promoting insurer solvency and
11 financial strength. This will be accomplished through the
12 application of investment standards that facilitate a
13 reasonable balance of the following objectives:

14 (1) To preserve principal;

15 (2) To assure reasonable diversification as to type of
16 investment, issuer and credit quality; and

17 (3) To allow insurers to allocate investments in a
18 manner consistent with principles of prudent investment
19 management to achieve an adequate return so that
20 obligations to insureds are adequately met and financial
21 strength is sufficient to cover reasonably foreseeable
22 contingencies.

23 B. Scope. This Article shall apply only to investments and
24 investment practices of domestic insurers and United States
25 branches of non-domestic ~~alien~~ insurers entered through this

1 State. This Article shall not apply to separate accounts of an
2 insurer except to the extent that the provisions of Article
3 XIV 1/2 so provide.

4 (Source: P.A. 90-418, eff. 8-15-97.)

5 (215 ILCS 5/126.12)

6 Sec. 126.12. Insurer investment pools.

7 A. An insurer may acquire investments in investment pools
8 that:

9 (1) Invest only in:

10 (a) Obligations that are rated 1 or 2 by the SVO or
11 have an equivalent of an SVO 1 or 2 rating (or, in the
12 absence of a 1 or 2 rating or equivalent rating, the
13 issuer has outstanding obligations with an SVO 1 or 2
14 or equivalent rating) by a nationally recognized
15 statistical rating organization recognized by the SVO
16 and have:

17 (i) A remaining maturity of 397 days or less
18 or a put that entitles the holder to receive the
19 principal amount of the obligation which put may
20 be exercised through maturity at specified
21 intervals not exceeding 397 days; or

22 (ii) A remaining maturity of 3 years or less
23 and a floating interest rate that resets no less
24 frequently than quarterly on the basis of a
25 current short-term index (federal funds, prime

1 rate, treasury bills, London InterBank Offered
2 Rate (LIBOR) or commercial paper) and is subject
3 to no maximum limit, if the obligations do not
4 have an interest rate that varies inversely to
5 market interest rate changes;

6 (b) Government money market mutual funds or class
7 one money market mutual funds; or

8 (c) Securities lending, repurchase, and reverse
9 repurchase transactions that meet all the requirements
10 of Section 126.16, except the quantitative limitations
11 of Section 126.16D; or

12 (2) Invest only in investments which an insurer may
13 acquire under this Article, if the insurer's proportionate
14 interest in the amount invested in these investments when
15 combined with amount of such investments made directly or
16 indirectly through an investment subsidiary or other
17 insurer investment pool permitted under this subsection
18 A(2) does not exceed the applicable limits of this Article
19 for such investments.

20 B. For an investment in an investment pool to be qualified
21 under this Article, the investment pool shall not:

22 (1) Acquire securities issued, assumed, guaranteed or
23 insured by the insurer or an affiliate of the insurer;

24 (2) Borrow or incur any indebtedness for borrowed
25 money, except for securities lending and reverse
26 repurchase transactions that meet the requirements of

1 Section 126.16 except the quantitative limitations of
2 Section 126.16D; or

3 (3) Acquire an investment if, as a result of such
4 transaction, the aggregate value of securities then loaned
5 or sold to, purchased from or invested in any one business
6 entity under this Section would exceed 10% of the total
7 assets of the investment pool.

8 C. The limitations of Section 126.10A shall not apply to
9 an insurer's investment in an investment pool, however an
10 insurer shall not acquire an investment in an investment pool
11 under this Section if, as a result of and after giving effect
12 to the investment, the aggregate amount of investments then
13 held by the insurer under this Section:

14 (1) In all investment pools investing in investments
15 permitted under subsection A(2) of this Section would
16 exceed 25% of its admitted assets; or

17 (2) In all investment pools would exceed 35% of its
18 admitted assets.

19 D. For an investment in an investment pool to be qualified
20 under this Article, the manager of the investment pool shall:

21 (1) Be organized under the laws of the United States
22 or a state and designated as the pool manager in a pooling
23 agreement;

24 (2) Be the insurer, an affiliated insurer or a
25 business entity affiliated with the insurer, a qualified
26 bank, a business entity registered under the Investment

1 Advisers Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended
2 or, in the case of a reciprocal insurer or interinsurance
3 exchange, its attorney-in-fact, or in the case of a United
4 States branch of a non-domestic ~~an alien~~ insurer, its
5 United States manager or an affiliate or subsidiary of its
6 United States manager;

7 (3) Be responsible for the compilation and maintenance
8 of detailed accounting records setting forth:

9 (a) The cash receipts and disbursements reflecting
10 each participant's proportionate investment in the
11 investment pool;

12 (b) A complete description of all underlying
13 assets of the investment pool (including amount,
14 interest rate, maturity date (if any) and other
15 appropriate designations); and

16 (c) Other records which, on a daily basis, allow
17 third parties to verify each participant's investment
18 in the investment pool; and

19 (4) Maintain the assets of the investment pool in one
20 or more accounts, in the name of or on behalf of the
21 investment pool, under a custody agreement with a
22 qualified bank. The custody agreement shall:

23 (a) State and recognize the claims and rights of
24 each participant;

25 (b) Acknowledge that the underlying assets of the
26 investment pool are held solely for the benefit of

1 each participant in proportion to the aggregate amount
2 of its investments in the investment pool; and

3 (c) Contain an agreement that the underlying
4 assets of the investment pool shall not be commingled
5 with the general assets of the custodian qualified
6 bank or any other person.

7 E. The pooling agreement for each investment pool shall be
8 in writing and shall provide that:

9 (1) An insurer and its affiliated insurers or, in the
10 case of an investment pool investing solely in investments
11 permitted under subsection A(1) of this Section, the
12 insurer and its subsidiaries, affiliates or any pension or
13 profit sharing plan of the insurer, its subsidiaries and
14 affiliates or, in the case of a United States branch of a
15 non-domestic ~~an alien~~ insurer, affiliates or subsidiaries
16 of its United States manager, shall, at all times, hold
17 100% of the interests in the investment pool;

18 (2) The underlying assets of the investment pool shall
19 not be commingled with the general assets of the pool
20 manager or any other person;

21 (3) In proportion to the aggregate amount of each pool
22 participant's interest in the investment pool:

23 (a) Each participant owns an undivided interest in
24 the underlying assets of the investment pool; and

25 (b) The underlying assets of the investment pool
26 are held solely for the benefit of each participant;

1 (4) A participant, or in the event of the
2 participant's insolvency, bankruptcy or receivership, its
3 trustee, receiver or other successor-in-interest, may
4 withdraw all or any portion of its investment from the
5 investment pool under the terms of the pooling agreement;

6 (5) Withdrawals may be made on demand without penalty
7 or other assessment on any business day, but settlement of
8 funds shall occur within a reasonable and customary period
9 thereafter not to exceed 10 business days. Distributions
10 under this paragraph shall be calculated in each case net
11 of all then applicable fees and expenses of the investment
12 pool. The pooling agreement shall provide that the pool
13 manager shall distribute to a participant, at the
14 discretion of the pool manager:

15 (a) In cash, the then fair market value of the
16 participant's pro rata share of each underlying asset
17 of the investment pool;

18 (b) In kind, a pro rata share of each underlying
19 asset; or

20 (c) In a combination of cash and in kind
21 distributions, a pro rata share in each underlying
22 asset; and

23 (6) The pool manager shall make the records of the
24 investment pool available for inspection by the Director.

25 F. Except for the formation of the investment pool,
26 transactions and between a domestic insurer and an affiliated

1 insurer investment pool shall not be subject to the
2 requirements of Section 131.20a of this Code.

3 (Source: P.A. 100-201, eff. 8-18-17.)

4 (215 ILCS 5/126.25)

5 Sec. 126.25. Insurer investment pools.

6 A. An insurer may acquire investments in investment pools
7 that:

8 (1) Invest only in:

9 (a) Obligations that are rated 1 or 2 by the SVO or
10 have an equivalent of an SVO 1 or 2 rating (or, in the
11 absence of a 1 or 2 rating or equivalent rating, the
12 issuer has outstanding obligations with an SVO 1 or 2
13 or equivalent rating) by a nationally recognized
14 statistical rating organization recognized by the SVO
15 and have:

16 (i) A remaining maturity of 397 days or less
17 or a put that entitles the holder to receive the
18 principal amount of the obligation which put may
19 be exercised through maturity at specified
20 intervals not exceeding 397 days; or

21 (ii) A remaining maturity of 3 years or less
22 and a floating interest rate that resets no less
23 frequently than quarterly on the basis of a
24 current short-term index (federal funds, prime
25 rate, treasury bills, London InterBank Offered

1 Rate (LIBOR) or commercial paper) and is subject
2 to no maximum limit, if the obligations do not
3 have an interest rate that varies inversely to
4 market interest rate changes;

5 (b) Government money market mutual funds or class
6 one money market mutual funds; or

7 (c) Securities lending, repurchase, and reverse
8 repurchase, transactions that meet all the
9 requirements of Section 126.29, except the
10 quantitative limitations of Section 126.29D; or

11 (2) Invest only in investments which an insurer may
12 acquire under this Article, if the insurer's proportionate
13 interest in the amount invested in these investments when
14 combined with amounts of such investments made directly or
15 indirectly through an investment subsidiary or other
16 insurer investment pool permitted under this subsection
17 A(2) does not exceed the applicable limits of this Article
18 for such investments.

19 B. For an investment in an investment pool to be qualified
20 under this Article, the investment pool shall not:

21 (1) Acquire securities issued, assumed, guaranteed, or
22 insured by the insurer or an affiliate of the insurer;

23 (2) Borrow or incur any indebtedness for borrowed
24 money, except for securities lending and reverse
25 repurchase transactions that meet the requirements of
26 Section 126.29 except the quantitative limitations of

1 Section 126.29D; or

2 (3) Acquire an investment if, as a result of such
3 transaction, the aggregate value of securities then loaned
4 or sold to, purchased from or invested in any one business
5 entity under this Section would exceed 10% of the total
6 assets of the investment pool.

7 C. The limitations of Section 126.23A shall not apply to
8 an insurer's investment in an investment pool, however an
9 insurer shall not acquire an investment in an investment pool
10 under this Section if, as a result of and after giving effect
11 to the investment, the aggregate amount of investments then
12 held by the insurer under this Section:

13 (1) In all investment pools investing in investments
14 permitted under subsection A(2) of this Section would
15 exceed 25% of its admitted assets; or

16 (2) In all investment pools would exceed 40% of its
17 admitted assets.

18 D. For an investment in an investment pool to be qualified
19 under this Article, the manager of the investment pool shall:

20 (1) Be organized under the laws of the United States
21 or a state and designated as the pool manager in a pooling
22 agreement;

23 (2) Be the insurer, an affiliated insurer or a
24 business entity affiliated with the insurer, a qualified
25 bank, a business entity registered under the Investment
26 Advisers Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended

1 or, in the case of a reciprocal insurer or interinsurance
2 exchange, its attorney-in-fact, or in the case of a United
3 States branch of a non-domestic ~~an alien~~ insurer, its
4 United States manager or an affiliate or subsidiary of its
5 United States manager;

6 (3) Be responsible for the compilation and maintenance
7 of detailed accounting records setting forth:

8 (a) The cash receipts and disbursements reflecting
9 each participant's proportionate investment in the
10 investment pool;

11 (b) A complete description of all underlying
12 assets of the investment pool (including amount,
13 interest rate, maturity date (if any) and other
14 appropriate designations); and

15 (c) Other records which, on a daily basis, allow
16 third parties to verify each participant's investment
17 in the investment pool; and

18 (4) Maintain the assets of the investment pool in one
19 or more accounts, in the name of or on behalf of the
20 investment pool, under a custody agreement with a
21 qualified bank. The custody agreement shall:

22 (a) State and recognize the claims and rights of
23 each participant;

24 (b) Acknowledge that the underlying assets of the
25 investment pool are held solely for the benefit of
26 each participant in proportion to the aggregate amount

1 of its investments in the investment pool; and

2 (c) Contain an agreement that the underlying
3 assets of the investment pool shall not be commingled
4 with the general assets of the custodian qualified
5 bank or any other person.

6 E. The pooling agreement for each investment pool shall be
7 in writing and shall provide that:

8 (1) An insurer and its affiliated insurers or, in the
9 case of an investment pool investing solely in investments
10 permitted under subsection A(1) of this Section, the
11 insurer and its subsidiaries, affiliates or any pension or
12 profit sharing plan of the insurer, its subsidiaries and
13 affiliates or, in the case of a United States branch of a
14 non-domestic ~~an alien~~ insurer, affiliates or subsidiaries
15 of its United States manager, shall, at all times, hold
16 100% of the interests in the investment pool;

17 (2) The underlying assets of the investment pool shall
18 not be commingled with the general assets of the pool
19 manager or any other person;

20 (3) In proportion to the aggregate amount of each pool
21 participant's interest in the investment pool:

22 (a) Each participant owns an undivided interest in
23 the underlying assets of the investment pool; and

24 (b) The underlying assets of the investment pool
25 are held solely for the benefit of each participant;

26 (4) A participant, or in the event of the

1 participant's insolvency, bankruptcy or receivership, its
2 trustee, receiver or other successor-in-interest, may
3 withdraw all or any portion of its investment from the
4 investment pool under the terms of the pooling agreement;

5 (5) Withdrawals may be made on demand without penalty
6 or other assessment on any business day, but settlement of
7 funds shall occur within a reasonable and customary period
8 thereafter not to exceed 10 business days. Distributions
9 under this paragraph shall be calculated in each case net
10 of all then applicable fees and expenses of the investment
11 pool. The pooling agreement shall provide that the pool
12 manager shall distribute to a participant, at the
13 discretion of the pool manager:

14 (a) In cash, the then fair market value of the
15 participant's pro rata share of each underlying asset
16 of the investment pool;

17 (b) In kind, a pro rata share of each underlying
18 asset; or

19 (c) In a combination of cash and in kind
20 distributions, a pro rata share in each underlying
21 asset; and

22 (6) The pool manager shall make the records of the
23 investment pool available for inspection by the Director.

24 F. Except for the formation of the investment pool,
25 transactions between a domestic insurer and an affiliated
26 insurer investment pool shall not be subject to the

1 requirements of Section 131.20a of this Code.

2 (Source: P.A. 100-201, eff. 8-18-17.)

3 (215 ILCS 5/131.13) (from Ch. 73, par. 743.13)

4 Sec. 131.13. Registration of companies. Every company
5 which is authorized to do business in this State and which is a
6 member of an insurance holding company system must register
7 with the Director, except a foreign or non-domestic ~~alien~~
8 company subject to registration requirements and standards
9 adopted by statute or regulation in the jurisdiction of its
10 domicile which are substantially similar to those contained in
11 this section and Sections 131.14 through 131.20a. Any company
12 which is subject to registration under this section must
13 register within 60 days after the effective date of this
14 Article or 15 days after it becomes subject to registration,
15 whichever is later, unless the Director for good cause shown
16 extends the time for registration, and then within such
17 extended time. The Director may require any authorized company
18 which is a member of a holding company system which is not
19 subject to registration under this section to furnish a copy
20 of the registration statement or other information filed by
21 such company with the insurance regulatory authority of its
22 domiciliary jurisdiction.

23 (Source: P.A. 98-609, eff. 1-1-14.)

24 (215 ILCS 5/132.3) (from Ch. 73, par. 744.3)

1 Sec. 132.3. Authority, scope, and scheduling of
2 examinations.

3 (a) The Director or any of his examiners may conduct an
4 examination of any company as often as the Director, in his
5 sole discretion, deems appropriate, but shall, at a minimum,
6 conduct an examination of every insurer authorized or licensed
7 in this State not less frequently than once every 5 years. In
8 scheduling and determining the nature, scope, and frequency of
9 the examinations, the Director shall consider the results of
10 financial statement analyses and ratios, changes in management
11 or ownership, actuarial opinions, reports of independent
12 certified public accountants and other criteria set forth in
13 the Examiners' Handbook adopted by the National Association of
14 Insurance Commissioners and in effect when the Director
15 exercises discretion under this subsection.

16 (b) For purposes of completing an examination of any
17 company, the Director may examine or investigate any person,
18 or the business of any person, insofar as the examination or
19 investigation is, in the sole discretion of the Director,
20 necessary or material to the examination of the company.

21 (c) In lieu of an examination of any foreign or
22 non-domestic ~~alien~~ insurer authorized or licensed in this
23 State, the Director may accept an examination report on the
24 company as prepared by the insurance department for the
25 company's state of domicile or port-of-entry state until
26 January 1, 1994. Thereafter, those reports may only be

1 accepted if (1) the insurance department was at the time of the
2 examination accredited under the National Association of
3 Insurance Commissioners' Financial Regulation Standards and
4 Accreditation Program, (2) the examination is performed under
5 the supervision of an accredited insurance department or with
6 the participation of one or more examiners who are employed by
7 an accredited state insurance department, and who, after a
8 review of the examination work papers and report, state under
9 oath that the examination was performed in a manner consistent
10 with the standards and procedures required by their insurance
11 department, or (3) the Director otherwise determines that the
12 examination was performed in a manner substantially similar to
13 the standards and procedures required by Sections 132.1
14 through 132.6 of this Code.

15 (Source: P.A. 89-97, eff. 7-7-95.)

16 (215 ILCS 5/133) (from Ch. 73, par. 745)

17 Sec. 133. Books, records, accounts and vouchers.

18 (1) Every domestic company shall keep its books, records,
19 documents, accounts and vouchers in such manner that its
20 financial condition, affairs and operations can be ascertained
21 and so that its financial statements filed with the Director
22 can be readily verified and its compliance with the law
23 determined and may cause any or all such books, records,
24 documents, accounts and vouchers to be photographed or
25 reproduced on film. Any such photographs, microphotographs,

1 optical imaging, or film reproductions of any original books,
2 records, documents, accounts and vouchers shall for all
3 purposes be considered the same as the originals thereof and a
4 transcript, exemplification or certified copy of any such
5 photograph, microphotograph, optical imaging, or film
6 reproduction shall for all purposes be deemed to be a
7 transcript, exemplification or certified copy of the original.
8 Any original so reproduced may thereafter be disposed of or
9 destroyed if provision is made for preserving and examining
10 such reproductions.

11 (2) All such original books, records, documents, accounts
12 and vouchers, or such reproductions thereof, of the home
13 office of any domestic company or of any principal United
14 States office of a foreign or non-domestic ~~alien~~ company
15 located in this State shall be preserved and kept available in
16 this State for the purpose of examination and until authority
17 to destroy or otherwise dispose of such records is secured
18 from the Director. Such original records may, however, be kept
19 and maintained outside this State if, according to a plan
20 adopted by the company's board of directors and approved by
21 the Director, it maintains suitable records in lieu thereof.
22 Every domestic company shall keep its securities within the
23 State of Illinois except where:

24 (a) on deposit with other states of the United States
25 of America, or political subdivision thereof; or

26 (b) on deposit with foreign countries where the

1 company is licensed to transact an insurance business; or

2 (c) where requisite for the normal transaction of the
3 company's business and approved by the Director.

4 (3) Any domestic company may maintain with a corporation,
5 qualified to administer trusts in this State under the
6 Corporate Fiduciary Act and that has an office in this State at
7 which the account is maintained, for its securities, a limited
8 agency, custodial or depository account, or other type of
9 account for the safekeeping of those securities, collecting
10 the income from those securities and providing supportive
11 accounting services relating to such safekeeping and
12 collection, provided, the domestic company maintains full
13 investment discretion over those securities. Such a
14 corporation in safekeeping such securities shall have all the
15 powers, rights, duties and responsibilities as it has for
16 holding securities in its fiduciary accounts under the
17 Securities in Fiduciary Accounts Act.

18 (4) Any director, officer, agent or employee of any
19 company who destroys any such books, records or documents
20 without the authority of the Director in violation of this
21 section or who fails to keep the books, records, documents,
22 accounts and vouchers required by this section shall be guilty
23 of a business offense and shall be fined not more than
24 \$5000.00.

25 (Source: P.A. 88-364; 89-437, eff. 12-15-95.)

1 (215 ILCS 5/136) (from Ch. 73, par. 748)

2 Sec. 136. Annual statement.

3 (1) Every company authorized to do business in this State
4 or accredited by this State shall submit to the Director by
5 March 1st in each year its financial statement for the year
6 ending December 31st immediately preceding in such manner and
7 in such form as prescribed by the Director, which shall
8 conform substantially to the form of statement adopted by the
9 National Association of Insurance Commissioners. Unless the
10 Director provides otherwise, the annual statement is to be
11 prepared in accordance with the annual statement instructions
12 and the Accounting Practices and Procedures Manual adopted by
13 the National Association of Insurance Commissioners. The
14 Director shall have power to make such modifications and
15 additions in this form as he may deem desirable or necessary to
16 ascertain the condition and affairs of the company. The
17 Director shall have authority to extend the time for filing
18 any statement by any company for reasons which he considers
19 good and sufficient. In every statement the admitted assets
20 shall be shown at the actual values as of the last day of the
21 preceding year, in accordance with Section 126.7. The
22 statement shall be verified by oaths of the president and
23 secretary of the company or, in their absence, by 2 other
24 principal officers. In addition, any company may be required
25 by the Director, when he considers that action to be necessary
26 and appropriate for the protection of policyholders,

1 creditors, shareholders, or claimants, to file, within 60 days
2 after mailing to the company a notice that such is required, a
3 supplemental summary statement as of the last day of any
4 calendar month occurring during the 100 days next preceding
5 the mailing of such notice designated by him on forms
6 prescribed and furnished by the Director. The Director may
7 require supplemental summary statements to be certified by an
8 independent actuary deemed competent by the Director or by an
9 independent certified public accountant.

10 (2) The statement of a non-domestic ~~an alien~~ company shall
11 embrace only its condition and transactions in the United
12 States and shall be verified by the oaths of its resident
13 manager or principal representative in the United States,
14 except that in the case of any life company organized under the
15 laws of Canada or any province thereof, the statement may be
16 verified by the oaths of any of its principal officers
17 designated for that purpose by its board of directors.

18 (3) For the information of the public generally the
19 Director shall cause an abstract of the information contained
20 in the annual statement to be made available to the public as
21 soon as practicable after filing with the Department, by
22 printing those abstracts in pamphlet tabular form for free
23 general distribution by the Department, or by such other
24 publication in the city of Springfield or in the city of
25 Chicago as may be reasonably necessary more fully to inform
26 the public of the financial condition of companies transacting

1 business in this State.

2 (4) Each domestic, foreign, and non-domestic ~~alien~~ insurer
3 authorized to do business in this State or accredited by this
4 State shall participate in the National Association of
5 Insurance Commissioners' Insurance Regulatory Information
6 System, including the payment of all fees and charges of the
7 system. Each company shall, on or before March 1 of each year,
8 file with the National Association of Insurance Commissioners
9 a copy of its annual financial statement along with any
10 additional filings prescribed by the Director for the
11 preceding year. The statement filed with the National
12 Association of Insurance Commissioners shall be in the same
13 format and scope as that required by this Code and shall
14 include a signed jurat page and actuarial certification. Any
15 amendments and addendums to the annual statement shall also be
16 filed with the National Association of Insurance
17 Commissioners. Each company shall also file with the National
18 Association of Insurance Commissioners annual and quarterly
19 financial statement information in computer readable format as
20 required by the Insurance Regulatory Information System.
21 Failure of a company to file financial statement information
22 in computer readable format shall subject the company to the
23 provisions of Section 139.

24 (5) All financial analysis ratios and examination synopsis
25 concerning insurance companies that are submitted to the
26 Director by the National Association of Insurance

1 Commissioners' Insurance Regulatory Information System are
2 confidential and may not be disclosed by the Director.

3 (6) Every property and casualty insurance company doing
4 business in this State, unless otherwise exempted by the
5 Director, shall annually submit the opinion of an appointed
6 actuary entitled "Statement of Actuarial Opinion". This
7 opinion shall be filed in accordance with the appropriate
8 National Association of Insurance Commissioners Property and
9 Casualty Annual Statement Instructions.

10 (a) Every property and casualty insurance company
11 domiciled in this State that is required to submit a
12 Statement of Actuarial Opinion shall annually submit an
13 Actuarial Opinion Summary, written by the company's
14 appointed actuary. This Actuarial Opinion Summary shall be
15 filed in accordance with the appropriate National
16 Association of Insurance Commissioners Property and
17 Casualty Annual Statement Instructions and shall be
18 considered as a document supporting the Actuarial Opinion
19 required in this subsection (6). Each foreign and
20 non-domestic ~~alien~~ property and casualty company
21 authorized to do business in this State shall provide the
22 Actuarial Opinion Summary upon request.

23 (b) An Actuarial Report and underlying workpapers as
24 required by the appropriate National Association of
25 Insurance Commissioners Property and Casualty Annual
26 Statement Instructions shall be prepared to support each

1 Actuarial Opinion. If the insurance company fails to
2 provide a supporting Actuarial Report or workpapers at the
3 request of the Director or the Director determines that
4 the supporting Actuarial Report or workpapers provided by
5 the insurance company is otherwise unacceptable to the
6 Director, the Director may engage a qualified actuary at
7 the expense of the company to review the opinion and the
8 basis for the opinion and prepare the supporting Actuarial
9 Report or workpapers.

10 (c) The appointed actuary shall not be liable for
11 damages to any person (other than the insurance company
12 and the Director) for any act, error, omission, decision,
13 or conduct with respect to the actuary's opinion, except
14 in cases of fraud or willful misconduct on the part of the
15 appointed actuary.

16 (d) The Statement of Actuarial Opinion shall be
17 provided with the Annual Statement in accordance with the
18 appropriate National Association of Insurance
19 Commissioners Property and Casualty Annual Statement
20 Instructions and shall be treated as a public document.
21 Documents, materials, or other information in the
22 possession or control of the Director that are considered
23 an Actuarial Report, workpapers, or Actuarial Opinion
24 Summary provided in support of the opinion, and any other
25 material provided by the company to the Director in
26 connection with the Actuarial Report, workpapers or

1 Actuarial Opinion Summary, must be given confidential
2 treatment, are not subject to subpoena, and may not be
3 made public by the Director or any other persons. This
4 paragraph (d) shall not be construed to limit the
5 Director's authority to release the documents to the
6 Actuarial Board for Counseling and Discipline (ABCD), so
7 long as the material is required for the purpose of
8 professional disciplinary proceedings and that the ABCD
9 establishes procedures satisfactory to the Director for
10 preserving the confidentiality of the documents, nor shall
11 this paragraph (d) be construed to limit the Director's
12 authority to use the documents, materials or other
13 information in furtherance of any regulatory or legal
14 action brought as part of the Director's official duties.
15 Neither the Director nor any person who received
16 documents, materials, or other information while acting
17 under the authority of the Director shall be permitted or
18 required to testify in any private civil action concerning
19 any confidential documents, materials, or information
20 subject to this subsection (6). Except where another
21 provision of this Code expressly prohibits a disclosure of
22 confidential information to the specific officials or
23 organizations described in this subsection, the Director
24 may:

- 25 (i) share documents, materials, or other
26 information, including the confidential and privileged

1 documents, materials or information subject to this
2 paragraph (d) with the insurance department of any
3 other state or country or with law enforcement
4 officials of this or any other state or agency of the
5 federal government at any time, as long as the agency
6 or office receiving the document, material, or other
7 information agrees in writing to hold it confidential
8 and in a manner consistent with this Code;

9 (ii) receive documents, materials, or information,
10 including otherwise confidential and privileged
11 documents, materials, or information, from the
12 National Association of Insurance Commissioners and
13 its affiliates and subsidiaries, and from regulatory
14 and law enforcement officials of other foreign or
15 domestic jurisdictions, and shall maintain as
16 confidential or privileged any document, material, or
17 information received with notice or the understanding
18 that it is confidential or privileged under the laws
19 of the jurisdiction that is the source of the
20 document, material, or information; and

21 (iii) enter into agreements governing sharing and
22 use of information consistent with paragraph (d).

23 (e) No waiver of any applicable privilege or claim of
24 confidentiality in the documents, materials or information
25 shall occur as a result of disclosure to the Director
26 under this Section or as a result of sharing as authorized

1 in subparagraphs (i), (ii), and (iii) of paragraph (d) of
2 subsection (6) of this Section. All 2008 Annual
3 Statements, which are filed in 2009, and all subsequent
4 Annual Statement filings shall be done in accordance with
5 subsection (6) of this Section.

6 (Source: P.A. 96-145, eff. 8-7-09; 97-486, eff. 1-1-12.)

7 (215 ILCS 5/141a) (from Ch. 73, par. 753a)

8 Sec. 141a. Managing general agents and retrospective
9 compensation agreements.

10 (a) As used in this Section, the following terms have the
11 following meanings:

12 "Actuary" means a person who is a member in good standing
13 of the American Academy of Actuaries.

14 "Gross direct written premium" means direct premium
15 including policy and membership fees, net of returns and
16 cancellations, and prior to any cessions.

17 "Insurer" means any person duly licensed in this State as
18 an insurance company pursuant to Articles II, III, III 1/2,
19 IV, V, VI, and XVII of this Code.

20 "Managing general agent" means any person, firm,
21 association, or corporation, either separately or together
22 with affiliates, that:

23 (1) manages all or part of the insurance business of
24 an insurer (including the management of a separate
25 division, department, or underwriting office), and

1 (2) acts as an agent for the insurer whether known as a
2 managing general agent, manager, or other similar term,
3 and

4 (3) with or without the authority produces, directly
5 or indirectly, and underwrites:

6 (A) within any one calendar quarter, an amount of
7 gross direct written premium equal to or more than 5%
8 of the policyholders' surplus as reported in the
9 insurer's last annual statement, or

10 (B) within any one calendar year, an amount of
11 gross direct written premium equal to or more than 8%
12 of the policyholders' surplus as reported in the
13 insurer's last annual statement, and either

14 (4) has the authority to bind the company in
15 settlement of individual claims in amounts in excess of
16 \$500, or

17 (5) has the authority to negotiate reinsurance on
18 behalf of the insurer.

19 Notwithstanding the provisions of items (1) through (5),
20 the following persons shall not be considered to be managing
21 general agents for the purposes of this Code:

22 (1) An employee of the insurer;

23 (2) A U.S. manager of the United States branch of a
24 non-domestic ~~an alien~~ insurer;

25 (3) An underwriting manager who, pursuant to a
26 contract meeting the standards of Section 141.1 manages

1 all or part of the insurance operations of the insurer, is
2 affiliated with the insurer, subject to Article VIII 1/2,
3 and whose compensation is not based on the volume of
4 premiums written;

5 (4) The attorney or the attorney in fact authorized
6 and acting for or on behalf of the subscriber
7 policyholders of a reciprocal or inter-insurance exchange,
8 under the terms of the subscription agreement, power of
9 attorney, or policy of insurance or the attorney in fact
10 for any Lloyds organization licensed in this State.

11 "Retrospective compensation agreement" means any
12 arrangement, agreement, or contract having as its purpose the
13 actual or constructive retention by the insurer of a fixed
14 proportion of the gross premiums, with the balance of the
15 premiums, retained actually or constructively by the agent or
16 the producer of the business, who assumes to pay therefrom all
17 losses, all subordinate commission, loss adjustment expenses,
18 and his profit, if any, with other provisions of the
19 arrangement, agreement, or contract being auxiliary or
20 incidental to that purpose.

21 "Underwrite" means to accept or reject risk on behalf of
22 the insurer.

23 (b) Licensure of managing general agents.

24 (1) No person, firm, association, or corporation shall
25 act in the capacity of a managing general agent with
26 respect to risks located in this State for an insurer

1 licensed in this State unless the person is a licensed
2 producer or a registered firm in this State under Article
3 XXXI of this Code or a licensed third party administrator
4 in this State under Article XXXI 1/4 of this Code.

5 (2) No person, firm, association, or corporation shall
6 act in the capacity of a managing general agent with
7 respect to risks located outside this State for an insurer
8 domiciled in this State unless the person is a licensed
9 producer or a registered firm in this State under Article
10 XXXI of this Code or a licensed third party administrator
11 in this State under Article XXXI 1/4 of this Code.

12 (3) The managing general agent must provide a surety
13 bond for the benefit of the insurer in an amount equal to
14 the greater of \$100,000 or 5% of the gross direct written
15 premium underwritten by the managing general agent on
16 behalf of the insurer. The bond shall provide for a
17 discovery period and prior notification of cancellation in
18 accordance with the rules of the Department unless
19 otherwise approved in writing by the Director.

20 (4) The managing general agent must maintain an errors
21 and omissions policy for the benefit of the insurer with
22 coverage in an amount equal to the greater of \$1,000,000
23 or 5% of the gross direct written premium underwritten by
24 the managing general agent on behalf of the insurer.

25 (5) Evidence of the existence of the bond and the
26 errors and omissions policy must be made available to the

1 Director upon his request.

2 (c) No person, firm, association, or corporation acting in
3 the capacity of a managing general agent shall place business
4 with an insurer unless there is in force a written contract
5 between the parties that sets forth the responsibilities of
6 each party, that, if both parties share responsibility for a
7 particular function, specifies the division of responsibility,
8 and that contains the following minimum provisions:

9 (1) The insurer may terminate the contract for cause
10 upon written notice to the managing general agent. The
11 insurer may suspend the underwriting authority of the
12 managing general agent during the pendency of any dispute
13 regarding the cause for termination.

14 (2) The managing general agent shall render accounts
15 to the insurer detailing all transactions and remit all
16 funds due under the contract to the insurer on not less
17 than a monthly basis.

18 (3) All funds collected for the account of an insurer
19 shall be held by the managing general agent in a fiduciary
20 capacity in a bank that is a federally or State chartered
21 bank and that is a member of the Federal Deposit Insurance
22 Corporation. This account shall be used for all payments
23 on behalf of the insurer; however, the managing general
24 agent shall not have authority to draw on any other
25 accounts of the insurer. The managing general agent may
26 retain no more than 3 months estimated claims payments and

1 allocated loss adjustment expenses.

2 (4) Separate records of business written by the
3 managing general agent will be maintained. The insurer
4 shall have access to and the right to copy all accounts and
5 records related to its business in a form usable by the
6 insurer, and the Director shall have access to all books,
7 bank accounts, and records of the managing general agent
8 in a form usable to the Director.

9 (5) The contract may not be assigned in whole or part
10 by the managing general agent.

11 (6) The managing general agent shall provide to the
12 company audited financial statements required under
13 paragraph (1) of subsection (d).

14 (7) That appropriate underwriting guidelines be
15 followed, which guidelines shall stipulate the following:

- 16 (A) the maximum annual premium volume;
- 17 (B) the basis of the rates to be charged;
- 18 (C) the types of risks that may be written;
- 19 (D) maximum limits of liability;
- 20 (E) applicable exclusions;
- 21 (F) territorial limitations;
- 22 (G) policy cancellation provisions; and
- 23 (H) the maximum policy period.

24 (8) The insurer shall have the right to: (i) cancel or
25 nonrenew any policy of insurance subject to applicable
26 laws and regulations concerning those actions; and (ii)

1 require cancellation of any subproducer's contract after
2 appropriate notice.

3 (9) If the contract permits the managing general agent
4 to settle claims on behalf of the insurer:

5 (A) all claims must be reported to the company in a
6 timely manner.

7 (B) a copy of the claim file must be sent to the
8 insurer at its request or as soon as it becomes known
9 that the claim:

10 (i) has the potential to exceed an amount
11 determined by the company;

12 (ii) involves a coverage dispute;

13 (iii) may exceed the managing general agent's
14 claims settlement authority;

15 (iv) is open for more than 6 months; or

16 (v) is closed by payment of an amount set by
17 the company.

18 (C) all claim files will be the joint property of
19 the insurer and the managing general agent. However,
20 upon an order of liquidation of the insurer, the files
21 shall become the sole property of the insurer or its
22 estate; the managing general agent shall have
23 reasonable access to and the right to copy the files on
24 a timely basis.

25 (D) any settlement authority granted to the
26 managing general agent may be terminated for cause

1 upon the insurer's written notice to the managing
2 general agent or upon the termination of the contract.
3 The insurer may suspend the settlement authority
4 during the pendency of any dispute regarding the cause
5 for termination.

6 (10) Where electronic claims files are in existence,
7 the contract must address the timely transmission of the
8 data.

9 (11) If the contract provides for a sharing of interim
10 profits by the managing general agent and the managing
11 general agent has the authority to determine the amount of
12 the interim profits by establishing loss reserves,
13 controlling claim payments, or by any other manner,
14 interim profits will not be paid to the managing general
15 agent until one year after they are earned for property
16 insurance business and until 5 years after they are earned
17 on casualty business and in either case, not until the
18 profits have been verified.

19 (12) The managing general agent shall not:

20 (A) Bind reinsurance or retrocessions on behalf of
21 the insurer, except that the managing general agent
22 may bind facultative reinsurance contracts under
23 obligatory facultative agreements if the contract with
24 the insurer contains reinsurance underwriting
25 guidelines including, for both reinsurance assumed and
26 ceded, a list of reinsurers with which automatic

1 agreements are in effect, the coverages and amounts or
2 percentages that may be reinsured, and commission
3 schedules.

4 (B) Appoint any producer without assuring that the
5 producer is lawfully licensed to transact the type of
6 insurance for which he is appointed.

7 (C) Without prior approval of the insurer, pay or
8 commit the insurer to pay a claim over a specified
9 amount, net of reinsurance, that shall not exceed 1%
10 of the insurer's policyholders' surplus as of December
11 31 of the last completed calendar year.

12 (D) Collect any payment from a reinsurer or commit
13 the insurer to any claim settlement with a reinsurer
14 without prior approval of the insurer. If prior
15 approval is given, a report must be promptly forwarded
16 to the insurer.

17 (E) Permit its subproducer to serve on its board
18 of directors.

19 (F) Employ an individual who is also employed by
20 the insurer.

21 (13) The contract may not be written for a term of
22 greater than 5 years.

23 (d) Insurers shall have the following duties:

24 (1) The insurer shall have on file the managing
25 general agent's audited financial statements as of the end
26 of the most recent fiscal year prepared in accordance with

1 Generally Accepted Accounting Principles. The insurer
2 shall notify the Director if the auditor's opinion on
3 those statements is other than an unqualified opinion.
4 That notice shall be given to the Director within 10 days
5 of receiving the audited financial statements or becoming
6 aware that such opinion has been given.

7 (2) If a managing general agent establishes loss
8 reserves, the insurer shall annually obtain the opinion of
9 an actuary attesting to the adequacy of loss reserves
10 established for losses incurred and outstanding on
11 business produced by the managing general agent, in
12 addition to any other required loss reserve certification.

13 (3) The insurer shall periodically (at least
14 semiannually) conduct an on-site review of the
15 underwriting and claims processing operations of the
16 managing general agent.

17 (4) Binding authority for all reinsurance contracts or
18 participation in insurance or reinsurance syndicates shall
19 rest with an officer of the insurer, who shall not be
20 affiliated with the managing general agent.

21 (5) Within 30 days of entering into or terminating a
22 contract with a managing general agent, the insurer shall
23 provide written notification of the appointment or
24 termination to the Director. Notices of appointment of a
25 managing general agent shall include a statement of duties
26 that the applicant is expected to perform on behalf of the

1 insurer, the lines of insurance for which the applicant is
2 to be authorized to act, and any other information the
3 Director may request.

4 (6) An insurer shall review its books and records each
5 quarter to determine if any producer has become a managing
6 general agent. If the insurer determines that a producer
7 has become a managing general agent, the insurer shall
8 promptly notify the producer and the Director of that
9 determination, and the insurer and producer must fully
10 comply with the provisions of this Section within 30 days
11 of the notification.

12 (7) The insurer shall file any managing general agent
13 contract for the Director's approval within 45 days after
14 the contract becomes subject to this Section. Failure of
15 the Director to disapprove the contract within 45 days
16 shall constitute approval thereof. Upon expiration of the
17 contract, the insurer shall submit the replacement
18 contract for approval. Contracts filed under this Section
19 shall be exempt from filing under Sections 141, 141.1 and
20 131.20a.

21 (8) An insurer shall not appoint to its board of
22 directors an officer, director, employee, or controlling
23 shareholder of its managing general agents. This provision
24 shall not apply to relationships governed by Article VIII
25 1/2 of this Code.

26 (e) The acts of a managing general agent are considered to

1 be the acts of the insurer on whose behalf it is acting. A
2 managing general agent may be examined in the same manner as an
3 insurer.

4 (f) Retrospective compensation agreements for business
5 written under Section 4 of this Code in Illinois and outside of
6 Illinois by an insurer domiciled in this State must be filed
7 for approval. The standards for approval shall be as set forth
8 under Section 141 of this Code.

9 (g) Unless specifically required by the Director, the
10 provisions of this Section shall not apply to arrangements
11 between a managing general agent not underwriting any risks
12 located in Illinois and a foreign insurer domiciled in an NAIC
13 accredited state that has adopted legislation substantially
14 similar to the NAIC Managing General Agents Model Act. "NAIC
15 accredited state" means a state or territory of the United
16 States having an insurance regulatory agency that maintains an
17 accredited status granted by the National Association of
18 Insurance Commissioners.

19 (h) If the Director determines that a managing general
20 agent has not materially complied with this Section or any
21 regulation or order promulgated hereunder, after notice and
22 opportunity to be heard, the Director may order a penalty in an
23 amount not exceeding \$100,000 for each separate violation and
24 may order the revocation or suspension of the producer's
25 license. If it is found that because of the material
26 noncompliance the insurer has suffered any loss or damage, the

1 Director may maintain a civil action brought by or on behalf of
2 the insurer and its policyholders and creditors for recovery
3 of compensatory damages for the benefit of the insurer and its
4 policyholders and creditors or other appropriate relief. This
5 subsection (h) shall not be construed to prevent any other
6 person from taking civil action against a managing general
7 agent.

8 (i) If an Order of Rehabilitation or Liquidation is
9 entered under Article XIII and the receiver appointed under
10 that Order determines that the managing general agent or any
11 other person has not materially complied with this Section or
12 any regulation or Order promulgated hereunder and the insurer
13 suffered any loss or damage therefrom, the receiver may
14 maintain a civil action for recovery of damages or other
15 appropriate sanctions for the benefit of the insurer.

16 Any decision, determination, or order of the Director
17 under this subsection shall be subject to judicial review
18 under the Administrative Review Law.

19 Nothing contained in this subsection shall affect the
20 right of the Director to impose any other penalties provided
21 for in this Code.

22 Nothing contained in this subsection is intended to or
23 shall in any manner limit or restrict the rights of
24 policyholders, claimants, and auditors.

25 (j) A domestic company shall not during any calendar year
26 write, through a managing general agent or managing general

1 agents, premiums in an amount equal to or greater than its
2 capital and surplus as of the preceding December 31st unless
3 the domestic company requests in writing the Director's
4 permission to do so and the Director has either approved the
5 request or has not disapproved the request within 45 days
6 after the Director received the request.

7 No domestic company with less than \$5,000,000 of capital
8 and surplus may write any business through a managing general
9 agent unless the domestic company requests in writing the
10 Director's permission to do so and the Director has either
11 approved the request or has not disapproved the request within
12 45 days after the Director received the request.

13 (Source: P.A. 93-32, eff. 7-1-03.)

14 (215 ILCS 5/144) (from Ch. 73, par. 756)

15 Sec. 144. Limitation of risk.

16 (1) No company authorized to transact any of the kind of
17 business enumerated in Classes 2 and 3 of Section 4 in this
18 State may expose itself to any loss on any one risk or hazard
19 to an amount exceeding 10% of its admitted assets in excess of
20 its liabilities excluding, in the case of a stock company, its
21 capital stock liability. No portion of any such risk or hazard
22 which has been reinsured in a domestic or an approved foreign
23 or non-domestic ~~alien~~ company, in accordance with this Code,
24 shall be included in determining the limitation of risk
25 prescribed herein.

1 (2) Any company transacting the kind of business
2 enumerated in clause (g) of Class 2 of Section 4 may expose
3 itself to a risk or hazard in excess of the amount prescribed
4 in subsection (1) if it is protected in excess of that amount
5 by the following:

6 (a) The co-suretyship of such a company similarly
7 authorized; or

8 (b) By deposit with it in pledge or conveyance to it in
9 trust for its protection of property; or

10 (c) By conveyance or mortgage for its protection; or

11 (d) In case a suretyship obligation was made on behalf
12 or on account of a fiduciary holding property in a trust
13 capacity, by deposit or other disposition of a portion of
14 the property so held in trust that no future sale,
15 mortgage, pledge or other disposition can be made thereof
16 without the consent of such company except by a judgment
17 or order of a court of competent jurisdiction.

18 (3) A company designated in subsection (2) may also
19 execute transportation or warehouse bonds for United States
20 Internal Revenue taxes to an amount equal to 50% of its capital
21 and surplus. When the penalty of the suretyship obligation
22 exceeds the amount of a judgment described therein as appealed
23 from and thereby secured, or exceeds the amount of the subject
24 matter in controversy or of the estate in the custody of the
25 fiduciary for the performance of whose duties it is
26 conditioned, the bond may be executed if the actual amount of

1 the judgment or the subject matter in controversy or estate
2 not subject to supervision or control of the surety is not in
3 excess of such limitation. When the penalty of the suretyship
4 obligation executed for the performance of a contract exceeds
5 the contract price, the latter shall be taken as the basis for
6 estimating the limit of risk within the meaning of this
7 Section.

8 (4) Whenever the ratio of the annual premium volume in
9 proportion to the policyholder surplus of any company
10 transacting the kinds of business authorized in Class 2 and
11 Class 3 of Section 4 when reviewed in conjunction with the
12 kinds and nature of risks insured, the financial condition of
13 the company and its ownership including but not limited to the
14 liquidity of assets, relationship of surplus to liabilities
15 and adequacy of outstanding loss reserves, creates a condition
16 such that the further assumption of risks might be hazardous
17 to policyholders, creditors or the general public, then the
18 Director may order such company to take one or more of the
19 following steps:

20 (a) to reduce the loss exposure by reinsurance;

21 (b) to reduce the volume of new business being
22 accepted;

23 (c) to suspend the writing of new business for a
24 period not to exceed 3 months;

25 (d) to increase and maintain the company's surplus by
26 a contribution to surplus which will raise the surplus for

1 such a period of time and by such an amount as the Director
2 may deem necessary and essential; or

3 (e) to reduce general or acquisition expenses by
4 specified methods.

5 (f) (Blank).

6 (5) The provisions of this Section do not apply to
7 domestic, foreign, and non-domestic ~~alien~~ Lloyds.

8 The company may, within 10 days after receipt of an Order
9 of the Director under this Section, request that the Director
10 hold a hearing to determine whether the Order of the Director
11 should be modified in any way. A request for a hearing by a
12 company under this Section stays any Order of the Director
13 entered under this Section until such time as the Director has
14 entered an Order pursuant to the hearing.

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

16 (215 ILCS 5/144.1) (from Ch. 73, par. 756.1)

17 Sec. 144.1. Insurance Sales by Insolvent or Impaired
18 Companies Prohibited.) (1) Unless allowed by the Director, no
19 foreign or non-domestic ~~alien~~ company officer, director,
20 trustee, agent, or employee of such company may renew, issue
21 or deliver or cause to be renewed, issued or delivered, any
22 policy, contract or certificate of insurance in this State,
23 nor may any domestic company, officer, director, trustee,
24 agent or employee of such company renew, issue or deliver or
25 cause to be renewed, issued or delivered, any policy, contract

1 or certificate of insurance, for which a premium is charged or
2 collected, when the company writing such insurance is
3 insolvent or impaired and the fact of such insolvency or
4 impairment is known to the company officer, director, trustee,
5 agent or employee of such company. A company is impaired when
6 its assets are less than its capital, minimum required surplus
7 and all liabilities.

8 However, the existence of an impairment does not prevent
9 the issuance or renewal of a policy when an insured or owner
10 exercises an option granted to him under an existing policy to
11 obtain new, renewed or converted insurance coverage.

12 (2) Any company officer, director, trustee, agent, or
13 employee of such company violating this Section shall be
14 guilty of a Class A misdemeanor.

15 (Source: P.A. 82-498.)

16 (215 ILCS 5/146) (from Ch. 73, par. 758)

17 Sec. 146. Withdrawal of deposits.

18 (1) The Director shall at any time upon request release to
19 a company any portion of its deposit which is not required as a
20 compliance with the conditions of this Code.

21 (2) When all of the business of a company has been
22 reinsured in accordance with this Code and the assets thereof
23 by contract assigned to another company, the Director may
24 deliver to the reinsured company or to its assigns under the
25 contract of reinsurance after one year from the effective date

1 of such reinsurance contract, all the securities deposited by
2 the reinsured company upon compliance with the following
3 conditions:

4 (a) The reinsuring company under the reinsurance contract
5 has assumed all liabilities of every kind due and to become due
6 which the deposit of the reinsured company was made to secure
7 or adequate provision has been made therefor;

8 (b) The said reinsuring company shall have and maintain a
9 deposit in this State or with the department or official
10 charged with the duty of supervising the business of insurance
11 in the state where it is incorporated or, if a non-domestic ~~an~~
12 ~~alien~~ company, where it is entered, in securities authorized
13 by this Code as lawful investments of the company and in an
14 amount and value not less than the deposit formerly required
15 of the reinsured company by this Code; and

16 (c) The deposit of the said reinsuring company shall be
17 such that it will subsist for the security of all the
18 obligations of the reinsuring company.

19 (Source: Laws 1937, p. 696.)

20 (215 ILCS 5/148) (from Ch. 73, par. 760)

21 Sec. 148. Contents of advertisements as to financial
22 condition.

23 (1) No company authorized to do business in this State
24 shall cause to be inserted in any newspaper, periodical,
25 magazine or other publication, any advertisement purporting to

1 set forth in figures its financial standing unless the figures
2 exhibited in such advertisement correspond to the figures
3 contained in the next preceding verified statement made to the
4 Director and unless there is set forth either

5 (a) the total amount of the capital actually paid in, the
6 total value of the admitted assets owned, the total amount of
7 the liabilities, including therein the reserves required by
8 law and the amount of the net surplus of assets over
9 liabilities actually available for the payment of losses and
10 claims and held for the protection of policyholders; or

11 (b) the capital paid in or the surplus, separately or
12 combined.

13 (2) No non-domestic ~~alien~~ company authorized to do
14 business in this State shall cause to be inserted in any
15 newspaper, periodical or magazine any advertisement purporting
16 to set forth in figures its financial standing, unless the
17 figures exhibited in such advertisement correspond to the
18 figures contained in the next preceding verified statement
19 made to the Director by the United States Branch of such
20 company and unless there is set forth the total amount of the
21 capital and assets held by its United States Branch, the total
22 amount of its liabilities, including therein the reserves
23 required by law and the total amount of the net surplus of
24 assets over all liabilities actually available for the payment
25 of losses and claims and held for the protection of its
26 policyholders in the United States; provided that any life

1 company organized under the laws of the Dominion of Canada or
2 any province thereof may use in its advertising a statement of
3 its total business and condition in all countries if such
4 statement is accompanied by a statement showing the amount of
5 its total assets and total liabilities in the United States,
6 corresponding to the figures contained in the next preceding
7 statement of such company filed with the Director.

8 (3) Any company violating any provision of this section,
9 and any officer or director thereof knowingly participating in
10 or abetting such violation, shall be guilty of a business
11 offense and shall be required to pay a penalty of not less than
12 five hundred dollars nor more than one thousand dollars, to be
13 recovered in the name of the People of the State of Illinois by
14 the State's Attorney of the county in which the violation
15 occurs and the penalty so recovered shall be paid into the
16 county treasury.

17 (Source: P.A. 77-2699.)

18 (215 ILCS 5/154.5) (from Ch. 73, par. 766.5)

19 Sec. 154.5. Improper Claims Practices) It is an improper
20 claims practice for any domestic, foreign or non-domestic
21 ~~alien~~ company transacting business in this State to commit any
22 of the acts contained in Section 154.6 if:

23 (a) it is committed knowingly in violation of this Act or
24 any rules promulgated hereunder; or

25 (b) It has been committed with such frequency to indicate

1 a persistent tendency to engage in that type of conduct.

2 (Source: P.A. 80-926.)

3 (215 ILCS 5/156) (from Ch. 73, par. 768)

4 Sec. 156. Merger and consolidation permitted.

5 (a) Upon complying with the provisions of this article,
6 any domestic company, except a Lloyds, is hereby authorized
7 and empowered to merge or consolidate with any domestic
8 company or with any foreign or non-domestic ~~alien~~ company,
9 except a Lloyds if the surviving company meets the
10 requirements for authorization to engage in the insurance
11 business in this state and, if such merger or consolidation is
12 authorized by the laws of the state or country under which such
13 foreign or non-domestic ~~alien~~ company is incorporated or
14 organized.

15 (b) The Director may permit the formation of a domestic
16 stock company that is established for the sole purpose of
17 merging or consolidating with an existing stock company
18 simultaneously with the effectiveness of a division authorized
19 by this Code. Upon request of the dividing company, the
20 Director may waive the requirements of Section 131.8 of this
21 Code. Each domestic stock company formed under this subsection
22 shall be deemed to exist before a merger and division under
23 this Section becomes effective, but solely for the purpose of
24 being a party to such merger and division. The Director shall
25 not require that such domestic stock company be licensed to

1 transact insurance business in this state before such merger
2 and division. All insurance policies, annuities, or
3 reinsurance agreements allocated to such domestic stock
4 company shall become the obligation of the domestic stock
5 company that survives the merger simultaneously with the
6 effectiveness of the merger and division. The plan of merger
7 or consolidation shall be deemed to have been authorized and
8 approved by such domestic stock company if the dividing
9 company authorized and approved such plan. The certificate of
10 merger shall state that it was approved by the domestic stock
11 company formed under this subsection.

12 (Source: P.A. 100-1118, eff. 11-27-18.)

13 (215 ILCS 5/156.1) (from Ch. 73, par. 768.1)

14 Sec. 156.1. Acquisition by exchange of stock permitted.
15 Any domestic stock insurance company may adopt a plan of
16 exchange of the outstanding stock of its stockholders for the
17 consideration herein designated to be paid or provided by a
18 corporation which acquires such stock, in the manner provided
19 in this Article.

20 The plan of exchange may provide that the acquiring
21 corporation, as consideration for the stock of the domestic
22 corporation, (1) transfer shares of its stock, or (2) transfer
23 other securities issued by it, or (3) pay cash therefor, or (4)
24 pay or provide other consideration, or (5) pay or provide any
25 combination of the foregoing types of consideration.

1 "Acquiring corporation", as used in this Article, means
2 any stock insurance corporation incorporated under this Code
3 or under prior laws of this State relating to the
4 incorporation of domestic insurance corporations; any stock
5 corporation incorporated under the "Business Corporation Act
6 of 1983" or under prior laws of this State authorizing the
7 establishment of business corporations; and any foreign or
8 non-domestic ~~alien~~ stock corporation qualified to do business
9 in Illinois and registered by the corporation department; and
10 any foreign or non-domestic ~~alien~~ stock insurance company
11 authorized to do business in Illinois.

12 (Source: P.A. 83-1362.)

13 (215 ILCS 5/157) (from Ch. 73, par. 769)

14 Sec. 157. Powers of company not enlarged.

15 Nothing in this article contained shall be construed to
16 authorize any company to engage in any kind of insurance
17 business not authorized by its articles of incorporation nor
18 to authorize any foreign or non-domestic ~~alien~~ company to
19 engage in any kind of insurance business in this State not
20 covered by its certificate of authority to do business in this
21 State.

22 (Source: Laws 1937, p. 696.)

23 (215 ILCS 5/161) (from Ch. 73, par. 773)

24 Sec. 161. Approval and execution of agreement or plan of

1 exchange by foreign or non-domestic ~~alien~~ company.

2 In the event that a foreign or non-domestic ~~alien~~ company
3 is a party to the agreement of merger or consolidation or plan
4 of exchange, the agreement or plan shall be executed by the
5 proper officers of such foreign or non-domestic ~~alien~~ company
6 when they are duly authorized thereto by such action on the
7 part of the directors, shareholders, members, or policyholders
8 of such foreign or non-domestic ~~alien~~ company as may be
9 required by the laws of the domiciliary state or country of
10 such foreign or non-domestic ~~alien~~ company.

11 (Source: Laws 1967, p. 2406.)

12 (215 ILCS 5/162) (from Ch. 73, par. 774)

13 Sec. 162. Certificate of Merger or Consolidation or Plan
14 of Exchange and Certificate of Approval.

15 (1) Upon the execution of an agreement of merger or
16 consolidation or plan of exchange, there shall be delivered to
17 the Director:

18 (a) two duplicate originals of the agreement or plan;

19 (b) affidavits of officers of each of the companies
20 setting forth the facts necessary to show that all
21 requirements of law with respect to notices to persons
22 entitled to vote have been complied with;

23 (c) certificates of the secretaries or assistant
24 secretaries or corresponding officers of each of the
25 companies, in case of a merger or consolidation, or of the

1 company to be acquired in case of a plan of exchange,
2 certifying to the number of shares, if any, outstanding,
3 the number of shares voted for and against such agreement
4 or plan, and further in the case of a merger or
5 consolidation (1) the number of policyholders represented
6 at the meeting at which the agreement was considered, and
7 (2) the number of votes cast by policyholders for and
8 against such agreement or (3) in the case of a fraternal
9 benefit society, the number of delegates of the supreme
10 legislative or governing body, and the number of votes
11 cast by the delegates for and against the agreement;

12 (d) the certificates required by Section 171;

13 (e) if the surviving or new company is a domestic
14 company and any foreign or non-domestic ~~alien~~ company is a
15 party to the merger or consolidation and the laws of the
16 state or country under which such foreign or non-domestic
17 ~~alien~~ company is incorporated require approval of the
18 merger or consolidation by an official of such state or
19 country, a certificate of approval of such official; and

20 (f) in case of consolidation where the new company is
21 a foreign or non-domestic ~~alien~~ company, an instrument
22 appointing the Director and his or her successor or
23 successors in office, the attorney of such company for
24 service of process, containing the same provisions and
25 having the same effect as the instrument required of a
26 foreign or non-domestic ~~alien~~ company in order to be

1 admitted to transact business in this State.

2 In addition, the Director shall be provided, in
3 substantially the same form, the information required under
4 Article VIII 1/2 of this Code.

5 (2) In case the surviving or new company is a domestic
6 company, if the Director finds that:

7 (a) the agreement of merger or consolidation is in
8 accordance with the provisions of this Article and not
9 inconsistent with the laws and the Constitutions of this
10 State and the United States;

11 (b) the surviving or new company has complied with all
12 applicable provisions of this Code;

13 (c) no reasonable objection exists to such merger or
14 consolidation; and

15 (d) the standards established under Article VIII 1/2
16 are satisfied;

17 he or she shall approve the agreement. The provisions of any
18 law with reference to age limits and medical examination shall
19 be inoperative in so far as agreements of merger or
20 consolidation are concerned. If the agreement of merger or
21 consolidation be approved by the Director, he or she shall
22 file the affidavits and certificates and one of the duplicate
23 originals of the agreement in his or her office, endorse upon
24 the other duplicate original his or her approval thereof, and
25 deliver it, together with a certificate of merger or
26 consolidation, as the case may be, to the surviving or new

1 company. In the case of a consolidation, the Director shall
2 also issue a certificate of authority to the new company.

3 (3) In case the surviving or new company is a foreign or
4 non-domestic ~~alien~~ company, if the Director finds that:

5 (a) the agreement of merger or consolidation is in
6 accordance with the provisions of this Article and not
7 inconsistent with the laws and the Constitutions of this
8 State and the United States;

9 (b) the agreement of merger or consolidation provides
10 for the assumption by the new or surviving company of all
11 the liabilities and obligations of the companies parties
12 to the merger or consolidation and otherwise affords
13 proper protection for creditors and policyholders and that
14 such provisions are not inconsistent with the laws of the
15 state or country of incorporation of such new or surviving
16 company;

17 (c) the surviving or new company has complied with all
18 applicable provisions of this Code;

19 (d) no reasonable objection exists to such merger or
20 consolidation; and

21 (e) the standards established under Article VIII 1/2
22 are satisfied;

23 he or she shall approve the agreement. If the agreement be
24 approved by the Director, he or she shall file the affidavits
25 and certificates and one of the duplicate originals of the
26 agreement in his or her office, endorse upon the other

1 duplicate original his or her approval thereof, and deliver
2 it, together with a certificate of approval of the merger or
3 consolidation, as the case may be, to the surviving or new
4 company.

5 (4) In the case of a plan of exchange, if the Director
6 finds that the parties to the exchange have established that:

7 (a) the plan, if effective, will not tend adversely to
8 affect the financial stability or management of any
9 domestic company which is a party thereto or the general
10 capacity or intention to continue the safe and prudent
11 transaction of the insurance business of such domestic
12 company or companies;

13 (b) the interests of the policyholders and
14 shareholders of each domestic insurance company which is a
15 party to the plan are protected;

16 (c) the competence, experience and integrity of those
17 persons who would control the operation of the domestic
18 company are such as to be in the best interests of the
19 policyholders of such company to permit such exchange;

20 (d) the terms and conditions of the plan are fair and
21 reasonable; and

22 (e) the standards established under Article VIII 1/2
23 are satisfied;

24 he or she shall approve the plan of exchange. If the plan of
25 exchange be approved by the Director, he or she shall file the
26 affidavits and certificates and one of the duplicate originals

1 of the plan of exchange in his or her office, endorse upon the
2 other duplicate original his or her approval thereof, and
3 deliver it, together with a certificate of approval of the
4 plan of exchange to the domestic company.

5 (5) If the Director refuses to approve the agreement of
6 merger or consolidation, or plan of exchange, notice of such
7 refusal, assigning the reasons therefor, shall be given in
8 writing by the Director to each of the companies party
9 thereto, within 60 days from the date of the delivery of such
10 agreements or plan to him or her, and he or she shall grant any
11 of such companies a hearing upon request. The hearing shall be
12 held within 30 days of the Director's receipt of request for
13 hearing. All persons to whom it is proposed to issue
14 securities in such agreements or exchange shall have a right
15 to appear. Within 30 days after the close of the hearing the
16 Director shall approve or disapprove or place conditions
17 precedent upon his or her approval of the merger or
18 consolidation or plan by issuing a written order stating his
19 or her determination and the reasons therefor.

20 (Source: P.A. 90-381, eff. 8-14-97.)

21 (215 ILCS 5/163) (from Ch. 73, par. 775)

22 Sec. 163. Date merger or consolidation or plan of exchange
23 effected.

24 (1) If the surviving or new company is a domestic company,
25 the merger or consolidation is effected upon the issuance of

1 the certificate of merger or the certificate of consolidation,
2 as the case may be.

3 (2) If the surviving or new company is a foreign or
4 non-domestic ~~alien~~ company and the Director has issued a
5 certificate of approval of the merger or consolidation, the
6 date upon which the merger or consolidation is effected shall
7 be determined by the laws of the state or country of
8 incorporation or organization of the surviving or new company.
9 However, the merger or consolidation shall in no event become
10 effective in this State until a certificate of merger or
11 consolidation, as the case may be, or other evidence that the
12 merger or consolidation is effected is issued by the proper
13 official of the state or country of incorporation or
14 organization of the surviving or new company and is filed with
15 and approved by the Director.

16 (3) Notice of adoption of the plan and the approval
17 thereof by the Director shall be delivered or mailed to each
18 shareholder of record of the domestic insurance company to be
19 acquired who was entitled to vote thereon and an affidavit of
20 the secretary or assistant secretary of such company or of an
21 officer of the company's transfer agent that such notice was
22 given shall be filed with the Director. The plan shall become
23 effective 10 days after receipt of the affidavit by the
24 Director. A plan of exchange may be abandoned pursuant to any
25 provisions for abandonment contained therein at any time,
26 provided that notice of such abandonment shall be delivered or

1 mailed to each such stockholder and filed with the Director
2 prior to the termination of such 10 day period.

3 (Source: Laws 1967, p. 2406.)

4 (215 ILCS 5/164) (from Ch. 73, par. 776)

5 Sec. 164. Removal of property of domestic, merged or
6 consolidated company from this State.

7 (1) If the surviving or new company shall be a foreign or
8 non-domestic ~~alien~~ company, no property of the domestic merged
9 or consolidated company shall be removed from this State by
10 reason of such merger or consolidation, prior to, nor shall
11 title to such property vest in the surviving or new company
12 until, the merger or consolidation shall become effective in
13 this State as provided in section 163.

14 (2) Any director or officer of any domestic company
15 removing or permitting the removal of any property of company
16 from this State in violation of this section, shall be guilty
17 of a Class A misdemeanor.

18 (Source: P.A. 77-2699.)

19 (215 ILCS 5/166) (from Ch. 73, par. 778)

20 Sec. 166. Effect of merger or consolidation.

21 (1) If the surviving or new company is a domestic company,
22 when such merger or consolidation has been effected

23 (a) the several companies parties to the agreement of
24 merger or consolidation shall be a single company, which, in

1 the case of a merger, shall be that company designated in the
2 agreement of merger as the surviving company, and in the case
3 of a consolidation, shall be the new company provided for in
4 the agreement of consolidation;

5 (b) the separate existence of all of the companies parties
6 to the agreement of merger or consolidation, except the
7 surviving company in the case of a merger, shall cease;

8 (c) such surviving or new company shall have all of the
9 rights, privileges, immunities and powers and shall be subject
10 to all of the duties and liabilities granted or imposed by this
11 Code;

12 (d) such surviving or new company shall thereupon and
13 thereafter possess all the rights, privileges, immunities,
14 powers and franchises of a public as well as of a private
15 nature, of each of the companies so merged or consolidated;
16 and all property, real, personal and mixed, and all debts due
17 on whatever account, including subscriptions to shares,
18 assessments payable from members or policyholders, and all
19 other choses in action and all and every other interest of, or
20 belonging to or due to, each of the companies so merged or
21 consolidated shall be deemed to be transferred to and vested
22 in such surviving or new company without further act or deed;
23 and the title to any real estate, or any interest therein,
24 under the laws of this State vested in any of such companies
25 shall not revert or be in any way impaired by reason of such
26 merger or consolidation;

1 (e) such surviving or new company shall thenceforth be
2 responsible and liable for all the liabilities and obligations
3 of each of the companies so merged or consolidated; any claim
4 existing or action or proceeding pending by or against any of
5 such companies may be prosecuted to judgment as if such merger
6 or consolidation had not taken place, or such surviving or new
7 company may be substituted in its place; neither the rights of
8 creditors nor any liens upon the property of any of such
9 companies shall be impaired by such merger or consolidation,
10 but such liens shall be limited to the property upon which they
11 were liens immediately prior to the time of such merger or
12 consolidation, unless otherwise provided in the agreement of
13 merger or consolidation; and

14 (f) in case of a merger, the articles of incorporation of
15 the surviving company shall be supplanted and superseded to
16 the extent, if any, that any provision or provisions of such
17 articles shall be restated in the agreement of merger as
18 provided in section 158, and such articles of incorporation,
19 shall be deemed to be thereby and to that extent amended; in
20 case of a consolidation, the statements set forth in the
21 agreement of consolidation as provided in section 158 shall be
22 deemed to be articles of incorporation of the new company
23 formed by such consolidation.

24 (2) If the surviving or new company is a foreign or
25 non-domestic ~~alien~~ company, when such merger or consolidation
26 has become effective in this State

1 (a) the effect of the merger or consolidation shall be
2 determined by the law of the state of incorporation or
3 organization of such company;

4 (b) the separate existence of all domestic companies
5 parties to the plan of merger or consolidation shall cease;

6 (c) all property, real, personal, and mixed, and all debts
7 due on whatever account including subscriptions to shares,
8 assessments payable from members or policyholders and all
9 other choses in action and all and every other interest of or
10 belonging to and due to each of the companies so merged or
11 consolidated shall be taken and deemed to be transferred to
12 and vested in such surviving or new company without further
13 act or deed, and the title to any real estate, or any interest
14 therein, shall not revert or be in any way impaired by reason
15 of such merger or consolidation.

16 (3) In the event of a merger or consolidation under this
17 article, the surviving company or the consolidated company
18 shall be considered as having the age of the oldest company
19 which is a party to such merger or consolidation for the
20 purpose of complying with requirements of the laws relating to
21 age of company.

22 (Source: Laws 1937, p. 696.)

23 (215 ILCS 5/169) (from Ch. 73, par. 781)

24 Sec. 169. Rights of dissenting shareholders and
25 policyholders of foreign or non-domestic ~~alien~~ company.

1 The rights of any dissenting shareholder, member or
2 policyholder of any foreign or non-domestic ~~alien~~ company
3 party to a merger or consolidation, shall be those afforded to
4 such shareholder, member, or policyholder by the laws of the
5 domiciliary state or country of such foreign or non-domestic
6 ~~alien~~ company.

7 (Source: Laws 1937, p. 696.)

8 (215 ILCS 5/170) (from Ch. 73, par. 782)

9 Sec. 170. Transfer of deposits.

10 (1) If the surviving or new company shall be a foreign or
11 non-domestic ~~alien~~ company and the laws of the state or
12 country under which such surviving or new company is
13 incorporated or organized shall require the maintenance with
14 any official of such State or country of a deposit of the legal
15 reserve on any policies, then the Director is authorized to
16 deliver to the proper custodian of such deposits of such state
17 or country any deposits theretofore made with the Director
18 pertaining to policies of any of the merged or consolidated
19 companies. If the surviving or new company shall be a domestic
20 company into which has been merged or consolidated a foreign
21 or non-domestic ~~alien~~ company incorporated or organized in a
22 state or country the laws of which require the maintenance
23 with an official of a deposit of the legal reserve on any
24 policies, then the Director is hereby authorized to receive
25 from such official any deposit theretofore made with such

1 official pertaining to the policies of any of the merged or
2 consolidated companies.

3 (2) Any surviving or new company shall, within 60 days
4 after the transfer of such deposit, notify the holder of every
5 policy secured by such transferred deposit, that the transfer
6 has been made. The president or vice-president and secretary
7 or assistant secretary of such company, or the executive
8 officers corresponding thereto, shall within 30 days
9 thereafter, file with the Director an affidavit of the fact
10 that due notice to policyholders, as provided for herein, has
11 been given. If a surviving or new company shall be a foreign or
12 non-domestic ~~alien~~ company, the Director shall require from
13 such company, before transferring any deposit to any official
14 of the state or country under the laws of which such foreign or
15 non-domestic ~~alien~~ company is incorporated or organized, a
16 written agreement that notice of such transfer will be given
17 to policyholders and that an affidavit with regard to such
18 notice will be furnished to the Director as in this section
19 provided.

20 (3) In the event any deposit is to be maintained in this
21 State by reason of this section, the amount thereof from time
22 to time for each such policy shall be at least equal to the
23 amount which would be required in the state where such deposit
24 was theretofore maintained under the provisions of the law of
25 such state in effect on the date the merger or consolidation
26 was effected. The deposits so maintained in this State shall

1 consist of securities of the kinds authorized for investment
2 by Article VIII of this Code.

3 (Source: Laws 1959, p. 1431.)

4 (215 ILCS 5/173.1) (from Ch. 73, par. 785.1)

5 (Text of Section before amendment by P.A. 102-578)

6 Sec. 173.1. Credit allowed a domestic ceding insurer.

7 (1) Except as otherwise provided under Article VIII 1/2 of
8 this Code and related provisions of the Illinois
9 Administrative Code, credit for reinsurance shall be allowed a
10 domestic ceding insurer as either an admitted asset or a
11 deduction from liability on account of reinsurance ceded only
12 when the reinsurer meets the requirements of paragraph (A) or
13 (B) or (B-5) or (C) or (C-5) or (D) of this subsection (1).
14 Credit shall be allowed under paragraph (A), (B), or (B-5) of
15 this subsection (1) only as respects cessions of those kinds
16 or classes of business in which the assuming insurer is
17 licensed or otherwise permitted to write or assume in its
18 state of domicile, or in the case of a U.S. branch of a
19 non-domestic ~~an alien~~ assuming insurer, in the state through
20 which it is entered and licensed to transact insurance or
21 reinsurance. Credit shall be allowed under paragraph (B-5) or
22 (C) of this subsection (1) only if the applicable requirements
23 of paragraph (E) of this subsection (1) have been satisfied.

24 (A) Credit shall be allowed when the reinsurance is
25 ceded to an assuming insurer that is authorized in this

1 State to transact the types of insurance ceded and has at
2 least \$5,000,000 in capital and surplus.

3 (B) Credit shall be allowed when the reinsurance is
4 ceded to an assuming insurer that is accredited as a
5 reinsurer in this State. An accredited reinsurer is one
6 that:

7 (1) files with the Director evidence of its
8 submission to this State's jurisdiction;

9 (2) submits to this State's authority to examine
10 its books and records;

11 (3) is licensed to transact insurance or
12 reinsurance in at least one state, or in the case of a
13 U.S. branch of a non-domestic ~~an alien~~ assuming
14 insurer is entered through and licensed to transact
15 insurance or reinsurance in at least one state;

16 (4) files annually with the Director a copy of its
17 annual statement filed with the insurance department
18 of its state of domicile and a copy of its most recent
19 audited financial statement; and

20 (5) maintains a surplus as regards policyholders
21 in an amount that is not less than \$20,000,000 and
22 whose accreditation has been approved by the Director.

23 (B-5) (1) Credit shall be allowed when the reinsurance
24 is ceded to an assuming insurer that is domiciled in, or in
25 the case of a U.S. branch of a non-domestic ~~an alien~~
26 assuming insurer is entered through, a state that employs

1 standards regarding credit for reinsurance substantially
2 similar to those applicable under this Code and the
3 assuming insurer or U.S. branch of a non-domestic ~~an alien~~
4 assuming insurer:

5 (a) maintains a surplus as regards policyholders
6 in an amount not less than \$20,000,000; and

7 (b) submits to the authority of this State to
8 examine its books and records.

9 (2) The requirement of item (a) of subparagraph (1) of
10 paragraph (B-5) of this subsection (1) does not apply to
11 reinsurance ceded and assumed pursuant to pooling
12 arrangements among insurers in the same holding company
13 system.

14 (C) (1) Credit shall be allowed when the reinsurance
15 is ceded to an assuming insurer that maintains a trust
16 fund in a qualified United States financial institution,
17 as defined in paragraph (B) of subsection (3) of this
18 Section, for the payment of the valid claims of its United
19 States policyholders and ceding insurers, their assigns
20 and successors in interest. The assuming insurer shall
21 report to the Director information substantially the same
22 as that required to be reported on the NAIC annual and
23 quarterly financial statement by authorized insurers and
24 any other financial information that the Director deems
25 necessary to determine the financial condition of the
26 assuming insurer and the sufficiency of the trust fund.

1 The assuming insurer shall provide or make the information
2 available to the ceding insurer. The assuming insurer may
3 decline to release trade secrets or commercially sensitive
4 information that would qualify as exempt from disclosure
5 under the Freedom of Information Act. The Director shall
6 also make the information publicly available, subject only
7 to such reasonable objections as might be raised to a
8 request pursuant to the Freedom of Information Act, as
9 determined by the Director. The assuming insurer shall
10 submit to examination of its books and records by the
11 Director and bear the expense of examination.

12 (2) (a) Credit for reinsurance shall not be granted
13 under this subsection unless the form of the trust and any
14 amendments to the trust have been approved by:

15 (i) the regulatory official of the state where the
16 trust is domiciled; or

17 (ii) the regulatory official of another state who,
18 pursuant to the terms of the trust instrument, has
19 accepted principal regulatory oversight of the trust.

20 (b) The form of the trust and any trust amendments
21 also shall be filed with the regulatory official of every
22 state in which the ceding insurer beneficiaries of the
23 trust are domiciled. The trust instrument shall provide
24 that contested claims shall be valid and enforceable upon
25 the final order of any court of competent jurisdiction in
26 the United States. The trust shall vest legal title to its

1 assets in its trustees for the benefit of the assuming
2 insurer's United States policyholders and ceding insurees
3 and their assigns and successors in interest. The trust
4 and the assuming insurer shall be subject to examination
5 as determined by the Director.

6 (c) The trust shall remain in effect for as long as the
7 assuming insurer has outstanding obligations due under the
8 reinsurance agreements subject to the trust. No later than
9 February 28 of each year the trustee of the trust shall
10 report to the Director in writing the balance of the trust
11 and a list of the trust's investments at the preceding
12 year-end and shall certify the date of termination of the
13 trust, if so planned, or certify that the trust will not
14 expire prior to the next following December 31.

15 No later than February 28 of each year, the assuming
16 insurer's chief executive officer or chief financial
17 officer shall certify to the Director that the trust fund
18 contains funds in an amount not less than the assuming
19 insurer's liabilities (as reported to the assuming insurer
20 by its cedent) attributable to reinsurance ceded by U.S.
21 ceding insurers, and in addition, a trusteed surplus of no
22 less than \$20,000,000. In the event that item (a-5) of
23 subparagraph (3) of this paragraph (C) applies to the
24 trust, the assuming insurer's chief executive officer or
25 chief financial officer shall then certify to the Director
26 that the trust fund contains funds in an amount not less

1 than the assuming insurer's liabilities (as reported to
2 the assuming insurer by its cedent) attributable to
3 reinsurance ceded by U.S. ceding insurers and, in
4 addition, a reduced trusteed surplus of not less than the
5 amount that has been authorized by the regulatory
6 authority having principal regulatory oversight of the
7 trust.

8 (d) No later than February 28 of each year, an
9 assuming insurer that maintains a trust fund in accordance
10 with this paragraph (C) shall provide or make available,
11 if requested by a beneficiary under the trust fund, the
12 following information to the assuming insurer's U.S.
13 ceding insurers or their assigns and successors in
14 interest:

15 (i) a copy of the form of the trust agreement and
16 any trust amendments to the trust agreement pertaining
17 to the trust fund;

18 (ii) a copy of the annual and quarterly financial
19 information, and its most recent audited financial
20 statement provided to the Director by the assuming
21 insurer, including any exhibits and schedules thereto;

22 (iii) any financial information provided to the
23 Director by the assuming insurer that the Director has
24 deemed necessary to determine the financial condition
25 of the assuming insurer and the sufficiency of the
26 trust fund;

1 (iv) a copy of any annual and quarterly financial
2 information provided to the Director by the trustee of
3 the trust fund maintained by the assuming insurer,
4 including any exhibits and schedules thereto;

5 (v) a copy of the information required to be
6 reported by the trustee of the trust to the Director
7 under the provisions of this paragraph (C); and

8 (vi) a written certification that the trust fund
9 consists of funds in trust in an amount not less than
10 the assuming insurer's liabilities attributable to
11 reinsurance liabilities (as reported to the assuming
12 insurer by its cedent) attributable to reinsurance
13 ceded by U.S. ceding insurers and, in addition, a
14 trusted surplus of not less than \$20,000,000.

15 (3) The following requirements apply to the following
16 categories of assuming insurer:

17 (a) The trust fund for a single assuming insurer
18 shall consist of funds in trust in an amount not less
19 than the assuming insurer's liabilities attributable
20 to reinsurance ceded by U.S. ceding insurers, and in
21 addition, the assuming insurer shall maintain a
22 trusted surplus of not less than \$20,000,000, except
23 as provided in item (a-5) of this subparagraph (3).

24 (a-5) At any time after the assuming insurer has
25 permanently discontinued underwriting new business
26 secured by the trust for at least 3 full years, the

1 Director with principal regulatory oversight of the
2 trust may authorize a reduction in the required
3 trustee surplus, but only after a finding, based on
4 an assessment of the risk, that the new required
5 surplus level is adequate for the protection of U.S.
6 ceding insurers, policyholders, and claimants in light
7 of reasonably foreseeable adverse loss development.
8 The risk assessment may involve an actuarial review,
9 including an independent analysis of reserves and cash
10 flows, and shall consider all material risk factors,
11 including, when applicable, the lines of business
12 involved, the stability of the incurred loss
13 estimates, and the effect of the surplus requirements
14 on the assuming insurer's liquidity or solvency. The
15 minimum required trustee surplus may not be reduced
16 to an amount less than 30% of the assuming insurer's
17 liabilities attributable to reinsurance ceded by U.S.
18 ceding insurers covered by the trust.

19 (b) (i) In the case of a group including
20 incorporated and individual unincorporated
21 underwriters:

22 (I) for reinsurance ceded under reinsurance
23 agreements with an inception, amendment, or
24 renewal date on or after January 1, 1993, the
25 trust shall consist of a trustee account in an
26 amount not less than the respective underwriters'

1 several liabilities attributable to business ceded
2 by U.S. domiciled ceding insurers to any member of
3 the group;

4 (II) for reinsurance ceded under reinsurance
5 agreements with an inception date on or before
6 December 31, 1992 and not amended or renewed after
7 that date, notwithstanding the other provisions of
8 this Act, the trust shall consist of a trustee'd
9 account in an amount not less than the group's
10 several insurance and reinsurance liabilities
11 attributable to business written in the United
12 States; and

13 (III) in addition to these trusts, the group
14 shall maintain in trust a trustee'd surplus of
15 which not less than \$100,000,000 shall be held
16 jointly for the benefit of the U.S. domiciled
17 ceding insurers of any member of the group for all
18 years of account.

19 (ii) The incorporated members of the group shall
20 not be engaged in any business other than underwriting
21 as a member of the group and shall be subject to the
22 same level of solvency regulation and control by the
23 group's domiciliary regulator as are the
24 unincorporated members.

25 (iii) Within 90 days after its financial
26 statements are due to be filed with the group's

1 domiciliary regulator, the group shall provide to the
2 Director an annual certification by the group's
3 domiciliary regulator of the solvency of each
4 underwriter member, or if a certification is
5 unavailable, financial statements prepared by
6 independent public accountants of each underwriter
7 member of the group.

8 (c) In the case of a group of incorporated
9 insurers under common administration, the group shall:

10 (i) have continuously transacted an insurance
11 business outside the United States for at least 3
12 years immediately before making application for
13 accreditation;

14 (ii) maintain aggregate policyholders' surplus
15 of not less than \$10,000,000,000;

16 (iii) maintain a trust in an amount not less
17 than the group's several liabilities attributable
18 to business ceded by United States domiciled
19 ceding insurers to any member of the group
20 pursuant to reinsurance contracts issued in the
21 name of the group;

22 (iv) in addition, maintain a joint trusteed
23 surplus of which not less than \$100,000,000 shall
24 be held jointly for the benefit of the United
25 States ceding insurers of any member of the group
26 as additional security for these liabilities; and

1 (v) within 90 days after its financial
2 statements are due to be filed with the group's
3 domiciliary regulator, make available to the
4 Director an annual certification of each
5 underwriter member's solvency by the member's
6 domiciliary regulator and financial statements of
7 each underwriter member of the group prepared by
8 its independent public accountant.

9 (C-5) Credit shall be allowed when the reinsurance is
10 ceded to an assuming insurer that has been certified by
11 the Director as a reinsurer in this State and secures its
12 obligations in accordance with the requirements of this
13 paragraph (C-5).

14 (1) In order to be eligible for certification, the
15 assuming insurer shall meet the following
16 requirements:

17 (a) the assuming insurer must be domiciled and
18 licensed to transact insurance or reinsurance in a
19 qualified jurisdiction, as determined by the
20 Director pursuant to subparagraph (3) of this
21 paragraph (C-5);

22 (b) the assuming insurer must maintain minimum
23 capital and surplus, or its equivalent, in an
24 amount not less than \$250,000,000 or such greater
25 amount as determined by the Director pursuant to
26 regulation; this requirement may also be satisfied

1 by an association, including incorporated and
2 individual unincorporated underwriters, having
3 minimum capital and surplus equivalents (net of
4 liabilities) of at least \$250,000,000 and a
5 central fund containing a balance of at least
6 \$250,000,000;

7 (c) the assuming insurer must maintain
8 financial strength ratings from 2 or more rating
9 agencies deemed acceptable by the Director; these
10 ratings shall be based on interactive
11 communication between the rating agency and the
12 assuming insurer and shall not be based solely on
13 publicly available information; each certified
14 reinsurer shall be rated on a legal entity basis,
15 with due consideration being given to the group
16 rating where appropriate, except that an
17 association, including incorporated and individual
18 unincorporated underwriters, that has been
19 approved to do business as a single certified
20 reinsurer may be evaluated on the basis of its
21 group rating; these financial strength ratings
22 shall be one factor used by the Director in
23 determining the rating that is assigned to the
24 assuming insurer; acceptable rating agencies
25 include the following:

26 (i) Standard & Poor's;

1 (ii) Moody's Investors Service;
2 (iii) Fitch Ratings;
3 (iv) A.M. Best Company; or
4 (v) any other nationally recognized
5 statistical rating organization;

6 (d) the assuming insurer must agree to submit
7 to the jurisdiction of this State, appoint the
8 Director as its agent for service of process in
9 this State, and agree to provide security for 100%
10 of the assuming insurer's liabilities attributable
11 to reinsurance ceded by U.S. ceding insurers if it
12 resists enforcement of a final U.S. judgment; and

13 (e) the assuming insurer must agree to meet
14 applicable information filing requirements as
15 determined by the Director, both with respect to
16 an initial application for certification and on an
17 ongoing basis.

18 (2) An association, including incorporated and
19 individual unincorporated underwriters, may be a
20 certified reinsurer. In order to be eligible for
21 certification, in addition to satisfying the
22 requirements of subparagraph (1) of this paragraph
23 (C-5):

24 (a) the association shall satisfy its minimum
25 capital and surplus requirements through the
26 capital and surplus equivalents (net of

1 liabilities) of the association and its members,
2 which shall include a joint central fund that may
3 be applied to any unsatisfied obligation of the
4 association or any of its members, in the amounts
5 specified in item (b) of subparagraph (1) of this
6 paragraph (C-5);

7 (b) the incorporated members of the
8 association shall not be engaged in any business
9 other than underwriting as a member of the
10 association and shall be subject to the same level
11 of regulation and solvency control by the
12 association's domiciliary regulator as are the
13 unincorporated members; and

14 (c) within 90 days after its financial
15 statements are due to be filed with the
16 association's domiciliary regulator, the
17 association shall provide to the Director an
18 annual certification by the association's
19 domiciliary regulator of the solvency of each
20 underwriter member; or if a certification is
21 unavailable, financial statements, prepared by
22 independent public accountants, of each
23 underwriter member of the association.

24 (3) The Director shall create and publish a list
25 of qualified jurisdictions, under which an assuming
26 insurer licensed and domiciled in such jurisdiction is

1 eligible to be considered for certification by the
2 Director as a certified reinsurer.

3 (a) In order to determine whether the
4 domiciliary jurisdiction of a non-U.S. assuming
5 insurer is eligible to be recognized as a
6 qualified jurisdiction, the Director shall
7 evaluate the appropriateness and effectiveness of
8 the reinsurance supervisory system of the
9 jurisdiction, both initially and on an ongoing
10 basis, and consider the rights, benefits, and
11 extent of reciprocal recognition afforded by the
12 non-U.S. jurisdiction to reinsurers licensed and
13 domiciled in the U.S. A qualified jurisdiction
14 must agree in writing to share information and
15 cooperate with the Director with respect to all
16 certified reinsurers domiciled within that
17 jurisdiction. A jurisdiction may not be recognized
18 as a qualified jurisdiction if the Director has
19 determined that the jurisdiction does not
20 adequately and promptly enforce final U.S.
21 judgments and arbitration awards. The costs and
22 expenses associated with the Director's review and
23 evaluation of the domiciliary jurisdictions of
24 non-U.S. assuming insurers shall be borne by the
25 certified reinsurer or reinsurers domiciled in
26 such jurisdiction.

1 (b) Additional factors to be considered in
2 determining whether to recognize a qualified
3 jurisdiction include, but are not limited to, the
4 following:

5 (i) the framework under which the assuming
6 insurer is regulated;

7 (ii) the structure and authority of the
8 domiciliary regulator with regard to solvency
9 regulation requirements and financial
10 surveillance;

11 (iii) the substance of financial and
12 operating standards for assuming insurers in
13 the domiciliary jurisdiction;

14 (iv) the form and substance of financial
15 reports required to be filed or made publicly
16 available by reinsurers in the domiciliary
17 jurisdiction and the accounting principles
18 used;

19 (v) the domiciliary regulator's
20 willingness to cooperate with U.S. regulators
21 in general and the Director in particular;

22 (vi) the history of performance by
23 assuming insurers in the domiciliary
24 jurisdiction;

25 (vii) any documented evidence of
26 substantial problems with the enforcement of

1 final U.S. judgments in the domiciliary
2 jurisdiction; and

3 (viii) any relevant international
4 standards or guidance with respect to mutual
5 recognition of reinsurance supervision adopted
6 by the International Association of Insurance
7 Supervisors or its successor organization.

8 (c) If, upon conducting an evaluation under
9 this paragraph with respect to the reinsurance
10 supervisory system of any non-U.S. assuming
11 insurer, the Director determines that the
12 jurisdiction qualifies to be recognized as a
13 qualified jurisdiction, the Director shall publish
14 notice and evidence of such recognition in an
15 appropriate manner. The Director may establish a
16 procedure to withdraw recognition of those
17 jurisdictions that are no longer qualified.

18 (d) The Director shall consider the list of
19 qualified jurisdictions through the NAIC committee
20 process in determining qualified jurisdictions. If
21 the Director approves a jurisdiction as qualified
22 that does not appear on the list of qualified
23 jurisdictions, then the Director shall provide
24 thoroughly documented justification in accordance
25 with criteria to be developed under regulations.

26 (e) U.S. jurisdictions that meet the

1 requirement for accreditation under the NAIC
2 financial standards and accreditation program
3 shall be recognized as qualified jurisdictions.

4 (f) If a certified reinsurer's domiciliary
5 jurisdiction ceases to be a qualified
6 jurisdiction, then the Director may suspend the
7 reinsurer's certification indefinitely, in lieu of
8 revocation.

9 (4) If an applicant for certification has been
10 certified as a reinsurer in an NAIC accredited
11 jurisdiction, then the Director may defer to that
12 jurisdiction's certification and to the rating
13 assigned by that jurisdiction if the assuming insurer
14 submits a properly executed Form CR-1 and such
15 additional information as the Director requires. Such
16 assuming insurer shall be considered to be a certified
17 reinsurer in this State but only upon the Director's
18 assignment of an Illinois rating, which shall be made
19 based on the requirements of subparagraph (5) of this
20 paragraph (C-5). The following shall apply:

21 (a) Any change in the certified reinsurer's
22 status or rating in the other jurisdiction shall
23 apply automatically in Illinois as of the date it
24 takes effect in the other jurisdiction. The
25 certified reinsurer shall notify the Director of
26 any change in its status or rating within 10 days

1 after receiving notice of the change.

2 (b) The Director may withdraw recognition of
3 the other jurisdiction's rating at any time and
4 assign a new rating in accordance with
5 subparagraph (5) of this paragraph (C-5).

6 (c) The Director may withdraw recognition of
7 the other jurisdiction's certification at any time
8 with written notice to the certified reinsurer.
9 Unless the Director suspends or revokes the
10 certified reinsurer's certification in accordance
11 with item (c) of subparagraph (9) of this
12 paragraph (C-5), the certified reinsurer's
13 certification shall remain in good standing in
14 Illinois for a period of 3 months, which shall be
15 extended if additional time is necessary to
16 consider the assuming insurer's application for
17 certification in Illinois.

18 (5) The Director shall assign a rating to each
19 certified reinsurer pursuant to rules adopted by the
20 Department. Factors that shall be considered as part
21 of the evaluation process include the following:

22 (a) The certified reinsurer's financial
23 strength rating from an acceptable rating agency.
24 Financial strength ratings shall be classified
25 according to the following ratings categories:

26 (i) Ratings Category "Secure - 1"

1 corresponds to the highest level of rating
2 given by a rating agency, including, but not
3 limited to, A.M. Best Company rating A++;
4 Standard & Poor's rating AAA; Moody's
5 Investors Service rating Aaa; and Fitch
6 Ratings rating AAA.

7 (ii) Ratings Category "Secure - 2"
8 corresponds to the second-highest level of
9 rating or group of ratings given by a rating
10 agency, including, but not limited to, A.M.
11 Best Company rating A+; Standard & Poor's
12 rating AA+, AA, or AA-; Moody's Investors
13 Service ratings Aa1, Aa2, or Aa3; and Fitch
14 Ratings ratings AA+, AA, or AA-.

15 (iii) Ratings Category "Secure - 3"
16 corresponds to the third-highest level of
17 rating or group of ratings given by a rating
18 agency, including, but not limited to, A.M.
19 Best Company rating A; Standard & Poor's
20 ratings A+ or A; Moody's Investors Service
21 ratings A1 or A2; and Fitch Ratings ratings A+
22 or A.

23 (iv) Ratings Category "Secure - 4"
24 corresponds to the fourth-highest level of
25 rating or group of ratings given by a rating
26 agency, including, but not limited to, A.M.

1 Best Company rating A-; Standard & Poor's
2 rating A-; Moody's Investors Service rating
3 A3; and Fitch Ratings rating A-.

4 (v) Ratings Category "Secure - 5"
5 corresponds to the fifth-highest level of
6 rating or group of ratings given by a rating
7 agency, including, but not limited to, A.M.
8 Best Company ratings B++ or B+; Standard &
9 Poor's ratings BBB+, BBB, or BBB-; Moody's
10 Investors Service ratings Baa1, Baa2, or Baa3;
11 and Fitch Ratings ratings BBB+, BBB, or BBB-.

12 (vi) Ratings Category "Vulnerable - 6"
13 corresponds to a level of rating given by a
14 rating agency, other than those described in
15 subitems (i) through (v) of this item (a),
16 including, but not limited to, A.M. Best
17 Company rating B, B-, C++, C+, C, C-, D, E, or
18 F; Standard & Poor's ratings BB+, BB, BB-, B+,
19 B, B-, CCC, CC, C, D, or R; Moody's Investors
20 Service ratings Ba1, Ba2, Ba3, B1, B2, B3,
21 Caa, Ca, or C; and Fitch Ratings ratings BB+,
22 BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

23 A failure to obtain or maintain at least 2
24 financial strength ratings from acceptable rating
25 agencies shall result in loss of eligibility for
26 certification.

1 (b) The business practices of the certified
2 reinsurer in dealing with its ceding insurers,
3 including its record of compliance with
4 reinsurance contractual terms and obligations.

5 (c) For certified reinsurers domiciled in the
6 U.S., a review of the most recent applicable NAIC
7 Annual Statement Blank, either Schedule F (for
8 property and casualty reinsurers) or Schedule S
9 (for life and health reinsurers).

10 (d) For certified reinsurers not domiciled in
11 the U.S., a review annually of Form CR-F (for
12 property and casualty reinsurers) or Form CR-S
13 (for life and health reinsurers).

14 (e) The reputation of the certified reinsurer
15 for prompt payment of claims under reinsurance
16 agreements, based on an analysis of ceding
17 insurers' Schedule F reporting of overdue
18 reinsurance recoverables, including the proportion
19 of obligations that are more than 90 days past due
20 or are in dispute, with specific attention given
21 to obligations payable to companies that are in
22 administrative supervision or receivership.

23 (f) Regulatory actions against the certified
24 reinsurer.

25 (g) The report of the independent auditor on
26 the financial statements of the insurance

1 enterprise, on the basis described in item (h) of
2 this subparagraph (5).

3 (h) For certified reinsurers not domiciled in
4 the U.S., audited financial statements (audited
5 Generally Accepted Accounting Principles (U.S.
6 GAAP) basis statement if available, audited
7 International Financial Reporting Standards (IFRS)
8 basis statements are allowed but must include an
9 audited footnote reconciling equity and net income
10 to U.S. GAAP basis or, with the permission of the
11 Director, audited IFRS basis statements with
12 reconciliation to U.S. GAAP basis certified by an
13 officer of the company), regulatory filings, and
14 actuarial opinion (as filed with the non-U.S.
15 jurisdiction supervisor). Upon the initial
16 application for certification, the Director shall
17 consider the audited financial statements filed
18 with its non-U.S. jurisdiction supervisor for the
19 3 years immediately preceding the date of the
20 initial application for certification.

21 (i) The liquidation priority of obligations to
22 a ceding insurer in the certified reinsurer's
23 domiciliary jurisdiction in the context of an
24 insolvency proceeding.

25 (j) A certified reinsurer's participation in
26 any solvent scheme of arrangement, or similar

1 procedure, that involves U.S. ceding insurers. The
2 Director shall receive prior notice from a
3 certified reinsurer that proposes participation by
4 the certified reinsurer in a solvent scheme of
5 arrangement.

6 The maximum rating that a certified reinsurer may
7 be assigned shall correspond to its financial strength
8 rating, which shall be determined according to
9 subitems (i) through (vi) of item (a) of this
10 subparagraph (5). The Director shall use the lowest
11 financial strength rating received from an acceptable
12 rating agency in establishing the maximum rating of a
13 certified reinsurer.

14 (6) Based on the analysis conducted under item (e)
15 of subparagraph (5) of this paragraph (C-5) of a
16 certified reinsurer's reputation for prompt payment of
17 claims, the Director may make appropriate adjustments
18 in the security the certified reinsurer is required to
19 post to protect its liabilities to U.S. ceding
20 insurers, provided that the Director shall, at a
21 minimum, increase the security the certified reinsurer
22 is required to post by one rating level under item (a)
23 of subparagraph (8) of this paragraph (C-5) if the
24 Director finds that:

25 (a) more than 15% of the certified reinsurer's
26 ceding insurance clients have overdue reinsurance

1 recoverables on paid losses of 90 days or more
2 that are not in dispute and that exceed \$100,000
3 for each cedent; or

4 (b) the aggregate amount of reinsurance
5 recoverables on paid losses that are not in
6 dispute that are overdue by 90 days or more
7 exceeds \$50,000,000.

8 (7) The Director shall post notice on the
9 Department's website promptly upon receipt of any
10 application for certification, including instructions
11 on how members of the public may respond to the
12 application. The Director may not take final action on
13 the application until at least 30 days after posting
14 the notice required by this subparagraph. The Director
15 shall publish a list of all certified reinsurers and
16 their ratings.

17 (8) A certified reinsurer shall secure obligations
18 assumed from U.S. ceding insurers under this
19 subsection (1) at a level consistent with its rating.

20 (a) The amount of security required in order
21 for full credit to be allowed shall correspond
22 with the applicable ratings category:

23 Secure - 1: 0%.

24 Secure - 2: 10%.

25 Secure - 3: 20%.

26 Secure - 4: 50%.

1 Secure - 5: 75%.

2 Vulnerable - 6: 100%.

3 (b) Nothing in this subparagraph (8) shall
4 prohibit the parties to a reinsurance agreement
5 from agreeing to provisions establishing security
6 requirements that exceed the minimum security
7 requirements established for certified reinsurers
8 under this Section.

9 (c) In order for a domestic ceding insurer to
10 qualify for full financial statement credit for
11 reinsurance ceded to a certified reinsurer, the
12 certified reinsurer shall maintain security in a
13 form acceptable to the Director and consistent
14 with the provisions of subsection (2) of this
15 Section, or in a multibeneficiary trust in
16 accordance with paragraph (C) of this subsection
17 (1), except as otherwise provided in this
18 subparagraph (8).

19 (d) If a certified reinsurer maintains a trust
20 to fully secure its obligations subject to
21 paragraph (C) of this subsection (1), and chooses
22 to secure its obligations incurred as a certified
23 reinsurer in the form of a multibeneficiary trust,
24 then the certified reinsurer shall maintain
25 separate trust accounts for its obligations
26 incurred under reinsurance agreements issued or

1 renewed as a certified reinsurer with reduced
2 security as permitted by this subsection or
3 comparable laws of other U.S. jurisdictions and
4 for its obligations subject to paragraph (C) of
5 this subsection (1). It shall be a condition to
6 the grant of certification under this paragraph
7 (C-5) that the certified reinsurer shall have
8 bound itself, by the language of the trust and
9 agreement with the Director with principal
10 regulatory oversight of each such trust account,
11 to fund, upon termination of any such trust
12 account, out of the remaining surplus of such
13 trust any deficiency of any other such trust
14 account. The certified reinsurer shall also
15 provide or make available, if requested by a
16 beneficiary under a trust, all the information
17 that is required to be provided under the
18 requirements of item (d) of subparagraph (2) of
19 paragraph (C) of this subsection (1) to the
20 certified reinsurer's U.S. ceding insurers or
21 their assigns and successors in interest. The
22 assuming insurer may decline to release trade
23 secrets or commercially sensitive information that
24 would qualify as exempt from disclosure under the
25 Freedom of Information Act.

26 (e) The minimum trusteed surplus requirements

1 provided in paragraph (C) of this subsection (1)
2 are not applicable with respect to a
3 multibeneficiary trust maintained by a certified
4 reinsurer for the purpose of securing obligations
5 incurred under this subsection, except that such
6 trust shall maintain a minimum trusteed surplus of
7 \$10,000,000.

8 (f) With respect to obligations incurred by a
9 certified reinsurer under this subsection (1), if
10 the security is insufficient, then the Director
11 may reduce the allowable credit by an amount
12 proportionate to the deficiency and may impose
13 further reductions in allowable credit upon
14 finding that there is a material risk that the
15 certified reinsurer's obligations will not be paid
16 in full when due.

17 (9) (a) In the case of a downgrade by a rating
18 agency or other disqualifying circumstance, the
19 Director shall by written notice assign a new rating
20 to the certified reinsurer in accordance with the
21 requirements of subparagraph (5) of this paragraph
22 (C-5).

23 (b) If the rating of a certified reinsurer is
24 upgraded by the Director, then the certified reinsurer
25 may meet the security requirements applicable to its
26 new rating on a prospective basis, but the Director

1 shall require the certified reinsurer to post security
2 under the previously applicable security requirements
3 as to all contracts in force on or before the effective
4 date of the upgraded rating. If the rating of a
5 certified reinsurer is downgraded by the Director,
6 then the Director shall require the certified
7 reinsurer to meet the security requirements applicable
8 to its new rating for all business it has assumed as a
9 certified reinsurer.

10 (c) The Director may suspend, revoke, or otherwise
11 modify a certified reinsurer's certification at any
12 time if the certified reinsurer fails to meet its
13 obligations or security requirements under this
14 Section or if other financial or operating results of
15 the certified reinsurer, or documented significant
16 delays in payment by the certified reinsurer, lead the
17 Director to reconsider the certified reinsurer's
18 ability or willingness to meet its contractual
19 obligations. In seeking to suspend, revoke, or
20 otherwise modify a certified reinsurer's
21 certification, the Director shall follow the
22 procedures provided in paragraph (G) of this
23 subsection (1).

24 (d) For purposes of this subsection (1), a
25 certified reinsurer whose certification has been
26 terminated for any reason shall be treated as a

1 certified reinsurer required to secure 100% of its
2 obligations.

3 (i) As used in this item (d), the term
4 "terminated" refers to revocation, suspension,
5 voluntary surrender and inactive status.

6 (ii) If the Director continues to assign a
7 higher rating as permitted by other provisions of
8 this Section, then this requirement does not apply
9 to a certified reinsurer in inactive status or to
10 a reinsurer whose certification has been
11 suspended.

12 (e) Upon revocation of the certification of a
13 certified reinsurer by the Director, the assuming
14 insurer shall be required to post security in
15 accordance with subsection (2) of this Section in
16 order for the ceding insurer to continue to take
17 credit for reinsurance ceded to the assuming insurer.
18 If funds continue to be held in trust, then the
19 Director may allow additional credit equal to the
20 ceding insurer's pro rata share of the funds,
21 discounted to reflect the risk of uncollectibility and
22 anticipated expenses of trust administration.

23 (f) Notwithstanding the change of a certified
24 reinsurer's rating or revocation of its certification,
25 a domestic insurer that has ceded reinsurance to that
26 certified reinsurer may not be denied credit for

1 reinsurance for a period of 3 months for all
2 reinsurance ceded to that certified reinsurer, unless
3 the reinsurance is found by the Director to be at high
4 risk of uncollectibility.

5 (10) A certified reinsurer that ceases to assume
6 new business in this State may request to maintain its
7 certification in inactive status in order to continue
8 to qualify for a reduction in security for its
9 in-force business. An inactive certified reinsurer
10 shall continue to comply with all applicable
11 requirements of this subsection (1), and the Director
12 shall assign a rating that takes into account, if
13 relevant, the reasons why the reinsurer is not
14 assuming new business.

15 (11) Credit for reinsurance under this paragraph
16 (C-5) shall apply only to reinsurance contracts
17 entered into or renewed on or after the effective date
18 of the certification of the assuming insurer.

19 (12) The Director shall comply with all reporting
20 and notification requirements that may be established
21 by the NAIC with respect to certified reinsurers and
22 qualified jurisdictions.

23 (D) Credit shall be allowed when the reinsurance is
24 ceded to an assuming insurer not meeting the requirements
25 of paragraph (A), (B), or (C) of this subsection (1) but
26 only with respect to the insurance of risks located in

1 jurisdictions where that reinsurance is required by
2 applicable law or regulation of that jurisdiction.

3 (E) If the assuming insurer is not licensed to
4 transact insurance in this State or an accredited or
5 certified reinsurer in this State, the credit permitted by
6 paragraphs (B-5) and (C) of this subsection (1) shall not
7 be allowed unless the assuming insurer agrees in the
8 reinsurance agreements:

9 (1) that in the event of the failure of the
10 assuming insurer to perform its obligations under the
11 terms of the reinsurance agreement, the assuming
12 insurer, at the request of the ceding insurer, shall
13 submit to the jurisdiction of any court of competent
14 jurisdiction in any state of the United States, will
15 comply with all requirements necessary to give the
16 court jurisdiction, and will abide by the final
17 decision of the court or of any appellate court in the
18 event of an appeal; and

19 (2) to designate the Director or a designated
20 attorney as its true and lawful attorney upon whom may
21 be served any lawful process in any action, suit, or
22 proceeding instituted by or on behalf of the ceding
23 company.

24 This provision is not intended to conflict with or
25 override the obligation of the parties to a reinsurance
26 agreement to arbitrate their disputes, if an obligation to

1 arbitrate is created in the agreement.

2 (F) If the assuming insurer does not meet the
3 requirements of paragraph (A) or (B) of this subsection
4 (1), the credit permitted by paragraph (C) of this
5 subsection (1) shall not be allowed unless the assuming
6 insurer agrees in the trust agreements to the following
7 conditions:

8 (1) Notwithstanding any other provisions in the
9 trust instrument, if the trust fund is inadequate
10 because it contains an amount less than the amount
11 required by subparagraph (3) of paragraph (C) of this
12 subsection (1) or if the grantor of the trust has been
13 declared insolvent or placed into receivership,
14 rehabilitation, liquidation, or similar proceedings
15 under the laws of its state or country of domicile, the
16 trustee shall comply with an order of the state
17 official with regulatory oversight over the trust or
18 with an order of a court of competent jurisdiction
19 directing the trustee to transfer to the state
20 official with regulatory oversight all of the assets
21 of the trust fund.

22 (2) The assets shall be distributed by and claims
23 shall be filed with and valued by the state official
24 with regulatory oversight in accordance with the laws
25 of the state in which the trust is domiciled that are
26 applicable to the liquidation of domestic insurance

1 companies.

2 (3) If the state official with regulatory
3 oversight determines that the assets of the trust fund
4 or any part thereof are not necessary to satisfy the
5 claims of the U.S. ceding insurers of the grantor of
6 the trust, the assets or part thereof shall be
7 returned by the state official with regulatory
8 oversight to the trustee for distribution in
9 accordance with the trust agreement.

10 (4) The grantor shall waive any rights otherwise
11 available to it under U.S. law that are inconsistent
12 with the provision.

13 (G) If an accredited or certified reinsurer ceases to
14 meet the requirements for accreditation or certification,
15 then the Director may suspend or revoke the reinsurer's
16 accreditation or certification.

17 (1) The Director must give the reinsurer notice
18 and opportunity for hearing. The suspension or
19 revocation may not take effect until after the
20 Director's order on hearing, unless:

21 (a) the reinsurer waives its right to hearing;

22 (b) the Director's order is based on
23 regulatory action by the reinsurer's domiciliary
24 jurisdiction or the voluntary surrender or
25 termination of the reinsurer's eligibility to
26 transact insurance or reinsurance business in its

1 domiciliary jurisdiction or in the primary
2 certifying state of the reinsurer under
3 subparagraph (4) of paragraph (C-5) of this
4 subsection (1); or

5 (c) the Director finds that an emergency
6 requires immediate action and a court of competent
7 jurisdiction has not stayed the Director's action.

8 (2) While a reinsurer's accreditation or
9 certification is suspended, no reinsurance contract
10 issued or renewed after the effective date of the
11 suspension qualifies for credit except to the extent
12 that the reinsurer's obligations under the contract
13 are secured in accordance with subsection (2) of this
14 Section. If a reinsurer's accreditation or
15 certification is revoked, no credit for reinsurance
16 may be granted after the effective date of the
17 revocation, except to the extent that the reinsurer's
18 obligations under the contract are secured in
19 accordance with subsection (2) of this Section.

20 (H) The following provisions shall apply concerning
21 concentration of risk:

22 (1) A ceding insurer shall take steps to manage
23 its reinsurance recoverable proportionate to its own
24 book of business. A domestic ceding insurer shall
25 notify the Director within 30 days after reinsurance
26 recoverables from any single assuming insurer, or

1 group of affiliated assuming insurers, exceeds 50% of
2 the domestic ceding insurer's last reported surplus to
3 policyholders, or after it is determined that
4 reinsurance recoverables from any single assuming
5 insurer, or group of affiliated assuming insurers, is
6 likely to exceed this limit. The notification shall
7 demonstrate that the exposure is safely managed by the
8 domestic ceding insurer.

9 (2) A ceding insurer shall take steps to diversify
10 its reinsurance program. A domestic ceding insurer
11 shall notify the Director within 30 days after ceding
12 to any single assuming insurer, or group of affiliated
13 assuming insurers, more than 20% of the ceding
14 insurer's gross written premium in the prior calendar
15 year, or after it has determined that the reinsurance
16 ceded to any single assuming insurer, or group of
17 affiliated assuming insurers, is likely to exceed this
18 limit. The notification shall demonstrate that the
19 exposure is safely managed by the domestic ceding
20 insurer.

21 (2) Credit for the reinsurance ceded by a domestic insurer
22 to an assuming insurer not meeting the requirements of
23 subsection (1) of this Section shall be allowed in an amount
24 not exceeding the assets or liabilities carried by the ceding
25 insurer. The credit shall not exceed the amount of funds held
26 by or held in trust for the ceding insurer under a reinsurance

1 contract with the assuming insurer as security for the payment
2 of obligations thereunder, if the security is held in the
3 United States subject to withdrawal solely by, and under the
4 exclusive control of, the ceding insurer; or, in the case of a
5 trust, held in a qualified United States financial
6 institution, as defined in paragraph (B) of subsection (3) of
7 this Section. This security may be in the form of:

8 (A) Cash.

9 (B) Securities listed by the Securities Valuation
10 Office of the National Association of Insurance
11 Commissioners, including those deemed exempt from filing
12 as defined by the Purposes and Procedures Manual of the
13 Securities Valuation Office that conform to the
14 requirements of Article VIII of this Code that are not
15 issued by an affiliate of either the assuming or ceding
16 company.

17 (C) Clean, irrevocable, unconditional, letters of
18 credit issued or confirmed by a qualified United States
19 financial institution, as defined in paragraph (A) of
20 subsection (3) of this Section. The letters of credit
21 shall be effective no later than December 31 of the year
22 for which filing is being made, and in the possession of,
23 or in trust for, the ceding company on or before the filing
24 date of its annual statement. Letters of credit meeting
25 applicable standards of issuer acceptability as of the
26 dates of their issuance (or confirmation) shall,

1 notwithstanding the issuing (or confirming) institution's
2 subsequent failure to meet applicable standards of issuer
3 acceptability, continue to be acceptable as security until
4 their expiration, extension, renewal, modification, or
5 amendment, whichever first occurs.

6 (D) Any other form of security acceptable to the
7 Director.

8 (3) (A) For purposes of paragraph (C) of subsection (2) of
9 this Section, a "qualified United States financial
10 institution" means an institution that:

11 (1) is organized or, in the case of a U.S. office of a
12 foreign banking organization, licensed under the laws of
13 the United States or any state thereof;

14 (2) is regulated, supervised, and examined by U.S.
15 federal or state authorities having regulatory authority
16 over banks and trust companies;

17 (3) has been designated by either the Director or the
18 Securities Valuation Office of the National Association of
19 Insurance Commissioners as meeting such standards of
20 financial condition and standing as are considered
21 necessary and appropriate to regulate the quality of
22 financial institutions whose letters of credit will be
23 acceptable to the Director; and

24 (4) is not affiliated with the assuming company.

25 (B) A "qualified United States financial institution"
26 means, for purposes of those provisions of this law specifying

1 those institutions that are eligible to act as a fiduciary of a
2 trust, an institution that:

3 (1) is organized or, in the case of the U.S. branch or
4 agency office of a foreign banking organization, licensed
5 under the laws of the United States or any state thereof
6 and has been granted authority to operate with fiduciary
7 powers;

8 (2) is regulated, supervised, and examined by federal
9 or state authorities having regulatory authority over
10 banks and trust companies; and

11 (3) is not affiliated with the assuming company,
12 however, if the subject of the reinsurance contract is
13 insurance written pursuant to Section 155.51 of this Code,
14 the financial institution may be affiliated with the
15 assuming company with the prior approval of the Director.

16 (C) Except as set forth in subparagraph (11) of paragraph
17 (C-5) of subsection (1) of this Section as to cessions by
18 certified reinsurers, this amendatory Act of the 100th General
19 Assembly shall apply to all cessions after the effective date
20 of this amendatory Act of the 100th General Assembly under
21 reinsurance agreements that have an inception, anniversary, or
22 renewal date not less than 6 months after the effective date of
23 this amendatory Act of the 100th General Assembly.

24 (D) The Department shall adopt rules implementing the
25 provisions of this Article.

26 (Source: P.A. 100-1118, eff. 11-27-18.)

1 (Text of Section after amendment by P.A. 102-578)

2 Sec. 173.1. Credit allowed a domestic ceding insurer.

3 (1) Except as otherwise provided under Article VIII 1/2 of
4 this Code and related provisions of the Illinois
5 Administrative Code, credit for reinsurance shall be allowed a
6 domestic ceding insurer as either an admitted asset or a
7 deduction from liability on account of reinsurance ceded only
8 when the reinsurer meets the requirements of paragraph (A),
9 (B), (B-5), (C), (C-5), (C-10), or (D) of this subsection (1).
10 Credit shall be allowed under paragraph (A), (B), or (B-5) of
11 this subsection (1) only as respects cessions of those kinds
12 or classes of business in which the assuming insurer is
13 licensed or otherwise permitted to write or assume in its
14 state of domicile, or in the case of a U.S. branch of a
15 non-domestic ~~an alien~~ assuming insurer, in the state through
16 which it is entered and licensed to transact insurance or
17 reinsurance. Credit shall be allowed under paragraph (B-5) or
18 (C) of this subsection (1) only if the applicable requirements
19 of paragraph (E) of this subsection (1) have been satisfied.

20 (A) Credit shall be allowed when the reinsurance is
21 ceded to an assuming insurer that is authorized in this
22 State to transact the types of insurance ceded and has at
23 least \$5,000,000 in capital and surplus.

24 (B) Credit shall be allowed when the reinsurance is
25 ceded to an assuming insurer that is accredited as a

1 reinsurer in this State. An accredited reinsurer is one
2 that:

3 (1) files with the Director evidence of its
4 submission to this State's jurisdiction;

5 (2) submits to this State's authority to examine
6 its books and records;

7 (3) is licensed to transact insurance or
8 reinsurance in at least one state, or in the case of a
9 U.S. branch of a non-domestic ~~an alien~~ assuming
10 insurer is entered through and licensed to transact
11 insurance or reinsurance in at least one state;

12 (4) files annually with the Director a copy of its
13 annual statement filed with the insurance department
14 of its state of domicile and a copy of its most recent
15 audited financial statement; and

16 (5) maintains a surplus as regards policyholders
17 in an amount that is not less than \$20,000,000 and
18 whose accreditation has been approved by the Director.

19 (B-5) (1) Credit shall be allowed when the reinsurance
20 is ceded to an assuming insurer that is domiciled in, or in
21 the case of a U.S. branch of a non-domestic ~~an alien~~
22 assuming insurer is entered through, a state that employs
23 standards regarding credit for reinsurance substantially
24 similar to those applicable under this Code and the
25 assuming insurer or U.S. branch of a non-domestic ~~an alien~~
26 assuming insurer:

1 (a) maintains a surplus as regards policyholders
2 in an amount not less than \$20,000,000; and

3 (b) submits to the authority of this State to
4 examine its books and records.

5 (2) The requirement of item (a) of subparagraph (1) of
6 paragraph (B-5) of this subsection (1) does not apply to
7 reinsurance ceded and assumed pursuant to pooling
8 arrangements among insurers in the same holding company
9 system.

10 (C)(1) Credit shall be allowed when the reinsurance
11 is ceded to an assuming insurer that maintains a trust
12 fund in a qualified United States financial institution,
13 as defined in paragraph (B) of subsection (3) of this
14 Section, for the payment of the valid claims of its United
15 States policyholders and ceding insurers, their assigns
16 and successors in interest. The assuming insurer shall
17 report to the Director information substantially the same
18 as that required to be reported on the NAIC annual and
19 quarterly financial statement by authorized insurers and
20 any other financial information that the Director deems
21 necessary to determine the financial condition of the
22 assuming insurer and the sufficiency of the trust fund.
23 The assuming insurer shall provide or make the information
24 available to the ceding insurer. The assuming insurer may
25 decline to release trade secrets or commercially sensitive
26 information that would qualify as exempt from disclosure

1 under the Freedom of Information Act. The Director shall
2 also make the information publicly available, subject only
3 to such reasonable objections as might be raised to a
4 request pursuant to the Freedom of Information Act, as
5 determined by the Director. The assuming insurer shall
6 submit to examination of its books and records by the
7 Director and bear the expense of examination.

8 (2) (a) Credit for reinsurance shall not be granted
9 under this subsection unless the form of the trust and any
10 amendments to the trust have been approved by:

11 (i) the regulatory official of the state where the
12 trust is domiciled; or

13 (ii) the regulatory official of another state who,
14 pursuant to the terms of the trust instrument, has
15 accepted principal regulatory oversight of the trust.

16 (b) The form of the trust and any trust amendments
17 also shall be filed with the regulatory official of every
18 state in which the ceding insurer beneficiaries of the
19 trust are domiciled. The trust instrument shall provide
20 that contested claims shall be valid and enforceable upon
21 the final order of any court of competent jurisdiction in
22 the United States. The trust shall vest legal title to its
23 assets in its trustees for the benefit of the assuming
24 insurer's United States policyholders and ceding insures
25 and their assigns and successors in interest. The trust
26 and the assuming insurer shall be subject to examination

1 as determined by the Director.

2 (c) The trust shall remain in effect for as long as the
3 assuming insurer has outstanding obligations due under the
4 reinsurance agreements subject to the trust. No later than
5 February 28 of each year the trustee of the trust shall
6 report to the Director in writing the balance of the trust
7 and a list of the trust's investments at the preceding
8 year-end and shall certify the date of termination of the
9 trust, if so planned, or certify that the trust will not
10 expire prior to the next following December 31.

11 No later than February 28 of each year, the assuming
12 insurer's chief executive officer or chief financial
13 officer shall certify to the Director that the trust fund
14 contains funds in an amount not less than the assuming
15 insurer's liabilities (as reported to the assuming insurer
16 by its cedent) attributable to reinsurance ceded by U.S.
17 ceding insurers, and in addition, a trustee surplus of no
18 less than \$20,000,000. In the event that item (a-5) of
19 subparagraph (3) of this paragraph (C) applies to the
20 trust, the assuming insurer's chief executive officer or
21 chief financial officer shall then certify to the Director
22 that the trust fund contains funds in an amount not less
23 than the assuming insurer's liabilities (as reported to
24 the assuming insurer by its cedent) attributable to
25 reinsurance ceded by U.S. ceding insurers and, in
26 addition, a reduced trustee surplus of not less than the

1 amount that has been authorized by the regulatory
2 authority having principal regulatory oversight of the
3 trust.

4 (d) No later than February 28 of each year, an
5 assuming insurer that maintains a trust fund in accordance
6 with this paragraph (C) shall provide or make available,
7 if requested by a beneficiary under the trust fund, the
8 following information to the assuming insurer's U.S.
9 ceding insurers or their assigns and successors in
10 interest:

11 (i) a copy of the form of the trust agreement and
12 any trust amendments to the trust agreement pertaining
13 to the trust fund;

14 (ii) a copy of the annual and quarterly financial
15 information, and its most recent audited financial
16 statement provided to the Director by the assuming
17 insurer, including any exhibits and schedules thereto;

18 (iii) any financial information provided to the
19 Director by the assuming insurer that the Director has
20 deemed necessary to determine the financial condition
21 of the assuming insurer and the sufficiency of the
22 trust fund;

23 (iv) a copy of any annual and quarterly financial
24 information provided to the Director by the trustee of
25 the trust fund maintained by the assuming insurer,
26 including any exhibits and schedules thereto;

1 (v) a copy of the information required to be
2 reported by the trustee of the trust to the Director
3 under the provisions of this paragraph (C); and

4 (vi) a written certification that the trust fund
5 consists of funds in trust in an amount not less than
6 the assuming insurer's liabilities attributable to
7 reinsurance liabilities (as reported to the assuming
8 insurer by its cedent) attributable to reinsurance
9 ceded by U.S. ceding insurers and, in addition, a
10 trusted surplus of not less than \$20,000,000.

11 (3) The following requirements apply to the following
12 categories of assuming insurer:

13 (a) The trust fund for a single assuming insurer
14 shall consist of funds in trust in an amount not less
15 than the assuming insurer's liabilities attributable
16 to reinsurance ceded by U.S. ceding insurers, and in
17 addition, the assuming insurer shall maintain a
18 trusted surplus of not less than \$20,000,000, except
19 as provided in item (a-5) of this subparagraph (3).

20 (a-5) At any time after the assuming insurer has
21 permanently discontinued underwriting new business
22 secured by the trust for at least 3 full years, the
23 Director with principal regulatory oversight of the
24 trust may authorize a reduction in the required
25 trusted surplus, but only after a finding, based on
26 an assessment of the risk, that the new required

1 surplus level is adequate for the protection of U.S.
2 ceding insurers, policyholders, and claimants in light
3 of reasonably foreseeable adverse loss development.
4 The risk assessment may involve an actuarial review,
5 including an independent analysis of reserves and cash
6 flows, and shall consider all material risk factors,
7 including, when applicable, the lines of business
8 involved, the stability of the incurred loss
9 estimates, and the effect of the surplus requirements
10 on the assuming insurer's liquidity or solvency. The
11 minimum required trusteed surplus may not be reduced
12 to an amount less than 30% of the assuming insurer's
13 liabilities attributable to reinsurance ceded by U.S.
14 ceding insurers covered by the trust.

15 (b) (i) In the case of a group including
16 incorporated and individual unincorporated
17 underwriters:

18 (I) for reinsurance ceded under reinsurance
19 agreements with an inception, amendment, or
20 renewal date on or after January 1, 1993, the
21 trust shall consist of a trusteed account in an
22 amount not less than the respective underwriters'
23 several liabilities attributable to business ceded
24 by U.S. domiciled ceding insurers to any member of
25 the group;

26 (II) for reinsurance ceded under reinsurance

1 agreements with an inception date on or before
2 December 31, 1992 and not amended or renewed after
3 that date, notwithstanding the other provisions of
4 this Act, the trust shall consist of a trustee'd
5 account in an amount not less than the group's
6 several insurance and reinsurance liabilities
7 attributable to business written in the United
8 States; and

9 (III) in addition to these trusts, the group
10 shall maintain in trust a trustee'd surplus of
11 which not less than \$100,000,000 shall be held
12 jointly for the benefit of the U.S. domiciled
13 ceding insurers of any member of the group for all
14 years of account.

15 (ii) The incorporated members of the group shall
16 not be engaged in any business other than underwriting
17 as a member of the group and shall be subject to the
18 same level of solvency regulation and control by the
19 group's domiciliary regulator as are the
20 unincorporated members.

21 (iii) Within 90 days after its financial
22 statements are due to be filed with the group's
23 domiciliary regulator, the group shall provide to the
24 Director an annual certification by the group's
25 domiciliary regulator of the solvency of each
26 underwriter member, or if a certification is

1 underwriter member's solvency by the member's
2 domiciliary regulator and financial statements of
3 each underwriter member of the group prepared by
4 its independent public accountant.

5 (C-5) Credit shall be allowed when the reinsurance is
6 ceded to an assuming insurer that has been certified by
7 the Director as a reinsurer in this State and secures its
8 obligations in accordance with the requirements of this
9 paragraph (C-5).

10 (1) In order to be eligible for certification, the
11 assuming insurer shall meet the following
12 requirements:

13 (a) the assuming insurer must be domiciled and
14 licensed to transact insurance or reinsurance in a
15 qualified jurisdiction, as determined by the
16 Director pursuant to subparagraph (3) of this
17 paragraph (C-5);

18 (b) the assuming insurer must maintain minimum
19 capital and surplus, or its equivalent, in an
20 amount not less than \$250,000,000 or such greater
21 amount as determined by the Director pursuant to
22 regulation; this requirement may also be satisfied
23 by an association, including incorporated and
24 individual unincorporated underwriters, having
25 minimum capital and surplus equivalents (net of
26 liabilities) of at least \$250,000,000 and a

1 central fund containing a balance of at least
2 \$250,000,000;

3 (c) the assuming insurer must maintain
4 financial strength ratings from 2 or more rating
5 agencies deemed acceptable by the Director; these
6 ratings shall be based on interactive
7 communication between the rating agency and the
8 assuming insurer and shall not be based solely on
9 publicly available information; each certified
10 reinsurer shall be rated on a legal entity basis,
11 with due consideration being given to the group
12 rating where appropriate, except that an
13 association, including incorporated and individual
14 unincorporated underwriters, that has been
15 approved to do business as a single certified
16 reinsurer may be evaluated on the basis of its
17 group rating; these financial strength ratings
18 shall be one factor used by the Director in
19 determining the rating that is assigned to the
20 assuming insurer; acceptable rating agencies
21 include the following:

- 22 (i) Standard & Poor's;
23 (ii) Moody's Investors Service;
24 (iii) Fitch Ratings;
25 (iv) A.M. Best Company; or
26 (v) any other nationally recognized

1 statistical rating organization;

2 (d) the assuming insurer must agree to submit
3 to the jurisdiction of this State, appoint the
4 Director as its agent for service of process in
5 this State, and agree to provide security for 100%
6 of the assuming insurer's liabilities attributable
7 to reinsurance ceded by U.S. ceding insurers if it
8 resists enforcement of a final U.S. judgment; and

9 (e) the assuming insurer must agree to meet
10 applicable information filing requirements as
11 determined by the Director, both with respect to
12 an initial application for certification and on an
13 ongoing basis.

14 (2) An association, including incorporated and
15 individual unincorporated underwriters, may be a
16 certified reinsurer. In order to be eligible for
17 certification, in addition to satisfying the
18 requirements of subparagraph (1) of this paragraph
19 (C-5):

20 (a) the association shall satisfy its minimum
21 capital and surplus requirements through the
22 capital and surplus equivalents (net of
23 liabilities) of the association and its members,
24 which shall include a joint central fund that may
25 be applied to any unsatisfied obligation of the
26 association or any of its members, in the amounts

1 specified in item (b) of subparagraph (1) of this
2 paragraph (C-5);

3 (b) the incorporated members of the
4 association shall not be engaged in any business
5 other than underwriting as a member of the
6 association and shall be subject to the same level
7 of regulation and solvency control by the
8 association's domiciliary regulator as are the
9 unincorporated members; and

10 (c) within 90 days after its financial
11 statements are due to be filed with the
12 association's domiciliary regulator, the
13 association shall provide to the Director an
14 annual certification by the association's
15 domiciliary regulator of the solvency of each
16 underwriter member; or if a certification is
17 unavailable, financial statements, prepared by
18 independent public accountants, of each
19 underwriter member of the association.

20 (3) The Director shall create and publish a list
21 of qualified jurisdictions, under which an assuming
22 insurer licensed and domiciled in such jurisdiction is
23 eligible to be considered for certification by the
24 Director as a certified reinsurer.

25 (a) In order to determine whether the
26 domiciliary jurisdiction of a non-U.S. assuming

1 insurer is eligible to be recognized as a
2 qualified jurisdiction, the Director shall
3 evaluate the appropriateness and effectiveness of
4 the reinsurance supervisory system of the
5 jurisdiction, both initially and on an ongoing
6 basis, and consider the rights, benefits, and
7 extent of reciprocal recognition afforded by the
8 non-U.S. jurisdiction to reinsurers licensed and
9 domiciled in the U.S. A qualified jurisdiction
10 must agree in writing to share information and
11 cooperate with the Director with respect to all
12 certified reinsurers domiciled within that
13 jurisdiction. A jurisdiction may not be recognized
14 as a qualified jurisdiction if the Director has
15 determined that the jurisdiction does not
16 adequately and promptly enforce final U.S.
17 judgments and arbitration awards. The costs and
18 expenses associated with the Director's review and
19 evaluation of the domiciliary jurisdictions of
20 non-U.S. assuming insurers shall be borne by the
21 certified reinsurer or reinsurers domiciled in
22 such jurisdiction.

23 (b) Additional factors to be considered in
24 determining whether to recognize a qualified
25 jurisdiction include, but are not limited to, the
26 following:

1 (i) the framework under which the assuming
2 insurer is regulated;

3 (ii) the structure and authority of the
4 domiciliary regulator with regard to solvency
5 regulation requirements and financial
6 surveillance;

7 (iii) the substance of financial and
8 operating standards for assuming insurers in
9 the domiciliary jurisdiction;

10 (iv) the form and substance of financial
11 reports required to be filed or made publicly
12 available by reinsurers in the domiciliary
13 jurisdiction and the accounting principles
14 used;

15 (v) the domiciliary regulator's
16 willingness to cooperate with U.S. regulators
17 in general and the Director in particular;

18 (vi) the history of performance by
19 assuming insurers in the domiciliary
20 jurisdiction;

21 (vii) any documented evidence of
22 substantial problems with the enforcement of
23 final U.S. judgments in the domiciliary
24 jurisdiction; and

25 (viii) any relevant international
26 standards or guidance with respect to mutual

1 recognition of reinsurance supervision adopted
2 by the International Association of Insurance
3 Supervisors or its successor organization.

4 (c) If, upon conducting an evaluation under
5 this paragraph with respect to the reinsurance
6 supervisory system of any non-U.S. assuming
7 insurer, the Director determines that the
8 jurisdiction qualifies to be recognized as a
9 qualified jurisdiction, the Director shall publish
10 notice and evidence of such recognition in an
11 appropriate manner. The Director may establish a
12 procedure to withdraw recognition of those
13 jurisdictions that are no longer qualified.

14 (d) The Director shall consider the list of
15 qualified jurisdictions through the NAIC committee
16 process in determining qualified jurisdictions. If
17 the Director approves a jurisdiction as qualified
18 that does not appear on the list of qualified
19 jurisdictions, then the Director shall provide
20 thoroughly documented justification in accordance
21 with criteria to be developed under regulations.

22 (e) U.S. jurisdictions that meet the
23 requirement for accreditation under the NAIC
24 financial standards and accreditation program
25 shall be recognized as qualified jurisdictions.

26 (f) If a certified reinsurer's domiciliary

1 jurisdiction ceases to be a qualified
2 jurisdiction, then the Director may suspend the
3 reinsurer's certification indefinitely, in lieu of
4 revocation.

5 (4) If an applicant for certification has been
6 certified as a reinsurer in an NAIC accredited
7 jurisdiction, then the Director may defer to that
8 jurisdiction's certification and to the rating
9 assigned by that jurisdiction if the assuming insurer
10 submits a properly executed Form CR-1 and such
11 additional information as the Director requires. Such
12 assuming insurer shall be considered to be a certified
13 reinsurer in this State but only upon the Director's
14 assignment of an Illinois rating, which shall be made
15 based on the requirements of subparagraph (5) of this
16 paragraph (C-5). The following shall apply:

17 (a) Any change in the certified reinsurer's
18 status or rating in the other jurisdiction shall
19 apply automatically in Illinois as of the date it
20 takes effect in the other jurisdiction. The
21 certified reinsurer shall notify the Director of
22 any change in its status or rating within 10 days
23 after receiving notice of the change.

24 (b) The Director may withdraw recognition of
25 the other jurisdiction's rating at any time and
26 assign a new rating in accordance with

1 subparagraph (5) of this paragraph (C-5).

2 (c) The Director may withdraw recognition of
3 the other jurisdiction's certification at any time
4 with written notice to the certified reinsurer.
5 Unless the Director suspends or revokes the
6 certified reinsurer's certification in accordance
7 with item (c) of subparagraph (9) of this
8 paragraph (C-5), the certified reinsurer's
9 certification shall remain in good standing in
10 Illinois for a period of 3 months, which shall be
11 extended if additional time is necessary to
12 consider the assuming insurer's application for
13 certification in Illinois.

14 (5) The Director shall assign a rating to each
15 certified reinsurer pursuant to rules adopted by the
16 Department. Factors that shall be considered as part
17 of the evaluation process include the following:

18 (a) The certified reinsurer's financial
19 strength rating from an acceptable rating agency.
20 Financial strength ratings shall be classified
21 according to the following ratings categories:

22 (i) Ratings Category "Secure - 1"
23 corresponds to the highest level of rating
24 given by a rating agency, including, but not
25 limited to, A.M. Best Company rating A++;
26 Standard & Poor's rating AAA; Moody's

1 Investors Service rating Aaa; and Fitch
2 Ratings rating AAA.

3 (ii) Ratings Category "Secure - 2"
4 corresponds to the second-highest level of
5 rating or group of ratings given by a rating
6 agency, including, but not limited to, A.M.
7 Best Company rating A+; Standard & Poor's
8 rating AA+, AA, or AA-; Moody's Investors
9 Service ratings Aa1, Aa2, or Aa3; and Fitch
10 Ratings ratings AA+, AA, or AA-.

11 (iii) Ratings Category "Secure - 3"
12 corresponds to the third-highest level of
13 rating or group of ratings given by a rating
14 agency, including, but not limited to, A.M.
15 Best Company rating A; Standard & Poor's
16 ratings A+ or A; Moody's Investors Service
17 ratings A1 or A2; and Fitch Ratings ratings A+
18 or A.

19 (iv) Ratings Category "Secure - 4"
20 corresponds to the fourth-highest level of
21 rating or group of ratings given by a rating
22 agency, including, but not limited to, A.M.
23 Best Company rating A-; Standard & Poor's
24 rating A-; Moody's Investors Service rating
25 A3; and Fitch Ratings rating A-.

26 (v) Ratings Category "Secure - 5"

1 corresponds to the fifth-highest level of
2 rating or group of ratings given by a rating
3 agency, including, but not limited to, A.M.
4 Best Company ratings B++ or B+; Standard &
5 Poor's ratings BBB+, BBB, or BBB-; Moody's
6 Investors Service ratings Baal, Baa2, or Baa3;
7 and Fitch Ratings ratings BBB+, BBB, or BBB-.

8 (vi) Ratings Category "Vulnerable - 6"
9 corresponds to a level of rating given by a
10 rating agency, other than those described in
11 subitems (i) through (v) of this item (a),
12 including, but not limited to, A.M. Best
13 Company rating B, B-, C++, C+, C, C-, D, E, or
14 F; Standard & Poor's ratings BB+, BB, BB-, B+,
15 B, B-, CCC, CC, C, D, or R; Moody's Investors
16 Service ratings Ba1, Ba2, Ba3, B1, B2, B3,
17 Caa, Ca, or C; and Fitch Ratings ratings BB+,
18 BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

19 A failure to obtain or maintain at least 2
20 financial strength ratings from acceptable rating
21 agencies shall result in loss of eligibility for
22 certification.

23 (b) The business practices of the certified
24 reinsurer in dealing with its ceding insurers,
25 including its record of compliance with
26 reinsurance contractual terms and obligations.

1 (c) For certified reinsurers domiciled in the
2 U.S., a review of the most recent applicable NAIC
3 Annual Statement Blank, either Schedule F (for
4 property and casualty reinsurers) or Schedule S
5 (for life and health reinsurers).

6 (d) For certified reinsurers not domiciled in
7 the U.S., a review annually of Form CR-F (for
8 property and casualty reinsurers) or Form CR-S
9 (for life and health reinsurers).

10 (e) The reputation of the certified reinsurer
11 for prompt payment of claims under reinsurance
12 agreements, based on an analysis of ceding
13 insurers' Schedule F reporting of overdue
14 reinsurance recoverables, including the proportion
15 of obligations that are more than 90 days past due
16 or are in dispute, with specific attention given
17 to obligations payable to companies that are in
18 administrative supervision or receivership.

19 (f) Regulatory actions against the certified
20 reinsurer.

21 (g) The report of the independent auditor on
22 the financial statements of the insurance
23 enterprise, on the basis described in item (h) of
24 this subparagraph (5).

25 (h) For certified reinsurers not domiciled in
26 the U.S., audited financial statements (audited

1 Generally Accepted Accounting Principles (U.S.
2 GAAP) basis statement if available, audited
3 International Financial Reporting Standards (IFRS)
4 basis statements are allowed but must include an
5 audited footnote reconciling equity and net income
6 to U.S. GAAP basis or, with the permission of the
7 Director, audited IFRS basis statements with
8 reconciliation to U.S. GAAP basis certified by an
9 officer of the company), regulatory filings, and
10 actuarial opinion (as filed with the non-U.S.
11 jurisdiction supervisor). Upon the initial
12 application for certification, the Director shall
13 consider the audited financial statements filed
14 with its non-U.S. jurisdiction supervisor for the
15 3 years immediately preceding the date of the
16 initial application for certification.

17 (i) The liquidation priority of obligations to
18 a ceding insurer in the certified reinsurer's
19 domiciliary jurisdiction in the context of an
20 insolvency proceeding.

21 (j) A certified reinsurer's participation in
22 any solvent scheme of arrangement, or similar
23 procedure, that involves U.S. ceding insurers. The
24 Director shall receive prior notice from a
25 certified reinsurer that proposes participation by
26 the certified reinsurer in a solvent scheme of

1 arrangement.

2 The maximum rating that a certified reinsurer may
3 be assigned shall correspond to its financial strength
4 rating, which shall be determined according to
5 subitems (i) through (vi) of item (a) of this
6 subparagraph (5). The Director shall use the lowest
7 financial strength rating received from an acceptable
8 rating agency in establishing the maximum rating of a
9 certified reinsurer.

10 (6) Based on the analysis conducted under item (e)
11 of subparagraph (5) of this paragraph (C-5) of a
12 certified reinsurer's reputation for prompt payment of
13 claims, the Director may make appropriate adjustments
14 in the security the certified reinsurer is required to
15 post to protect its liabilities to U.S. ceding
16 insurers, provided that the Director shall, at a
17 minimum, increase the security the certified reinsurer
18 is required to post by one rating level under item (a)
19 of subparagraph (8) of this paragraph (C-5) if the
20 Director finds that:

21 (a) more than 15% of the certified reinsurer's
22 ceding insurance clients have overdue reinsurance
23 recoverables on paid losses of 90 days or more
24 that are not in dispute and that exceed \$100,000
25 for each cedent; or

26 (b) the aggregate amount of reinsurance

1 recoverables on paid losses that are not in
2 dispute that are overdue by 90 days or more
3 exceeds \$50,000,000.

4 (7) The Director shall post notice on the
5 Department's website promptly upon receipt of any
6 application for certification, including instructions
7 on how members of the public may respond to the
8 application. The Director may not take final action on
9 the application until at least 30 days after posting
10 the notice required by this subparagraph. The Director
11 shall publish a list of all certified reinsurers and
12 their ratings.

13 (8) A certified reinsurer shall secure obligations
14 assumed from U.S. ceding insurers under this
15 subsection (1) at a level consistent with its rating.

16 (a) The amount of security required in order
17 for full credit to be allowed shall correspond
18 with the applicable ratings category:

19 Secure - 1: 0%.

20 Secure - 2: 10%.

21 Secure - 3: 20%.

22 Secure - 4: 50%.

23 Secure - 5: 75%.

24 Vulnerable - 6: 100%.

25 (b) Nothing in this subparagraph (8) shall
26 prohibit the parties to a reinsurance agreement

1 from agreeing to provisions establishing security
2 requirements that exceed the minimum security
3 requirements established for certified reinsurers
4 under this Section.

5 (c) In order for a domestic ceding insurer to
6 qualify for full financial statement credit for
7 reinsurance ceded to a certified reinsurer, the
8 certified reinsurer shall maintain security in a
9 form acceptable to the Director and consistent
10 with the provisions of subsection (2) of this
11 Section, or in a multibeneficiary trust in
12 accordance with paragraph (C) of this subsection
13 (1), except as otherwise provided in this
14 subparagraph (8).

15 (d) If a certified reinsurer maintains a trust
16 to fully secure its obligations subject to
17 paragraph (C) of this subsection (1), and chooses
18 to secure its obligations incurred as a certified
19 reinsurer in the form of a multibeneficiary trust,
20 then the certified reinsurer shall maintain
21 separate trust accounts for its obligations
22 incurred under reinsurance agreements issued or
23 renewed as a certified reinsurer with reduced
24 security as permitted by this subsection or
25 comparable laws of other U.S. jurisdictions and
26 for its obligations subject to paragraph (C) of

1 this subsection (1). It shall be a condition to
2 the grant of certification under this paragraph
3 (C-5) that the certified reinsurer shall have
4 bound itself, by the language of the trust and
5 agreement with the Director with principal
6 regulatory oversight of each such trust account,
7 to fund, upon termination of any such trust
8 account, out of the remaining surplus of such
9 trust any deficiency of any other such trust
10 account. The certified reinsurer shall also
11 provide or make available, if requested by a
12 beneficiary under a trust, all the information
13 that is required to be provided under the
14 requirements of item (d) of subparagraph (2) of
15 paragraph (C) of this subsection (1) to the
16 certified reinsurer's U.S. ceding insurers or
17 their assigns and successors in interest. The
18 assuming insurer may decline to release trade
19 secrets or commercially sensitive information that
20 would qualify as exempt from disclosure under the
21 Freedom of Information Act.

22 (e) The minimum trustee surplus requirements
23 provided in paragraph (C) of this subsection (1)
24 are not applicable with respect to a
25 multibeneficiary trust maintained by a certified
26 reinsurer for the purpose of securing obligations

1 incurred under this subsection, except that such
2 trust shall maintain a minimum trusted surplus of
3 \$10,000,000.

4 (f) With respect to obligations incurred by a
5 certified reinsurer under this subsection (1), if
6 the security is insufficient, then the Director
7 may reduce the allowable credit by an amount
8 proportionate to the deficiency and may impose
9 further reductions in allowable credit upon
10 finding that there is a material risk that the
11 certified reinsurer's obligations will not be paid
12 in full when due.

13 (9)(a) In the case of a downgrade by a rating
14 agency or other disqualifying circumstance, the
15 Director shall by written notice assign a new rating
16 to the certified reinsurer in accordance with the
17 requirements of subparagraph (5) of this paragraph
18 (C-5).

19 (b) If the rating of a certified reinsurer is
20 upgraded by the Director, then the certified reinsurer
21 may meet the security requirements applicable to its
22 new rating on a prospective basis, but the Director
23 shall require the certified reinsurer to post security
24 under the previously applicable security requirements
25 as to all contracts in force on or before the effective
26 date of the upgraded rating. If the rating of a

1 certified reinsurer is downgraded by the Director,
2 then the Director shall require the certified
3 reinsurer to meet the security requirements applicable
4 to its new rating for all business it has assumed as a
5 certified reinsurer.

6 (c) The Director may suspend, revoke, or otherwise
7 modify a certified reinsurer's certification at any
8 time if the certified reinsurer fails to meet its
9 obligations or security requirements under this
10 Section or if other financial or operating results of
11 the certified reinsurer, or documented significant
12 delays in payment by the certified reinsurer, lead the
13 Director to reconsider the certified reinsurer's
14 ability or willingness to meet its contractual
15 obligations. In seeking to suspend, revoke, or
16 otherwise modify a certified reinsurer's
17 certification, the Director shall follow the
18 procedures provided in paragraph (G) of this
19 subsection (1).

20 (d) For purposes of this subsection (1), a
21 certified reinsurer whose certification has been
22 terminated for any reason shall be treated as a
23 certified reinsurer required to secure 100% of its
24 obligations.

25 (i) As used in this item (d), the term
26 "terminated" refers to revocation, suspension,

1 voluntary surrender and inactive status.

2 (ii) If the Director continues to assign a
3 higher rating as permitted by other provisions of
4 this Section, then this requirement does not apply
5 to a certified reinsurer in inactive status or to
6 a reinsurer whose certification has been
7 suspended.

8 (e) Upon revocation of the certification of a
9 certified reinsurer by the Director, the assuming
10 insurer shall be required to post security in
11 accordance with subsection (2) of this Section in
12 order for the ceding insurer to continue to take
13 credit for reinsurance ceded to the assuming insurer.
14 If funds continue to be held in trust, then the
15 Director may allow additional credit equal to the
16 ceding insurer's pro rata share of the funds,
17 discounted to reflect the risk of uncollectibility and
18 anticipated expenses of trust administration.

19 (f) Notwithstanding the change of a certified
20 reinsurer's rating or revocation of its certification,
21 a domestic insurer that has ceded reinsurance to that
22 certified reinsurer may not be denied credit for
23 reinsurance for a period of 3 months for all
24 reinsurance ceded to that certified reinsurer, unless
25 the reinsurance is found by the Director to be at high
26 risk of uncollectibility.

1 (10) A certified reinsurer that ceases to assume
2 new business in this State may request to maintain its
3 certification in inactive status in order to continue
4 to qualify for a reduction in security for its
5 in-force business. An inactive certified reinsurer
6 shall continue to comply with all applicable
7 requirements of this subsection (1), and the Director
8 shall assign a rating that takes into account, if
9 relevant, the reasons why the reinsurer is not
10 assuming new business.

11 (11) Credit for reinsurance under this paragraph
12 (C-5) shall apply only to reinsurance contracts
13 entered into or renewed on or after the effective date
14 of the certification of the assuming insurer.

15 (12) The Director shall comply with all reporting
16 and notification requirements that may be established
17 by the NAIC with respect to certified reinsurers and
18 qualified jurisdictions.

19 (C-10) (1) Credit shall be allowed when the reinsurance
20 is ceded to an assuming insurer meeting each of the
21 conditions set forth in this subparagraph.

22 (a) The assuming insurer must have its head office
23 in or be domiciled in, as applicable, and be licensed
24 in a reciprocal jurisdiction. As used in this
25 paragraph (C-10), "reciprocal jurisdiction" means a
26 jurisdiction that meets one of the following:

1 (i) a non-U.S. jurisdiction that is subject to
2 an in-force covered agreement with the United
3 States, each within its legal authority, or, in
4 the case of a covered agreement between the United
5 States and European Union, is a member state of
6 the European Union; as used in this subitem,
7 "covered agreement" means an agreement entered
8 into pursuant to the Dodd-Frank Wall Street Reform
9 and Consumer Protection Act (31 U.S.C. 313 and
10 314) that is currently in effect or in a period of
11 provisional application and addresses the
12 elimination, under specified conditions, of
13 collateral requirements as a condition for
14 entering into any reinsurance agreement with a
15 ceding insurer domiciled in this State or for
16 allowing the ceding insurer to recognize credit
17 for reinsurance;

18 (ii) a U.S. jurisdiction that meets the
19 requirements for accreditation under the NAIC
20 financial standards and accreditation program; or

21 (iii) a qualified jurisdiction, as determined
22 by the Director pursuant to subparagraph (3) of
23 paragraph (C-5) of subsection (1) of this Section,
24 that is not otherwise described in subitem (i) or
25 (ii) of this item and that meets certain
26 additional requirements, consistent with the terms

1 and conditions of in-force covered agreements, as
2 specified by the Department by rule.

3 (b) The assuming insurer must have and maintain,
4 on an ongoing basis, minimum capital and surplus, or
5 its equivalent, calculated according to the
6 methodology of its domiciliary jurisdiction, in an
7 amount to be set forth by rule. If the assuming insurer
8 is an association, including incorporated and
9 individual unincorporated underwriters, it must have
10 and maintain, on an ongoing basis, minimum capital and
11 surplus equivalents (net of liabilities) calculated
12 according to the methodology applicable in its
13 domiciliary jurisdiction and a central fund containing
14 a balance in amounts to be set forth by rule.

15 (c) The assuming insurer must have and maintain,
16 on an ongoing basis, a minimum solvency or capital
17 ratio, as applicable, that will be set forth by rule.
18 If the assuming insurer is an association, including
19 incorporated and individual unincorporated
20 underwriters, it must have and maintain, on an ongoing
21 basis, a minimum solvency or capital ratio in the
22 reciprocal jurisdiction where the assuming insurer has
23 its head office or is domiciled, as applicable, and is
24 also licensed.

25 (d) The assuming insurer must provide adequate
26 assurance to the Director, in a form specified by the

1 Department by rule, as follows:

2 (i) the assuming insurer must provide prompt
3 written notice and explanation to the Director if
4 it falls below the minimum requirements set forth
5 in items (b) or (c) of this subparagraph or if any
6 regulatory action is taken against it for serious
7 noncompliance with applicable law;

8 (ii) the assuming insurer must consent in
9 writing to the jurisdiction of the courts of this
10 State and to the appointment of the Director as
11 agent for service of process; the Director may
12 require that consent for service of process be
13 provided to the Director and included in each
14 reinsurance agreement; nothing in this subitem
15 (ii) shall limit or in any way alter the capacity
16 of parties to a reinsurance agreement to agree to
17 alternative dispute resolution mechanisms, except
18 to the extent such agreements are unenforceable
19 under applicable insolvency or delinquency laws;

20 (iii) the assuming insurer must consent in
21 writing to pay all final judgments obtained by a
22 ceding insurer or its legal successor, whenever
23 enforcement is sought, that have been declared
24 enforceable in the jurisdiction where the judgment
25 was obtained;

26 (iv) each reinsurance agreement must include a

1 provision requiring the assuming insurer to
2 provide security in an amount equal to 100% of the
3 assuming insurer's liabilities attributable to
4 reinsurance ceded pursuant to that agreement if
5 the assuming insurer resists enforcement of a
6 final judgment that is enforceable under the law
7 of the jurisdiction in which it was obtained or a
8 properly enforceable arbitration award, whether
9 obtained by the ceding insurer or by its legal
10 successor on behalf of its resolution estate; and

11 (v) the assuming insurer must confirm that it
12 is not presently participating in any solvent
13 scheme of arrangement which involves this State's
14 ceding insurers and agree to notify the ceding
15 insurer and the Director and to provide security
16 in an amount equal to 100% of the assuming
17 insurer's liabilities to the ceding insurer if the
18 assuming insurer enters into such a solvent scheme
19 of arrangement; the security shall be in a form
20 consistent with the provisions of paragraph (C-5)
21 of subsection (1) and subsection (2) and as
22 specified by the Department by rule.

23 (e) If requested by the Director, the assuming
24 insurer or its legal successor must provide, on behalf
25 of itself and any legal predecessors, certain
26 documentation to the Director, as specified by the

1 Department by rule.

2 (f) The assuming insurer must maintain a practice
3 of prompt payment of claims under reinsurance
4 agreements pursuant to criteria set forth by rule.

5 (g) The assuming insurer's supervisory authority
6 must confirm to the Director on an annual basis, as of
7 the preceding December 31 or at the annual date
8 otherwise statutorily reported to the reciprocal
9 jurisdiction, that the assuming insurer complied with
10 the requirements set forth in items (b) and (c) of this
11 subparagraph.

12 (h) Nothing in this subparagraph precludes an
13 assuming insurer from providing the Director with
14 information on a voluntary basis.

15 (2) The Director shall timely create and publish a
16 list of reciprocal jurisdictions.

17 (a) The Director's list shall include any
18 reciprocal jurisdiction as defined under subitems (i)
19 and (ii) of item (a) of subparagraph (1) of this
20 paragraph, and shall consider any other reciprocal
21 jurisdiction included on the list of reciprocal
22 jurisdictions published through the NAIC committee
23 process. The Director may approve a jurisdiction that
24 does not appear on the NAIC list of reciprocal
25 jurisdictions in accordance with criteria to be
26 developed by rules adopted by the Department.

1 (b) The Director may remove a jurisdiction from
2 the list of reciprocal jurisdictions upon a
3 determination that the jurisdiction no longer meets
4 the requirements of a reciprocal jurisdiction in
5 accordance with a process set forth in rules adopted
6 by the Department, except that the Director shall not
7 remove from the list a reciprocal jurisdiction as
8 defined under subitems (i) and (ii) of item (a) of
9 subparagraph (1) of this paragraph. If otherwise
10 allowed pursuant to this Section, credit for
11 reinsurance ceded to an assuming insurer that has its
12 home office or is domiciled in that jurisdiction shall
13 be allowed upon removal of a reciprocal jurisdiction
14 from this list.

15 (3) The Director shall timely create and publish a
16 list of assuming insurers that have satisfied the
17 conditions set forth in this paragraph and to which
18 cessions shall be granted credit in accordance with this
19 paragraph. The Director may add an assuming insurer to the
20 list if a NAIC-accredited jurisdiction has added the
21 assuming insurer to a list of assuming insurers or if,
22 upon initial eligibility, the assuming insurer submits the
23 information to the Director as required under item (d) of
24 subparagraph (1) of this paragraph and complies with any
25 additional requirements that the Department may impose by
26 rule except to the extent that they conflict with an

1 applicable covered agreement.

2 (4) If the Director determines that an assuming
3 insurer no longer meets one or more of the requirements
4 under this paragraph, the Director may revoke or suspend
5 the eligibility of the assuming insurer for recognition
6 under this paragraph in accordance with procedures set
7 forth by rule.

8 (a) While an assuming insurer's eligibility is
9 suspended, no reinsurance agreement issued, amended,
10 or renewed after the effective date of the suspension
11 qualifies for credit except to the extent that the
12 assuming insurer's obligations under the contract are
13 secured in accordance with subsection (2).

14 (b) If an assuming insurer's eligibility is
15 revoked, no credit for reinsurance may be granted
16 after the effective date of the revocation with
17 respect to any reinsurance agreements entered into by
18 the assuming insurer, including reinsurance agreements
19 entered into before the date of revocation, except to
20 the extent that the assuming insurer's obligations
21 under the contract are secured in a form acceptable to
22 the Director and consistent with the provisions of
23 subsection (2).

24 (5) If subject to a legal process of rehabilitation,
25 liquidation, or conservation, as applicable, the ceding
26 insurer or its representative may seek and, if determined

1 appropriate by the court in which the proceedings are
2 pending, may obtain an order requiring that the assuming
3 insurer post security for all outstanding ceded
4 liabilities.

5 (6) Nothing in this paragraph shall limit or in any
6 way alter the capacity of parties to a reinsurance
7 agreement to agree on requirements for security or other
8 terms in that reinsurance agreement except as expressly
9 prohibited by this Section or other applicable law or
10 regulation.

11 (7) Credit may be taken under this paragraph only for
12 reinsurance agreements entered into, amended, or renewed
13 on or after the effective date of this amendatory Act of
14 the 102nd General Assembly and only with respect to losses
15 incurred and reserves reported on or after the later of:

16 (i) the date on which the assuming insurer has met
17 all eligibility requirements pursuant to subparagraph
18 (1) of this paragraph; and

19 (ii) the effective date of the new reinsurance
20 agreement, amendment, or renewal.

21 This subparagraph does not alter or impair a ceding
22 insurer's right to take credit for reinsurance, to the
23 extent that credit is not available under this paragraph,
24 as long as the reinsurance qualifies for credit under any
25 other applicable provision of this Section.

26 (8) Nothing in this paragraph shall authorize an

1 assuming insurer to withdraw or reduce the security
2 provided under any reinsurance agreement except as
3 permitted by the terms of the agreement.

4 (9) Nothing in this paragraph shall limit or in any
5 way alter the capacity of parties to any reinsurance
6 agreement to renegotiate the agreement.

7 (D) Credit shall be allowed when the reinsurance is
8 ceded to an assuming insurer not meeting the requirements
9 of paragraph (A), (B), (B-5), (C), (C-5), or (C-10) of
10 this subsection (1) but only with respect to the insurance
11 of risks located in jurisdictions where that reinsurance
12 is required by applicable law or regulation of that
13 jurisdiction.

14 (E) If the assuming insurer is not licensed to
15 transact insurance in this State or an accredited or
16 certified reinsurer in this State, the credit permitted by
17 paragraphs (B-5) and (C) of this subsection (1) shall not
18 be allowed unless the assuming insurer agrees in the
19 reinsurance agreements:

20 (1) that in the event of the failure of the
21 assuming insurer to perform its obligations under the
22 terms of the reinsurance agreement, the assuming
23 insurer, at the request of the ceding insurer, shall
24 submit to the jurisdiction of any court of competent
25 jurisdiction in any state of the United States, will
26 comply with all requirements necessary to give the

1 court jurisdiction, and will abide by the final
2 decision of the court or of any appellate court in the
3 event of an appeal; and

4 (2) to designate the Director or a designated
5 attorney as its true and lawful attorney upon whom may
6 be served any lawful process in any action, suit, or
7 proceeding instituted by or on behalf of the ceding
8 company.

9 This provision is not intended to conflict with or
10 override the obligation of the parties to a reinsurance
11 agreement to arbitrate their disputes, if an obligation to
12 arbitrate is created in the agreement.

13 (F) If the assuming insurer does not meet the
14 requirements of paragraph (A), (B), (B-5), or (C-10) of
15 this subsection (1), the credit permitted by paragraph (C)
16 or (C-5) of this subsection (1) shall not be allowed
17 unless the assuming insurer agrees in the trust agreements
18 to the following conditions:

19 (1) Notwithstanding any other provisions in the
20 trust instrument, if the trust fund is inadequate
21 because it contains an amount less than the amount
22 required by subparagraph (3) of paragraph (C) of this
23 subsection (1) or if the grantor of the trust has been
24 declared insolvent or placed into receivership,
25 rehabilitation, liquidation, or similar proceedings
26 under the laws of its state or country of domicile, the

1 trustee shall comply with an order of the state
2 official with regulatory oversight over the trust or
3 with an order of a court of competent jurisdiction
4 directing the trustee to transfer to the state
5 official with regulatory oversight all of the assets
6 of the trust fund.

7 (2) The assets shall be distributed by and claims
8 shall be filed with and valued by the state official
9 with regulatory oversight in accordance with the laws
10 of the state in which the trust is domiciled that are
11 applicable to the liquidation of domestic insurance
12 companies.

13 (3) If the state official with regulatory
14 oversight determines that the assets of the trust fund
15 or any part thereof are not necessary to satisfy the
16 claims of the U.S. ceding insurers of the grantor of
17 the trust, the assets or part thereof shall be
18 returned by the state official with regulatory
19 oversight to the trustee for distribution in
20 accordance with the trust agreement.

21 (4) The grantor shall waive any rights otherwise
22 available to it under U.S. law that are inconsistent
23 with the provision.

24 (G) If an accredited or certified reinsurer ceases to
25 meet the requirements for accreditation or certification,
26 then the Director may suspend or revoke the reinsurer's

1 accreditation or certification.

2 (1) The Director must give the reinsurer notice
3 and opportunity for hearing. The suspension or
4 revocation may not take effect until after the
5 Director's order on hearing, unless:

6 (a) the reinsurer waives its right to hearing;

7 (b) the Director's order is based on
8 regulatory action by the reinsurer's domiciliary
9 jurisdiction or the voluntary surrender or
10 termination of the reinsurer's eligibility to
11 transact insurance or reinsurance business in its
12 domiciliary jurisdiction or in the primary
13 certifying state of the reinsurer under
14 subparagraph (4) of paragraph (C-5) of this
15 subsection (1); or

16 (c) the Director finds that an emergency
17 requires immediate action and a court of competent
18 jurisdiction has not stayed the Director's action.

19 (2) While a reinsurer's accreditation or
20 certification is suspended, no reinsurance contract
21 issued or renewed after the effective date of the
22 suspension qualifies for credit except to the extent
23 that the reinsurer's obligations under the contract
24 are secured in accordance with subsection (2) of this
25 Section. If a reinsurer's accreditation or
26 certification is revoked, no credit for reinsurance

1 may be granted after the effective date of the
2 revocation, except to the extent that the reinsurer's
3 obligations under the contract are secured in
4 accordance with subsection (2) of this Section.

5 (H) The following provisions shall apply concerning
6 concentration of risk:

7 (1) A ceding insurer shall take steps to manage
8 its reinsurance recoverable proportionate to its own
9 book of business. A domestic ceding insurer shall
10 notify the Director within 30 days after reinsurance
11 recoverables from any single assuming insurer, or
12 group of affiliated assuming insurers, exceeds 50% of
13 the domestic ceding insurer's last reported surplus to
14 policyholders, or after it is determined that
15 reinsurance recoverables from any single assuming
16 insurer, or group of affiliated assuming insurers, is
17 likely to exceed this limit. The notification shall
18 demonstrate that the exposure is safely managed by the
19 domestic ceding insurer.

20 (2) A ceding insurer shall take steps to diversify
21 its reinsurance program. A domestic ceding insurer
22 shall notify the Director within 30 days after ceding
23 to any single assuming insurer, or group of affiliated
24 assuming insurers, more than 20% of the ceding
25 insurer's gross written premium in the prior calendar
26 year, or after it has determined that the reinsurance

1 ceded to any single assuming insurer, or group of
2 affiliated assuming insurers, is likely to exceed this
3 limit. The notification shall demonstrate that the
4 exposure is safely managed by the domestic ceding
5 insurer.

6 (2) Credit for the reinsurance ceded by a domestic insurer
7 to an assuming insurer not meeting the requirements of
8 subsection (1) of this Section shall be allowed in an amount
9 not exceeding the assets or liabilities carried by the ceding
10 insurer. The credit shall not exceed the amount of funds held
11 by or held in trust for the ceding insurer under a reinsurance
12 contract with the assuming insurer as security for the payment
13 of obligations thereunder, if the security is held in the
14 United States subject to withdrawal solely by, and under the
15 exclusive control of, the ceding insurer; or, in the case of a
16 trust, held in a qualified United States financial
17 institution, as defined in paragraph (B) of subsection (3) of
18 this Section. This security may be in the form of:

19 (A) Cash.

20 (B) Securities listed by the Securities Valuation
21 Office of the National Association of Insurance
22 Commissioners, including those deemed exempt from filing
23 as defined by the Purposes and Procedures Manual of the
24 Securities Valuation Office that conform to the
25 requirements of Article VIII of this Code that are not
26 issued by an affiliate of either the assuming or ceding

1 company.

2 (C) Clean, irrevocable, unconditional, letters of
3 credit issued or confirmed by a qualified United States
4 financial institution, as defined in paragraph (A) of
5 subsection (3) of this Section. The letters of credit
6 shall be effective no later than December 31 of the year
7 for which filing is being made, and in the possession of,
8 or in trust for, the ceding company on or before the filing
9 date of its annual statement. Letters of credit meeting
10 applicable standards of issuer acceptability as of the
11 dates of their issuance (or confirmation) shall,
12 notwithstanding the issuing (or confirming) institution's
13 subsequent failure to meet applicable standards of issuer
14 acceptability, continue to be acceptable as security until
15 their expiration, extension, renewal, modification, or
16 amendment, whichever first occurs.

17 (D) Any other form of security acceptable to the
18 Director.

19 (3)(A) For purposes of paragraph (C) of subsection (2) of
20 this Section, a "qualified United States financial
21 institution" means an institution that:

22 (1) is organized or, in the case of a U.S. office of a
23 foreign banking organization, licensed under the laws of
24 the United States or any state thereof;

25 (2) is regulated, supervised, and examined by U.S.
26 federal or state authorities having regulatory authority

1 over banks and trust companies;

2 (3) has been designated by either the Director or the
3 Securities Valuation Office of the National Association of
4 Insurance Commissioners as meeting such standards of
5 financial condition and standing as are considered
6 necessary and appropriate to regulate the quality of
7 financial institutions whose letters of credit will be
8 acceptable to the Director; and

9 (4) is not affiliated with the assuming company.

10 (B) A "qualified United States financial institution"
11 means, for purposes of those provisions of this law specifying
12 those institutions that are eligible to act as a fiduciary of a
13 trust, an institution that:

14 (1) is organized or, in the case of the U.S. branch or
15 agency office of a foreign banking organization, licensed
16 under the laws of the United States or any state thereof
17 and has been granted authority to operate with fiduciary
18 powers;

19 (2) is regulated, supervised, and examined by federal
20 or state authorities having regulatory authority over
21 banks and trust companies; and

22 (3) is not affiliated with the assuming company,
23 however, if the subject of the reinsurance contract is
24 insurance written pursuant to Section 155.51 of this Code,
25 the financial institution may be affiliated with the
26 assuming company with the prior approval of the Director.

1 (C) Except as set forth in subparagraph (11) of paragraph
2 (C-5) of subsection (1) of this Section as to cessions by
3 certified reinsurers, this amendatory Act of the 100th General
4 Assembly shall apply to all cessions after the effective date
5 of this amendatory Act of the 100th General Assembly under
6 reinsurance agreements that have an inception, anniversary, or
7 renewal date not less than 6 months after the effective date of
8 this amendatory Act of the 100th General Assembly.

9 (D) The Department shall adopt rules implementing the
10 provisions of this Article.

11 (Source: P.A. 102-578, eff. 7-1-22 (See Section 5 of P.A.
12 102-672 for effective date of P.A. 102-578).)

13 (215 ILCS 5/179A-5)

14 Sec. 179A-5. Purpose. This Article is adopted to provide a
15 basis for the creation of protected cells by a domestic
16 insurer as one means of accessing alternative sources of
17 capital and achieving the benefits of insurance
18 securitization. Investors in fully funded insurance
19 securitization transactions provide funds that are available
20 to pay the insurer's insurance obligations or to repay the
21 investors or both. The creation of protected cells is intended
22 to be a means to achieve more efficiencies in conducting
23 insurance securitizations.

24 Under the terms of the typical debt instrument underlying
25 an insurance securitization transaction, prepaid principal is

1 repaid to the investor on a specified maturity date with
2 interest, unless a trigger event occurs. The insurance
3 securitization proceeds secure both the protected cell
4 company's insurance obligations if a trigger event occurs, as
5 well as the protected cell company's obligation to repay the
6 insurance securitization investors if a trigger event does not
7 occur. Insurance securitization transactions have been
8 performed through non-domestic ~~alien~~ companies in order to
9 utilize efficiencies available to non-domestic ~~alien~~ companies
10 that are not currently available to domestic companies. This
11 Article is adopted in order to create more efficiency in
12 conducting insurance securitization, to allow domestic
13 companies easier access to alternative sources of capital, and
14 to promote the benefits of insurance securitization generally.
15 (Source: P.A. 91-278, eff. 7-23-99; 92-74, eff. 7-12-01.)

16 (215 ILCS 5/179E-5)

17 Sec. 179E-5. Purpose. This Article is adopted to provide
18 for the creation of Special Purpose Reinsurance Vehicles
19 ("SPRV") exclusively to facilitate the securitization of one
20 or more ceding insurers' risk as a means of accessing
21 alternative sources of capital and achieving the benefits of
22 securitization. Investors in fully funded insurance
23 securitization transactions provide funds that are available
24 to the SPRV to secure the aggregate limit under an SPRV
25 contract that provides coverage against the occurrence of a

1 triggering event. The creation of SPRVs is intended to achieve
2 greater efficiencies in conducting insurance securitizations,
3 to diversify and broaden insurers' access to sources of risk
4 bearing capital, and to make insurance securitization
5 generally available on reasonable terms to as many U.S.
6 insurers as possible.

7 Under the terms of the typical securities underlying an
8 insurance securitization transaction, proceeds from the
9 issuance of securities are repaid to the investor on a
10 specified maturity date with interest or dividends unless a
11 triggering event occurs. The insurance securitization proceeds
12 are available to pay the SPRV's obligations to the ceding
13 insurer if the triggering event occurs, as well as being
14 available to satisfy the SPRV's obligation to repay the
15 insurance securitization investors if a triggering event does
16 not occur. Insurance securitization transactions have been
17 performed by non-domestic ~~alien~~ companies to utilize
18 efficiencies available to those non-domestic ~~alien~~ companies
19 that are not currently available to domestic companies. This
20 Article is adopted to allow more efficiency in conducting
21 insurance securitizations, to allow ceding insurers easier
22 access to alternative sources of risk bearing capital, and to
23 promote the benefits of insurance securitization to U.S.
24 insurers.

25 (Source: P.A. 92-124, eff. 7-20-01.)

1 (215 ILCS 5/Art. XII heading)

2 ARTICLE XII. DOMESTICATION OF
3 FOREIGN AND NON-DOMESTIC ~~ALIEN~~ COMPANIES

4 (215 ILCS 5/180) (from Ch. 73, par. 792)

5 Sec. 180. Companies that may domesticate.

6 (1) Any domestic, foreign, or non-domestic ~~alien~~ stock
7 company, mutual company, assessment legal reserve company,
8 reciprocal, or fraternal benefit society, authorized or which
9 may be authorized to do business in this State, may reorganize
10 under the laws of this State (including a reorganization as a
11 captive insurance company under the laws of this State), by
12 complying with the provisions of this Article.

13 (2) As used in this Article: "reorganize" means
14 reorganize, reincorporate, or domesticate as an Illinois
15 insurer; "reorganization" means reorganization,
16 reincorporation, or domestication as an Illinois insurer;
17 "reorganized company" means any company that has availed
18 itself of the provisions of this Article, and the
19 reorganization of which has been effected as in this Article
20 provided; and "similar domestic company" means, in the case of
21 an application for reorganization as a domestic captive
22 insurance company, a domestic captive insurance company
23 organized under Article VIIC.

24 (Source: P.A. 87-1216.)

1 (215 ILCS 5/185.1) (from Ch. 73, par. 797.1)

2 Sec. 185.1. Effect of Reorganization.

3 When the reorganization has been effected:

4 (a) The articles of reorganization shall be the articles
5 of incorporation of the reorganized company and said company
6 shall continue in existence as, and thereafter be, a company
7 of this State.

8 (b) The reorganized company shall make its reports in
9 accordance with the laws of this State and shall be subject to
10 the exclusive regulation and supervision by the Department of
11 Insurance of this State and shall be subject to regulation and
12 supervision by the Insurance Departments of other states and
13 countries as a foreign or non-domestic ~~alien~~ company.

14 (c) The reorganized company shall have all of the rights,
15 privileges, immunities and powers and shall be subject to all
16 of the duties and liabilities granted or imposed by this Code
17 (except in the case of a domestic captive insurance company,
18 which shall have all of the rights, privileges, immunities and
19 powers and shall be subject to all of the duties and
20 liabilities granted or imposed by Article VIIC of this Code).

21 (d) The reorganized company shall thereupon and thereafter
22 possess all the rights, privileges, immunities, powers and
23 franchises of a public as well as a private nature,
24 theretofore possessed by the company so reorganized. Without
25 limiting the generality of the foregoing, (i) the agency
26 appointments, licenses, certificates of authority and rates

1 which are in existence at the time of the reorganization of
2 such reorganized company takes effect shall continue in full
3 force and effect; (ii) all property, real, personal and mixed,
4 and all debts due on whatever account, including subscriptions
5 to shares, assessments payable from members or policyholders,
6 and all other choses in action, and all and every other
7 interest of, or belonging to or due to the company so
8 reorganized, shall be deemed to be transferred to and vested
9 in the reorganized company without further act or deed; and
10 (iii) the title to any real estate or any interest therein
11 theretofore vested in the company so reorganized, shall not
12 revert or be in any way impaired by reason of such
13 reorganization.

14 (e) The reorganized company shall thenceforth be
15 responsible and liable for all the liabilities and obligations
16 of the company so reorganized. Any claim existing, or action
17 or proceeding pending by or against the company so
18 reorganized, may be prosecuted to judgment as if such
19 reorganization had not taken place, or such reorganized
20 company may be substituted in its place. Neither the rights of
21 creditors nor any liens upon the property of the company so
22 reorganized, shall be impaired by such reorganization, but
23 such liens shall be limited to the property upon which they
24 were liens immediately prior to the reorganization, unless
25 otherwise provided in the articles of reorganization.

26 (Source: P.A. 85-131.)

1 (215 ILCS 5/188) (from Ch. 73, par. 800)

2 Sec. 188. Grounds for rehabilitation and liquidation of a
3 domestic company or an unauthorized foreign or non-domestic
4 ~~alien~~ company. Whenever any domestic company or any
5 unauthorized foreign or non-domestic ~~alien~~ company:

6 1. is insolvent;

7 2. has failed or refused to submit its books, papers,
8 accounts, records or affairs to the reasonable inspection
9 or examination of the Director or his actuaries,
10 supervisors, deputies, or examiners;

11 3. has concealed, removed, altered, destroyed or
12 failed to establish and maintain books, records,
13 documents, accounts, vouchers and other pertinent material
14 adequate for the determination of its financial condition
15 by examination under Sections 132 through 132.7 or has
16 failed to properly administer claims and to maintain
17 claims records which are adequate for the determination of
18 its outstanding claims liability;

19 4. has failed or refused to observe an order of the
20 Director to make good within the time prescribed by law
21 any deficiency, whenever its capital and minimum required
22 surplus, if a stock company, or its required surplus, if a
23 company other than stock, has become impaired;

24 5. has, by articles of consolidation, contract of
25 reinsurance or otherwise, transferred or attempted to

1 transfer its entire property or business not in conformity
2 with this Code, or entered into any transaction the effect
3 of which is to merge substantially its entire property or
4 business in any other company without having first
5 obtained the written approval of the Director under this
6 Code;

7 6. is found to be in such condition that its further
8 transaction of business would be hazardous to its
9 policyholders, or to its creditors, or to the public;

10 7. has violated its charter or any law of this State or
11 has exceeded or is exceeding its corporate powers;

12 8. has an officer who has refused upon reasonable
13 demand to be examined under oath touching its affairs;

14 9. is found to be in such condition that it could not
15 meet the requirements for organization and authorization
16 as required by law, except as to the amount of the original
17 surplus required of a stock company in Section 13, and
18 except as to the amount of the surplus required of a mutual
19 company in excess of the minimum surplus required by this
20 Code to be maintained, or either an authorized control
21 level event or a mandatory control level event as set
22 forth in Article IIA exists;

23 10. has ceased for the period of one year to transact
24 insurance business;

25 11. has commenced, or has attempted to commence, any
26 voluntary liquidation or dissolution proceeding, or any

1 proceeding to procure the appointment of a receiver,
2 liquidator, rehabilitator, sequestrator, or a similar
3 officer for itself;

4 12. is a party, whether plaintiff or defendant in any
5 proceeding in which an application is made for the
6 appointment of a receiver, custodian, liquidator,
7 rehabilitator, sequestrator, or similar officer for such
8 company or its property, or a receiver, custodian,
9 liquidator, rehabilitator, sequestrator or similar
10 officer, for such company or its property is appointed by
11 any court, or such appointment is imminent;

12 13. consents by a majority of its directors,
13 stockholders or members;

14 14. has not organized and obtained a certificate
15 authorizing it to commence the transaction of its business
16 within the period of time prescribed by the sections of
17 this Code under which it is or proposes to be organized; or

18 15. has failed or refused to pay any valid final
19 judgment within 30 days after the rendition thereof, or
20 whenever it appears to the Director that any person has
21 committed a violation of Article VIII 1/2 with the result
22 described in Section 131.26,

23 sufficient grounds shall be deemed to exist for the
24 commencement of rehabilitation or liquidation proceedings.

25 With respect to a domestic company, the Director must
26 report, and with respect to an unauthorized foreign or

1 non-domestic ~~alien~~ company, the Director may report any such
2 case to the Attorney General of this State whose duty it shall
3 be to apply forthwith by complaint on relation of the Director
4 in the name of the People of the State of Illinois, as
5 plaintiff, to the Circuit Court of Cook County, the Circuit
6 Court of Sangamon County, or the circuit court of the county in
7 which such company has, or last had its principal office, for
8 an order to rehabilitate or liquidate the defendant company as
9 provided in this Article, and for such other relief as the
10 nature of the case and the interests of its policyholders,
11 creditors, members, stockholders or the public may require.

12 When, upon investigation, the Director finds that a
13 company is engaged in any aspect of the business of insurance
14 on behalf of or in association with any domestic insurance
15 company, against which a receivership proceeding has been or
16 is being filed under this Article, in a manner that appears to
17 be detrimental to policyholders, creditors, members,
18 shareholders, or the public, the Director may report such case
19 to the Attorney General of this State, whose duty it is to
20 apply forthwith by complaint on relation of the Director in
21 the name of the People of the State of Illinois, as plaintiff,
22 to the court in which the receivership proceeding is pending
23 for an order to appoint the Director as receiver to assume
24 control of the assets and operation of the company pending a
25 complete investigation and determination of the rights of the
26 policyholders, creditors, members, shareholders, and the

1 general public.

2 (Source: P.A. 92-140, eff. 7-24-01.)

3 (215 ILCS 5/188.1) (from Ch. 73, par. 800.1)

4 Sec. 188.1. Provisions for conservation of assets of a
5 domestic, foreign, or non-domestic ~~alien~~ company.

6 (1) Upon the filing by the Director of a verified
7 complaint alleging (a) that with respect to a domestic,
8 foreign, or non-domestic ~~alien~~ company, whether authorized or
9 unauthorized, a condition exists that would justify a court
10 order for proceedings under Section 188, and (b) that the
11 interests of creditors, policyholders or the public will
12 probably be endangered by delay, then the circuit court of
13 Sangamon or Cook County or the circuit court of the county in
14 which such company has or last had its principal office shall
15 enter forthwith without a hearing or prior notice an order
16 directing the director to take possession and control of the
17 property, business, books, records, and accounts of the
18 company, and of the premises occupied by it for the
19 transaction of its business, or such part of each as the
20 complaint shall specify, and enjoining the company and its
21 officers, directors, agents, servants, and employees from
22 disposition of its property and from transaction of its
23 business except with the concurrence of the Director until the
24 further order of the court. Copies of the verified complaint
25 and the seizure order shall be served upon the company.

1 (2) The order shall continue in force and effect for such
2 time as the court deems necessary for the Director to
3 ascertain the condition and situation of the company. On
4 motion of either party or on its own motion, the court may from
5 time to time hold such hearings as it deems desirable, and may
6 extend, shorten, or modify the terms of, the seizure order. So
7 far as the court deems it possible, the parties shall be given
8 adequate notice of such hearings. As soon as practicable, the
9 court shall vacate the seizure order or terminate the
10 conservation proceedings of the company, either when the
11 Director has failed to institute proceedings under Section 188
12 having a reasonable opportunity to do so, or upon an order of
13 the court pursuant to such proceedings.

14 (3) Entry of a seizure order under this section shall not
15 constitute an anticipatory breach of any contract of the
16 company.

17 (4) The court may hold all hearings in conservation
18 proceedings privately in chambers, and shall do so on request
19 of any officer of the company proceeded against.

20 (5) In conservation proceedings and judicial reviews
21 thereof, all records of the company, other documents, and all
22 insurance department files and court records and papers, so
23 far as they pertain to and are a part of the record of the
24 conservation proceedings, shall be and remain confidential
25 except as is necessary to obtain compliance therewith, unless
26 and until the court, after hearing arguments in chambers from

1 the Director and the company, shall decide otherwise, or
2 unless the company requests that the matter be made public.

3 (6) Any person having possession of and refusing to
4 deliver any of the property, business, books, records or
5 accounts of a company against which a seizure order has been
6 issued shall be guilty of a Class A misdemeanor.

7 (Source: P.A. 89-206, eff. 7-21-95.)

8 (215 ILCS 5/197) (from Ch. 73, par. 809)

9 Sec. 197. Rights, powers, and duties ancillary to
10 domiciliary proceeding.

11 The rights, powers, and duties of the Director as
12 conservator, rehabilitator, or liquidator, with reference to
13 the assets of a foreign or non-domestic ~~alien~~ company, whether
14 authorized or unauthorized, shall be ancillary to the rights,
15 powers and duties imposed upon any receiver or other person,
16 if any, in charge of the property, business and affairs of such
17 company in its domiciliary state or country.

18 (Source: P.A. 86-1154; 86-1156.)

19 (215 ILCS 5/201) (from Ch. 73, par. 813)

20 Sec. 201. Who may apply for appointment of receiver or
21 liquidator.) No order or judgment enjoining, restraining or
22 interfering with the prosecution of the business of any
23 company, or for the appointment of a temporary or permanent
24 receiver, rehabilitator or liquidator of a domestic company,

1 or receiver or conservator of a foreign or non-domestic ~~alien~~
2 company, shall be made or granted otherwise than upon the
3 complaint of the Director represented by the Attorney General
4 as provided in this article, except in an action by a judgment
5 creditor or in proceedings supplementary thereto after notice
6 that a final judgment has been entered and that the judgment
7 creditor intends to file a complaint praying for any of the
8 relief in this section mentioned, has been served upon the
9 Director at least 30 days prior to the filing of such complaint
10 by such judgment creditor.

11 (Source: P.A. 84-546.)

12 (215 ILCS 5/223) (from Ch. 73, par. 835)

13 Sec. 223. Director to value policies - Legal standard of
14 valuation.

15 (1) For policies and contracts issued prior to the
16 operative date of the Valuation Manual, the Director shall
17 annually value, or cause to be valued, the reserve liabilities
18 (hereinafter called reserves) for all outstanding life
19 insurance policies and annuity and pure endowment contracts of
20 every life insurance company doing business in this State,
21 except that in the case of a non-domestic ~~an alien~~ company,
22 such valuation shall be limited to its United States business.
23 In calculating such reserves, he may use group methods and
24 approximate averages for fractions of a year or otherwise. In
25 lieu of the valuation of the reserves herein required of any

1 foreign or non-domestic ~~alien~~ company, he may accept any
2 valuation made, or caused to be made, by the insurance
3 supervisory official of any state or other jurisdiction when
4 such valuation complies with the minimum standard provided in
5 this Section.

6 The provisions set forth in this subsection (1) and in
7 subsections (2), (3), (4), (5), (6), and (7) of this Section
8 shall apply to all policies and contracts, as appropriate,
9 subject to this Section issued prior to the operative date of
10 the Valuation Manual. The provisions set forth in subsections
11 (8) and (9) of this Section shall not apply to any such
12 policies and contracts.

13 For policies and contracts issued on or after the
14 operative date of the Valuation Manual, the Director shall
15 annually value, or cause to be valued, the reserve liabilities
16 (reserves) for all outstanding life insurance contracts,
17 annuity and pure endowment contracts, accident and health
18 contracts, and deposit-type contracts of every company issued
19 on or after the operative date of the Valuation Manual. In lieu
20 of the valuation of the reserves required of a foreign or
21 non-domestic ~~alien~~ company, the Director may accept a
22 valuation made, or caused to be made, by the insurance
23 supervisory official of any state or other jurisdiction when
24 the valuation complies with the minimum standard provided in
25 this Section.

26 The provisions set forth in subsections (8) and (9) of

1 this Section shall apply to all policies and contracts issued
2 on or after the operative date of the Valuation Manual.

3 Any such company which adopts at any time a standard of
4 valuation producing greater aggregate reserves than those
5 calculated according to the minimum standard provided under
6 this Section may adopt a lower standard of valuation, with the
7 approval of the Director, but not lower than the minimum
8 herein provided, however, that, for the purposes of this
9 subsection, the holding of additional reserves previously
10 determined by the appointed actuary to be necessary to render
11 the opinion required by subsection (1a) shall not be deemed to
12 be the adoption of a higher standard of valuation. In the
13 valuation of policies the Director shall give no consideration
14 to, nor make any deduction because of, the existence or the
15 possession by the company of

16 (a) policy liens created by any agreement given or
17 assented to by any assured subsequent to July 1, 1937, for
18 which liens such assured has not received cash or other
19 consideration equal in value to the amount of such liens,
20 or

21 (b) policy liens created by any agreement entered into
22 in violation of Section 232 unless the agreement imposing
23 or creating such liens has been approved by a Court in a
24 proceeding under Article XIII, or in the case of a foreign
25 or non-domestic ~~alien~~ company has been approved by a court
26 in a rehabilitation or liquidation proceeding or by the

1 insurance official of its domiciliary state or country, in
2 accordance with the laws thereof.

3 (1a) This subsection shall become operative at the end of
4 the first full calendar year following the effective date of
5 this amendatory Act of 1991.

6 (A) General.

7 (1) Prior to the operative date of the Valuation
8 Manual, every life insurance company doing business in
9 this State shall annually submit the opinion of a
10 qualified actuary as to whether the reserves and
11 related actuarial items held in support of the
12 policies and contracts specified by the Director by
13 regulation are computed appropriately, are based on
14 assumptions that satisfy contractual provisions, are
15 consistent with prior reported amounts and comply with
16 applicable laws of this State. The Director by
17 regulation shall define the specifics of this opinion
18 and add any other items deemed to be necessary to its
19 scope.

20 (2) The opinion shall be submitted with the annual
21 statement reflecting the valuation of reserve
22 liabilities for each year ending on or after December
23 31, 1992.

24 (3) The opinion shall apply to all business in
25 force including individual and group health insurance
26 plans, in form and substance acceptable to the

1 Director as specified by regulation.

2 (4) The opinion shall be based on standards
3 adopted from time to time by the Actuarial Standards
4 Board and on additional standards as the Director may
5 by regulation prescribe.

6 (5) In the case of an opinion required to be
7 submitted by a foreign or non-domestic ~~alien~~ company,
8 the Director may accept the opinion filed by that
9 company with the insurance supervisory official of
10 another state if the Director determines that the
11 opinion reasonably meets the requirements applicable
12 to a company domiciled in this State.

13 (6) For the purpose of this Section, "qualified
14 actuary" means a member in good standing of the
15 American Academy of Actuaries who meets the
16 requirements set forth in its regulations.

17 (7) Except in cases of fraud or willful
18 misconduct, the qualified actuary shall not be liable
19 for damages to any person (other than the insurance
20 company and the Director) for any act, error,
21 omission, decision or conduct with respect to the
22 actuary's opinion.

23 (8) Disciplinary action by the Director against
24 the company or the qualified actuary shall be defined
25 in regulations by the Director.

26 (9) A memorandum, in form and substance acceptable

1 to the Director as specified by regulation, shall be
2 prepared to support each actuarial opinion.

3 (10) If the insurance company fails to provide a
4 supporting memorandum at the request of the Director
5 within a period specified by regulation or the
6 Director determines that the supporting memorandum
7 provided by the insurance company fails to meet the
8 standards prescribed by the regulations or is
9 otherwise unacceptable to the Director, the Director
10 may engage a qualified actuary at the expense of the
11 company to review the opinion and the basis for the
12 opinion and prepare the supporting memorandum as is
13 required by the Director.

14 (11) Any memorandum in support of the opinion, and
15 any other material provided by the company to the
16 Director in connection therewith, shall be kept
17 confidential by the Director and shall not be made
18 public and shall not be subject to subpoena, other
19 than for the purpose of defending an action seeking
20 damages from any person by reason of any action
21 required by this Section or by regulations promulgated
22 hereunder; provided, however, that the memorandum or
23 other material may otherwise be released by the
24 Director (a) with the written consent of the company
25 or (b) to the American Academy of Actuaries upon
26 request stating that the memorandum or other material

1 is required for the purpose of professional
2 disciplinary proceedings and setting forth procedures
3 satisfactory to the Director for preserving the
4 confidentiality of the memorandum or other material.
5 Once any portion of the confidential memorandum is
6 cited by the company in its marketing or is cited
7 before any governmental agency other than a state
8 insurance department or is released by the company to
9 the news media, all portions of the confidential
10 memorandum shall be no longer confidential.

11 (B) Actuarial analysis of reserves and assets
12 supporting those reserves.

13 (1) Every life insurance company, except as
14 exempted by or under regulation, shall also annually
15 include in the opinion required by paragraph (A) (1) of
16 this subsection (1a), an opinion of the same qualified
17 actuary as to whether the reserves and related
18 actuarial items held in support of the policies and
19 contracts specified by the Director by regulation,
20 when considered in light of the assets held by the
21 company with respect to the reserves and related
22 actuarial items including, but not limited to, the
23 investment earnings on the assets and the
24 considerations anticipated to be received and retained
25 under the policies and contracts, make adequate
26 provision for the company's obligations under the

1 policies and contracts including, but not limited to,
2 the benefits under and expenses associated with the
3 policies and contracts.

4 (2) The Director may provide by regulation for a
5 transition period for establishing any higher reserves
6 which the qualified actuary may deem necessary in
7 order to render the opinion required by this Section.

8 (1b) Actuarial Opinion of Reserves after the Operative
9 Date of the Valuation Manual.

10 (A) General.

11 (1) Every company with outstanding life insurance
12 contracts, accident and health insurance contracts, or
13 deposit-type contracts in this State and subject to
14 regulation by the Director shall annually submit the
15 opinion of the appointed actuary as to whether the
16 reserves and related actuarial items held in support
17 of the policies and contracts are computed
18 appropriately, are based on assumptions that satisfy
19 contractual provisions, are consistent with prior
20 reported amounts, and comply with applicable laws of
21 this State. The Valuation Manual shall prescribe the
22 specifics of this opinion, including any items deemed
23 to be necessary to its scope.

24 (2) The opinion shall be submitted with the annual
25 statement reflecting the valuation of such reserve
26 liabilities for each year ending on or after the

1 operative date of the Valuation Manual.

2 (3) The opinion shall apply to all policies and
3 contracts subject to paragraph (B) of this subsection
4 (1b), plus other actuarial liabilities as may be
5 specified in the Valuation Manual.

6 (4) The opinion shall be based on standards
7 adopted from time to time by the Actuarial Standards
8 Board or its successor and on additional standards as
9 may be prescribed in the Valuation Manual.

10 (5) In the case of an opinion required to be
11 submitted by a foreign or non-domestic ~~alien~~ company,
12 the Director may accept the opinion filed by that
13 company with the insurance supervisory official of
14 another state if the Director determines that the
15 opinion reasonably meets the requirements applicable
16 to a company domiciled in this State.

17 (6) Except in cases of fraud or willful
18 misconduct, the appointed actuary shall not be liable
19 for damages to any person (other than the insurance
20 company and the Director) for any act, error,
21 omission, decision, or conduct with respect to the
22 appointed actuary's opinion.

23 (7) Disciplinary action by the Director against
24 the company or the appointed actuary shall be defined
25 by the Director by rule.

26 (8) A memorandum, in a form and substance as

1 specified in the Valuation Manual and acceptable to
2 the Director, shall be prepared to support each
3 actuarial opinion.

4 (9) If the insurance company fails to provide a
5 supporting memorandum at the request of the Director
6 within a period specified in the Valuation Manual or
7 the Director determines that the supporting memorandum
8 provided by the insurance company fails to meet the
9 standards prescribed by the Valuation Manual or is
10 otherwise unacceptable to the Director, the Director
11 may engage a qualified actuary at the expense of the
12 company to review the opinion and the basis for the
13 opinion and prepare the supporting memorandum as is
14 required by the Director.

15 (B) Every company with outstanding life insurance
16 contracts, accident and health insurance contracts, or
17 deposit-type contracts in this State and subject to
18 regulation by the Director, except as exempted in the
19 Valuation Manual, shall also annually include in the
20 opinion required by subparagraph (1) of paragraph (A) of
21 this subsection (1b), an opinion of the same appointed
22 actuary as to whether the reserves and related actuarial
23 items held in support of the policies and contracts
24 specified in the Valuation Manual, when considered in
25 light of the assets held by the company with respect to the
26 reserves and related actuarial items, including, but not

1 limited to, the investment earnings on the assets and the
2 considerations anticipated to be received and retained
3 under the policies and contracts, make adequate provision
4 for the company's obligations under the policies and
5 contracts, including, but not limited to, the benefits
6 under and expenses associated with the policies and
7 contracts.

8 (2) This subsection shall apply to only those policies and
9 contracts issued prior to the operative date of Section 229.2
10 (the Standard Non-forfeiture Law).

11 (a) Except as otherwise in this Article provided, the
12 legal minimum standard for valuation of contracts issued
13 before January 1, 1908, shall be the Actuaries or Combined
14 Experience Table of Mortality with interest at 4% per
15 annum and for valuation of contracts issued on or after
16 that date shall be the American Experience Table of
17 Mortality with either Craig's or Buttolph's Extension for
18 ages under 10 and with interest at 3 1/2% per annum. The
19 legal minimum standard for the valuation of group
20 insurance policies under which premium rates are not
21 guaranteed for a period in excess of 5 years shall be the
22 American Men Ultimate Table of Mortality with interest at
23 3 1/2% per annum. Any life company may, at its option,
24 value its insurance contracts issued on or after January
25 1, 1938, in accordance with their terms on the basis of the
26 American Men Ultimate Table of Mortality with interest not

1 higher than 3 1/2% per annum.

2 (b) Policies issued prior to January 1, 1908, may
3 continue to be valued according to a method producing
4 reserves not less than those produced by the full
5 preliminary term method. Policies issued on and after
6 January 1, 1908, may be valued according to a method
7 producing reserves not less than those produced by the
8 modified preliminary term method hereinafter described in
9 paragraph (c). Policies issued on and after January 1,
10 1938, may be valued either according to a method producing
11 reserves not less than those produced by such modified
12 preliminary term method or by the select and ultimate
13 method on the basis that the rate of mortality during the
14 first 5 years after the issuance of such contracts
15 respectively shall be calculated according to the
16 following percentages of rates shown by the American
17 Experience Table of Mortality:

- 18 (i) first insurance year 50% thereof;
19 (ii) second insurance year 65% thereof;
20 (iii) third insurance year 75% thereof;
21 (iv) fourth insurance year 85% thereof;
22 (v) fifth insurance year 95% thereof.

23 (c) If the premium charged for the first policy year
24 under a limited payment life preliminary term policy
25 providing for the payment of all premiums thereon in less
26 than 20 years from the date of the policy or under an

1 endowment preliminary term policy, exceeds that charged
2 for the first policy year under 20 payment life
3 preliminary term policies of the same company, the reserve
4 thereon at the end of any year, including the first, shall
5 not be less than the reserve on a 20 payment life
6 preliminary term policy issued in the same year at the
7 same age, together with an amount which shall be
8 equivalent to the accumulation of a net level premium
9 sufficient to provide for a pure endowment at the end of
10 the premium payment period, equal to the difference
11 between the value at the end of such period of such a 20
12 payment life preliminary term policy and the full net
13 level premium reserve at such time of such a limited
14 payment life or endowment policy. The premium payment
15 period is the period during which premiums are
16 concurrently payable under such 20 payment life
17 preliminary term policy and such limited payment life or
18 endowment policy.

19 (d) The legal minimum standard for the valuations of
20 annuities issued on and after January 1, 1938, shall be
21 the American Annuitant's Table with interest not higher
22 than 3 3/4% per annum, and all annuities issued before
23 that date shall be valued on a basis not lower than that
24 used for the annual statement of the year 1937; but
25 annuities deferred 10 or more years and written in
26 connection with life insurance shall be valued on the same

1 basis as that used in computing the consideration or
2 premiums therefor, or upon any higher standard at the
3 option of the company.

4 (e) The Director may vary the standards of interest
5 and mortality as to contracts issued in countries other
6 than the United States and may vary standards of mortality
7 in particular cases of invalid lives and other extra
8 hazards.

9 (f) The legal minimum standard for valuation of waiver
10 of premium disability benefits or waiver of premium and
11 income disability benefits issued on and after January 1,
12 1938, shall be the Class (3) Disability Table (1926)
13 modified to conform to the contractual waiting period,
14 with interest at not more than 3 1/2% per annum; but in no
15 event shall the values be less than those produced by the
16 basis used in computing premiums for such benefits. The
17 legal minimum standard for the valuation of such benefits
18 issued prior to January 1, 1938, shall be such as to place
19 an adequate value, as determined by sound insurance
20 practices, on the liabilities thereunder and shall be such
21 that the value of the benefits under each and every policy
22 shall in no case be less than the value placed upon the
23 future premiums.

24 (g) The legal minimum standard for the valuation of
25 industrial policies issued on or after January 1, 1938,
26 shall be the American Experience Table of Mortality or the

1 Standard Industrial Mortality Table or the Substandard
2 Industrial Mortality Table with interest at 3 1/2% per
3 annum by the net level premium method, or in accordance
4 with their terms by the modified preliminary term method
5 hereinabove described.

6 (h) Reserves for all such policies and contracts may
7 be calculated, at the option of the company, according to
8 any standards which produce greater aggregate reserves for
9 all such policies and contracts than the minimum reserves
10 required by this subsection.

11 (3) This subsection shall apply to only those policies and
12 contracts issued on or after January 1, 1948 or such earlier
13 operative date of Section 229.2 (the Standard Non-forfeiture
14 Law) as shall have been elected by the insurance company
15 issuing such policies or contracts.

16 (a) Except as otherwise provided in subsections (4),
17 (6), and (7), the minimum standard for the valuation of
18 all such policies and contracts shall be the Commissioners
19 Reserve valuation method defined in paragraphs (b) and (f)
20 of this subsection and in subsection 5, 3 1/2% interest
21 for such policies issued prior to September 8, 1977, 5
22 1/2% interest for single premium life insurance policies
23 and 4 1/2% interest for all other such policies issued on
24 or after September 8, 1977, and the following tables:

25 (i) The Commissioners 1941 Standard Ordinary
26 Mortality Table for all Ordinary policies of life

1 insurance issued on the standard basis, excluding any
2 disability and accidental death benefits in such
3 policies, for such policies issued prior to the
4 operative date of subsection (4a) of Section 229.2
5 (Standard Non-forfeiture Law); and the Commissioners
6 1958 Standard Ordinary Mortality Table for such
7 policies issued on or after such operative date but
8 prior to the operative date of subsection (4c) of
9 Section 229.2 provided that for any category of such
10 policies issued on female risks all modified net
11 premiums and present values referred to in this
12 Section may, prior to September 8, 1977, be calculated
13 according to an age not more than 3 years younger than
14 the actual age of the insured and, after September 8,
15 1977, calculated according to an age not more than 6
16 years younger than the actual age of the insured; and
17 for such policies issued on or after the operative
18 date of subsection (4c) of Section 229.2, (i) the
19 Commissioners 1980 Standard Ordinary Mortality Table,
20 or (ii) at the election of the company for any one or
21 more specified plans of life insurance, the
22 Commissioners 1980 Standard Ordinary Mortality Table
23 with Ten-Year Select Mortality Factors, or (iii) any
24 ordinary mortality table adopted after 1980 by the
25 NAIC and approved by regulations promulgated by the
26 Director for use in determining the minimum standard

1 of valuation for such policies.

2 (ii) For all Industrial Life Insurance policies
3 issued on the standard basis, excluding any disability
4 and accidental death benefits in such policies--the
5 1941 Standard Industrial Mortality Table for such
6 policies issued prior to the operative date of
7 subsection 4 (b) of Section 229.2 (Standard
8 Non-forfeiture Law); and for such policies issued on
9 or after such operative date the Commissioners 1961
10 Standard Industrial Mortality Table or any industrial
11 mortality table adopted after 1980 by the NAIC and
12 approved by regulations promulgated by the Director
13 for use in determining the minimum standard of
14 valuation for such policies.

15 (iii) For Individual Annuity and Pure Endowment
16 contracts, excluding any disability and accidental
17 death benefits in such policies--the 1937 Standard
18 Annuity Mortality Table--or, at the option of the
19 company, the Annuity Mortality Table for 1949,
20 Ultimate, or any modification of either of these
21 tables approved by the Director.

22 (iv) For Group Annuity and Pure Endowment
23 contracts, excluding any disability and accidental
24 death benefits in such policies--the Group Annuity
25 Mortality Table for 1951, any modification of such
26 table approved by the Director, or, at the option of

1 the company, any of the tables or modifications of
2 tables specified for Individual Annuity and Pure
3 Endowment contracts.

4 (v) For Total and Permanent Disability Benefits in
5 or supplementary to Ordinary policies or contracts for
6 policies or contracts issued on or after January 1,
7 1966, the tables of Period 2 disablement rates and the
8 1930 to 1950 termination rates of the 1952 Disability
9 Study of the Society of Actuaries, with due regard to
10 the type of benefit, or any tables of disablement
11 rates and termination rates adopted after 1980 by the
12 NAIC and approved by regulations promulgated by the
13 Director for use in determining the minimum standard
14 of valuation for such policies; for policies or
15 contracts issued on or after January 1, 1961, and
16 prior to January 1, 1966, either such tables or, at the
17 option of the company, the Class (3) Disability Table
18 (1926); and for policies issued prior to January 1,
19 1961, the Class (3) Disability Table (1926). Any such
20 table shall, for active lives, be combined with a
21 mortality table permitted for calculating the reserves
22 for life insurance policies.

23 (vi) For Accidental Death benefits in or
24 supplementary to policies--for policies issued on or
25 after January 1, 1966, the 1959 Accidental Death
26 Benefits Table or any accidental death benefits table

1 adopted after 1980 by the NAIC and approved by
2 regulations promulgated by the Director for use in
3 determining the minimum standard of valuation for such
4 policies; for policies issued on or after January 1,
5 1961, and prior to January 1, 1966, any of such tables
6 or, at the option of the company, the Inter-Company
7 Double Indemnity Mortality Table; and for policies
8 issued prior to January 1, 1961, the Inter-Company
9 Double Indemnity Mortality Table. Either table shall
10 be combined with a mortality table permitted for
11 calculating the reserves for life insurance policies.

12 (vii) For Group Life Insurance, life insurance
13 issued on the substandard basis and other special
14 benefits--such tables as may be approved by the
15 Director.

16 (b) Except as otherwise provided in paragraph (f) of
17 subsection (3), subsection (5), and subsection (7)
18 reserves according to the Commissioners reserve valuation
19 method, for the life insurance and endowment benefits of
20 policies providing for a uniform amount of insurance and
21 requiring the payment of uniform premiums shall be the
22 excess, if any, of the present value, at the date of
23 valuation, of such future guaranteed benefits provided for
24 by such policies, over the then present value of any
25 future modified net premiums therefor. The modified net
26 premiums for any such policy shall be such uniform

1 percentage of the respective contract premiums for such
2 benefits that the present value, at the date of issue of
3 the policy, of all such modified net premiums shall be
4 equal to the sum of the then present value of such benefits
5 provided for by the policy and the excess of (A) over (B),
6 as follows:

7 (A) A net level annual premium equal to the
8 present value, at the date of issue, of such benefits
9 provided for after the first policy year, divided by
10 the present value, at the date of issue, of an annuity
11 of one per annum payable on the first and each
12 subsequent anniversary of such policy on which a
13 premium falls due; provided, however, that such net
14 level annual premium shall not exceed the net level
15 annual premium on the 19 year premium whole life plan
16 for insurance of the same amount at an age one year
17 higher than the age at issue of such policy.

18 (B) A net one year term premium for such benefits
19 provided for in the first policy year.

20 For any life insurance policy issued on or after
21 January 1, 1987, for which the contract premium in the
22 first policy year exceeds that of the second year with no
23 comparable additional benefit being provided in that first
24 year, which policy provides an endowment benefit or a cash
25 surrender value or a combination thereof in an amount
26 greater than such excess premium, the reserve according to

1 the Commissioners reserve valuation method as of any
2 policy anniversary occurring on or before the assumed
3 ending date, defined herein as the first policy
4 anniversary on which the sum of any endowment benefit and
5 any cash surrender value then available is greater than
6 such excess premium, shall, except as otherwise provided
7 in paragraph (f) of subsection (3), be the greater of the
8 reserve as of such policy anniversary calculated as
9 described in the preceding part of this paragraph (b) and
10 the reserve as of such policy anniversary calculated as
11 described in the preceding part of this paragraph (b) with
12 (i) the value defined in subpart A of the preceding part of
13 this paragraph (b) being reduced by 15% of the amount of
14 such excess first year premium, (ii) all present values of
15 benefits and premiums being determined without reference
16 to premiums or benefits provided for by the policy after
17 the assumed ending date, (iii) the policy being assumed to
18 mature on such date as an endowment, and (iv) the cash
19 surrender value provided on such date being considered as
20 an endowment benefit. In making the above comparison, the
21 mortality and interest bases stated in paragraph (a) of
22 subsection (3) and in subsection (6) shall be used.

23 Reserves according to the Commissioners reserve
24 valuation method for (i) life insurance policies providing
25 for a varying amount of insurance or requiring the payment
26 of varying premiums, (ii) group annuity and pure endowment

1 contracts purchased under a retirement plan or plan of
2 deferred compensation, established or maintained by an
3 employer (including a partnership or sole proprietorship)
4 or by an employee organization, or by both, other than a
5 plan providing individual retirement accounts or
6 individual retirement annuities under Section 408 of the
7 Internal Revenue Code, as now or hereafter amended, (iii)
8 disability and accidental death benefits in all policies
9 and contracts, and (iv) all other benefits, except life
10 insurance and endowment benefits in life insurance
11 policies and benefits provided by all other annuity and
12 pure endowment contracts, shall be calculated by a method
13 consistent with the principles of this paragraph (b),
14 except that any extra premiums charged because of
15 impairments or special hazards shall be disregarded in the
16 determination of modified net premiums.

17 (c) In no event shall a company's aggregate reserves
18 for all life insurance policies, excluding disability and
19 accidental death benefits be less than the aggregate
20 reserves calculated in accordance with the methods set
21 forth in paragraphs (b), (f), and (g) of subsection (3)
22 and in subsection (5) and the mortality table or tables
23 and rate or rates of interest used in calculating
24 non-forfeiture benefits for such policies.

25 (d) In no event shall the aggregate reserves for all
26 policies, contracts, and benefits be less than the

1 aggregate reserves determined by the appointed actuary to
2 be necessary to render the opinion required by subsection
3 (1a).

4 (e) Reserves for any category of policies, contracts
5 or benefits as established by the Director, may be
6 calculated, at the option of the company, according to any
7 standards which produce greater aggregate reserves for
8 such category than those calculated according to the
9 minimum standard herein provided, but the rate or rates of
10 interest used for policies and contracts, other than
11 annuity and pure endowment contracts, shall not be higher
12 than the corresponding rate or rates of interest used in
13 calculating any nonforfeiture benefits provided for
14 therein.

15 (f) If in any contract year the gross premium charged
16 by any life insurance company on any policy or contract is
17 less than the valuation net premium for the policy or
18 contract calculated by the method used in calculating the
19 reserve thereon but using the minimum valuation standards
20 of mortality and rate of interest, the minimum reserve
21 required for such policy or contract shall be the greater
22 of either the reserve calculated according to the
23 mortality table, rate of interest, and method actually
24 used for such policy or contract, or the reserve
25 calculated by the method actually used for such policy or
26 contract but using the minimum standards of mortality and

1 rate of interest and replacing the valuation net premium
2 by the actual gross premium in each contract year for
3 which the valuation net premium exceeds the actual gross
4 premium. The minimum valuation standards of mortality and
5 rate of interest referred to in this paragraph (f) are
6 those standards stated in subsection (6) and paragraph (a)
7 of subsection (3).

8 For any life insurance policy issued on or after
9 January 1, 1987, for which the gross premium in the first
10 policy year exceeds that of the second year with no
11 comparable additional benefit provided in that first year,
12 which policy provides an endowment benefit or a cash
13 surrender value or a combination thereof in an amount
14 greater than such excess premium, the foregoing provisions
15 of this paragraph (f) shall be applied as if the method
16 actually used in calculating the reserve for such policy
17 were the method described in paragraph (b) of subsection
18 (3), ignoring the second paragraph of said paragraph (b).
19 The minimum reserve at each policy anniversary of such a
20 policy shall be the greater of the minimum reserve
21 calculated in accordance with paragraph (b) of subsection
22 (3), including the second paragraph of said paragraph (b),
23 and the minimum reserve calculated in accordance with this
24 paragraph (f).

25 (g) In the case of any plan of life insurance which
26 provides for future premium determination, the amounts of

1 which are to be determined by the insurance company based
2 on then estimates of future experience, or in the case of
3 any plan of life insurance or annuity which is of such a
4 nature that the minimum reserves cannot be determined by
5 the methods described in paragraphs (b) and (f) of
6 subsection (3) and subsection (5), the reserves which are
7 held under any such plan shall:

8 (i) be appropriate in relation to the benefits and
9 the pattern of premiums for that plan, and

10 (ii) be computed by a method which is consistent
11 with the principles of this Standard Valuation Law, as
12 determined by regulations promulgated by the Director.

13 (4) Except as provided in subsection (6), the minimum
14 standard of valuation for individual annuity and pure
15 endowment contracts issued on or after the operative date of
16 this subsection, as defined herein, and for all annuities and
17 pure endowments purchased on or after such operative date
18 under group annuity and pure endowment contracts shall be the
19 Commissioners Reserve valuation methods defined in paragraph
20 (b) of subsection (3) and subsection (5) and the following
21 tables and interest rates:

22 (a) For individual single premium immediate annuity
23 contracts, excluding any disability and accidental death
24 benefits in such contracts, the 1971 Individual Annuity
25 Mortality Table, any individual annuity mortality table
26 adopted after 1980 by the NAIC and approved by regulations

1 promulgated by the Director for use in determining the
2 minimum standard of valuation for such contracts, or any
3 modification of those tables approved by the Director, and
4 7 1/2% interest.

5 (b) For individual and pure endowment contracts other
6 than single premium annuity contracts, excluding any
7 disability and accidental death benefits in such
8 contracts, the 1971 Individual Annuity Mortality Table,
9 any individual annuity mortality table adopted after 1980
10 by the NAIC and approved by regulations promulgated by the
11 Director for use in determining the minimum standard of
12 valuation for such contracts, or any modification of those
13 tables approved by the Director, and 5 1/2% interest for
14 single premium deferred annuity and pure endowment
15 contracts and 4 1/2% interest for all other such
16 individual annuity and pure endowment contracts.

17 (c) For all annuities and pure endowments purchased
18 under group annuity and pure endowment contracts,
19 excluding any disability and accidental death benefits
20 purchased under such contracts, the 1971 Group Annuity
21 Mortality Table, any group annuity mortality table adopted
22 after 1980 by the NAIC and approved by regulations
23 promulgated by the Director for use in determining the
24 minimum standard of valuation for such annuities and pure
25 endowments, or any modification of those tables approved
26 by the Director, and 7 1/2% interest.

1 After September 8, 1977, any company may file with the
2 Director a written notice of its election to comply with the
3 provisions of this subsection after a specified date before
4 January 1, 1979, which shall be the operative date of this
5 subsection for such company; provided, a company may elect a
6 different operative date for individual annuity and pure
7 endowment contracts from that elected for group annuity and
8 pure endowment contracts. If a company makes no election, the
9 operative date of this subsection for such company shall be
10 January 1, 1979.

11 (5) This subsection shall apply to all annuity and pure
12 endowment contracts other than group annuity and pure
13 endowment contracts purchased under a retirement plan or plan
14 of deferred compensation, established or maintained by an
15 employer (including a partnership or sole proprietorship) or
16 by an employee organization, or by both, other than a plan
17 providing individual retirement accounts or individual
18 retirement annuities under Section 408 of the Internal Revenue
19 Code, as now or hereafter amended.

20 Reserves according to the Commissioners annuity reserve
21 method for benefits under annuity or pure endowment contracts,
22 excluding any disability and accidental death benefits in such
23 contracts, shall be the greatest of the respective excesses of
24 the present values, at the date of valuation, of the future
25 guaranteed benefits, including guaranteed nonforfeiture
26 benefits, provided for by such contracts at the end of each

1 respective contract year, over the present value, at the date
2 of valuation, of any future valuation considerations derived
3 from future gross considerations, required by the terms of
4 such contract, that become payable prior to the end of such
5 respective contract year. The future guaranteed benefits shall
6 be determined by using the mortality table, if any, and the
7 interest rate, or rates, specified in such contracts for
8 determining guaranteed benefits. The valuation considerations
9 are the portions of the respective gross considerations
10 applied under the terms of such contracts to determine
11 nonforfeiture values.

12 (6) (a) Applicability of this subsection. The interest
13 rates used in determining the minimum standard for the
14 valuation of

15 (A) all life insurance policies issued in a particular
16 calendar year, on or after the operative date of
17 subsection (4c) of Section 229.2 (Standard Nonforfeiture
18 Law),

19 (B) all individual annuity and pure endowment
20 contracts issued in a particular calendar year ending on
21 or after December 31, 1983,

22 (C) all annuities and pure endowments purchased in a
23 particular calendar year ending on or after December 31,
24 1983, under group annuity and pure endowment contracts,
25 and

26 (D) the net increase in a particular calendar year

1 ending after December 31, 1983, in amounts held under
2 guaranteed interest contracts
3 shall be the calendar year statutory valuation interest rates,
4 as defined in this subsection.

5 (b) Calendar Year Statutory Valuation Interest Rates.

6 (i) The calendar year statutory valuation interest
7 rates shall be determined according to the following
8 formulae, rounding "I" to the nearest .25%.

9 (A) For life insurance,

$$10 \quad I = .03 + W (R1 - .03) + W/2 (R2 - .09).$$

11 (B) For single premium immediate annuities and
12 annuity benefits involving life contingencies
13 arising from other annuities with cash settlement
14 options and from guaranteed interest contracts
15 with cash settlement options,

$$16 \quad I = .03 + W (R - .03) \text{ or with prior}$$

17 approval of the Director $I = .03 + W (Rq -$
18 $.03).$

19 For the purposes of this subparagraph (i), "I"
20 equals the calendar year statutory valuation interest
21 rate, "R" is the reference interest rate defined in
22 this subsection, "R1" is the lesser of R and .09, "R2"
23 is the greater of R and .09, "Rq" is the quarterly
24 reference interest rate defined in this subsection,
25 and "W" is the weighting factor defined in this
26 subsection.

1 (C) For other annuities with cash settlement
2 options and guaranteed interest contracts with
3 cash settlement options, valued on an issue year
4 basis, except as stated in (B), the formula for
5 life insurance stated in (A) applies to annuities
6 and guaranteed interest contracts with guarantee
7 durations in excess of 10 years, and the formula
8 for single premium immediate annuities stated in
9 (B) above applies to annuities and guaranteed
10 interest contracts with guarantee durations of 10
11 years or less.

12 (D) For other annuities with no cash
13 settlement options and for guaranteed interest
14 contracts with no cash settlement options, the
15 formula for single premium immediate annuities
16 stated in (B) applies.

17 (E) For other annuities with cash settlement
18 options and guaranteed interest contracts with
19 cash settlement options, valued on a change in
20 fund basis, the formula for single premium
21 immediate annuities stated in (B) applies.

22 (ii) If the calendar year statutory valuation
23 interest rate for any life insurance policy issued in
24 any calendar year determined without reference to this
25 subparagraph differs from the corresponding actual
26 rate for similar policies issued in the immediately

1 preceding calendar year by less than .5%, the calendar
2 year statutory valuation interest rate for such life
3 insurance policy shall be the corresponding actual
4 rate for the immediately preceding calendar year. For
5 purposes of applying this subparagraph, the calendar
6 year statutory valuation interest rate for life
7 insurance policies issued in a calendar year shall be
8 determined for 1980, using the reference interest rate
9 defined for 1979, and shall be determined for each
10 subsequent calendar year regardless of when subsection
11 (4c) of Section 229.2 (Standard Nonforfeiture Law)
12 becomes operative.

13 (c) Weighting Factors.

14 (i) The weighting factors referred to in the
15 formulae stated in paragraph (b) are given in the
16 following tables.

17 (A) Weighting Factors for Life Insurance.

18 Guarantee	19 Weighting
20 Duration	20 Factors
20 (Years)	
21 10 or less	.50
22 More than 10, but not more than 20	.45
23 More than 20	.35

24 For life insurance, the guarantee duration is
25 the maximum number of years the life insurance can
26 remain in force on a basis guaranteed in the

1 policy or under options to convert to plans of
 2 life insurance with premium rates or nonforfeiture
 3 values or both which are guaranteed in the
 4 original policy.

5 (B) The weighting factor for single premium
 6 immediate annuities and for annuity benefits
 7 involving life contingencies arising from other
 8 annuities with cash settlement options and
 9 guaranteed interest contracts with cash settlement
 10 options is .80.

11 (C) The weighting factors for other annuities
 12 and for guaranteed interest contracts, except as
 13 stated in (B) of this subparagraph (i), shall be
 14 as specified in tables (1), (2), and (3) of this
 15 subpart (C), according to the rules and
 16 definitions in (4), (5) and (6) of this subpart
 17 (C).

18 (1) For annuities and guaranteed interest
 19 contracts valued on an issue year basis.

20 Guarantee	Weighting Factor		
21 Duration	for Plan Type		
22 (Years)	A	B	C
23 5 or less80	.60	.50
24 More than 5, but not			
25 more than 1075	.60	.50
26 More than 10, but not			

1 more than 2065 .50 .45

2 More than 2045 .35 .35

3 (2) For annuities and guaranteed interest
4 contracts valued on a change in fund basis,
5 the factors shown in (1) for Plan Types A, B
6 and C are increased by .15, .25 and .05,
7 respectively.

8 (3) For annuities and guaranteed interest
9 contracts valued on an issue year basis, other
10 than those with no cash settlement options,
11 which do not guarantee interest on
12 considerations received more than one year
13 after issue or purchase, and for annuities and
14 guaranteed interest contracts valued on a
15 change in fund basis which do not guarantee
16 interest rates on considerations received more
17 than 12 months beyond the valuation date, the
18 factors shown in (1), or derived in (2), for
19 Plan Types A, B and C are increased by .05.

20 (4) For other annuities with cash
21 settlement options and guaranteed interest
22 contracts with cash settlement options, the
23 guarantee duration is the number of years for
24 which the contract guarantees interest rates
25 in excess of the calendar year statutory
26 valuation interest rate for life insurance

1 policies with guarantee durations in excess of
2 20 years. For other annuities with no cash
3 settlement options, and for guaranteed
4 interest contracts with no cash settlement
5 options, the guarantee duration is the number
6 of years from the date of issue or date of
7 purchase to the date annuity benefits are
8 scheduled to commence.

9 (5) The plan types used in the above
10 tables are defined as follows.

11 Plan Type A is a plan under which the
12 policyholder may not withdraw funds, or may
13 withdraw funds at any time but only (a) with
14 an adjustment to reflect changes in interest
15 rates or asset values since receipt of the
16 funds by the insurance company, (b) without
17 such an adjustment but in installments over 5
18 years or more, or (c) as an immediate life
19 annuity.

20 Plan Type B is a plan under which the
21 policyholder may not withdraw funds before
22 expiration of the interest rate guarantee, or
23 may withdraw funds before such expiration but
24 only (a) with an adjustment to reflect changes
25 in interest rates or asset values since
26 receipt of the funds by the insurance company,

1 or (b) without such adjustment but in
2 installments over 5 years or more. At the end
3 of the interest rate guarantee, funds may be
4 withdrawn without such adjustment in a single
5 sum or installments over less than 5 years.

6 Plan Type C is a plan under which the
7 policyholder may withdraw funds before
8 expiration of the interest rate guarantee in a
9 single sum or installments over less than 5
10 years either (a) without adjustment to reflect
11 changes in interest rates or asset values
12 since receipt of the funds by the insurance
13 company, or (b) subject only to a fixed
14 surrender charge stipulated in the contract as
15 a percentage of the fund.

16 (6) A company may elect to value
17 guaranteed interest contracts with cash
18 settlement options and annuities with cash
19 settlement options on either an issue year
20 basis or on a change in fund basis. Guaranteed
21 interest contracts with no cash settlement
22 options and other annuities with no cash
23 settlement options shall be valued on an issue
24 year basis. As used in this Section, "issue
25 year basis of valuation" refers to a valuation
26 basis under which the interest rate used to

1 determine the minimum valuation standard for
2 the entire duration of the annuity or
3 guaranteed interest contract is the calendar
4 year valuation interest rate for the year of
5 issue or year of purchase of the annuity or
6 guaranteed interest contract. "Change in fund
7 basis of valuation", as used in this Section,
8 refers to a valuation basis under which the
9 interest rate used to determine the minimum
10 valuation standard applicable to each change
11 in the fund held under the annuity or
12 guaranteed interest contract is the calendar
13 year valuation interest rate for the year of
14 the change in the fund.

15 (d) Reference Interest Rate. The reference interest
16 rate referred to in paragraph (b) of this subsection is
17 defined as follows.

18 (A) For all life insurance, the reference interest
19 rate is the lesser of the average over a period of 36
20 months, and the average over a period of 12 months,
21 with both periods ending on June 30, or with prior
22 approval of the Director ending on December 31, of the
23 calendar year next preceding the year of issue, of
24 Moody's Corporate Bond Yield Average - Monthly Average
25 Corporates, as published by Moody's Investors Service,
26 Inc.

1 (B) For single premium immediate annuities and for
2 annuity benefits involving life contingencies arising
3 from other annuities with cash settlement options and
4 guaranteed interest contracts with cash settlement
5 options, the reference interest rate is the average
6 over a period of 12 months, ending on June 30, or with
7 prior approval of the Director ending on December 31,
8 of the calendar year of issue or year of purchase, of
9 Moody's Corporate Bond Yield Average - Monthly Average
10 Corporates, as published by Moody's Investors Service,
11 Inc.

12 (C) For annuities with cash settlement options and
13 guaranteed interest contracts with cash settlement
14 options, valued on a year of issue basis, except those
15 described in (B), with guarantee durations in excess
16 of 10 years, the reference interest rate is the lesser
17 of the average over a period of 36 months and the
18 average over a period of 12 months, ending on June 30,
19 or with prior approval of the Director ending on
20 December 31, of the calendar year of issue or
21 purchase, of Moody's Corporate Bond Yield
22 Average-Monthly Average Corporates, as published by
23 Moody's Investors Service, Inc.

24 (D) For other annuities with cash settlement
25 options and guaranteed interest contracts with cash
26 settlement options, valued on a year of issue basis,

1 except those described in (B), with guarantee
2 durations of 10 years or less, the reference interest
3 rate is the average over a period of 12 months, ending
4 on June 30, or with prior approval of the Director
5 ending on December 31, of the calendar year of issue or
6 purchase, of Moody's Corporate Bond Yield
7 Average-Monthly Average Corporates, as published by
8 Moody's Investors Service, Inc.

9 (E) For annuities with no cash settlement options
10 and for guaranteed interest contracts with no cash
11 settlement options, the reference interest rate is the
12 average over a period of 12 months, ending on June 30,
13 or with prior approval of the Director ending on
14 December 31, of the calendar year of issue or
15 purchase, of Moody's Corporate Bond Yield
16 Average-Monthly Average Corporates, as published by
17 Moody's Investors Service, Inc.

18 (F) For annuities with cash settlement options and
19 guaranteed interest contracts with cash settlement
20 options, valued on a change in fund basis, except
21 those described in (B), the reference interest rate is
22 the average over a period of 12 months, ending on June
23 30, or with prior approval of the Director ending on
24 December 31, of the calendar year of the change in the
25 fund, of Moody's Corporate Bond Yield Average-Monthly
26 Average Corporates, as published by Moody's Investors

1 Service, Inc.

2 (G) For annuities valued by a formula based on R_q ,
3 the quarterly reference interest rate is, with the
4 prior approval of the Director, the average within
5 each of the 4 consecutive calendar year quarters
6 ending on March 31, June 30, September 30 and December
7 31 of the calendar year of issue or year of purchase of
8 Moody's Corporate Bond Yield Average-Monthly Average
9 Corporates, as published by Moody's Investors Service,
10 Inc.

11 (e) Alternative Method for Determining Reference
12 Interest Rates. In the event that the Moody's Corporate
13 Bond Yield Average-Monthly Average Corporates is no longer
14 published by Moody's Investors Services, Inc., or in the
15 event that the NAIC determines that Moody's Corporate Bond
16 Yield Average-Monthly Average Corporates as published by
17 Moody's Investors Service, Inc. is no longer appropriate
18 for the determination of the reference interest rate, then
19 an alternative method for determination of the reference
20 interest rate, which is adopted by the NAIC and approved
21 by regulations promulgated by the Director, may be
22 substituted.

23 (7) Minimum Standards for Accident and Health (Disability,
24 Accident and Sickness) Insurance Contracts. The Director shall
25 promulgate a regulation containing the minimum standards
26 applicable to the valuation of health (disability, sickness

1 and accident) plans which are issued prior to the operative
2 date of the Valuation Manual. For accident and health
3 (disability, accident and sickness) insurance contracts issued
4 on or after the operative date of the Valuation Manual, the
5 standard prescribed in the Valuation Manual is the minimum
6 standard of valuation required under subsection (1).

7 (8) Valuation Manual for Policies Issued On or After the
8 Operative Date of the Valuation Manual.

9 (a) For policies issued on or after the operative date
10 of the Valuation Manual, the standard prescribed in the
11 Valuation Manual is the minimum standard of valuation
12 required under subsection (1), except as provided under
13 paragraphs (e) or (g) of this subsection (8).

14 (b) The operative date of the Valuation Manual is
15 January 1 of the first calendar year following the first
16 July 1 when all of the following have occurred:

17 (i) The Valuation Manual has been adopted by the
18 NAIC by an affirmative vote of at least 42 members, or
19 three-fourths of the members voting, whichever is
20 greater.

21 (ii) The Standard Valuation Law, as amended by the
22 NAIC in 2009, or legislation including substantially
23 similar terms and provisions, has been enacted by
24 states representing greater than 75% of the direct
25 premiums written as reported in the following annual
26 statements submitted for 2008: life, accident and

1 health annual statements; health annual statements; or
2 fraternal annual statements.

3 (iii) The Standard Valuation Law, as amended by
4 the NAIC in 2009, or legislation including
5 substantially similar terms and provisions, has been
6 enacted by at least 42 of the following 55
7 jurisdictions: the 50 states of the United States,
8 American Samoa, the American Virgin Islands, the
9 District of Columbia, Guam, and Puerto Rico.

10 (c) Unless a change in the Valuation Manual specifies
11 a later effective date, changes to the Valuation Manual
12 shall be effective on January 1 following the date when
13 the change to the Valuation Manual has been adopted by the
14 NAIC by an affirmative vote representing:

15 (i) at least three-fourths of the members of the
16 NAIC voting, but not less than a majority of the total
17 membership; and

18 (ii) members of the NAIC representing
19 jurisdictions totaling greater than 75% of the direct
20 premiums written as reported in the following annual
21 statements most recently available prior to the vote
22 in subparagraph (i) of this paragraph (c): life,
23 accident and health annual statements; health annual
24 statements; or fraternal annual statements.

25 (d) The Valuation Manual must specify all of the
26 following:

1 (i) Minimum valuation standards for and
2 definitions of the policies or contracts subject to
3 subsection (1). Such minimum valuation standards shall
4 be:

5 (A) the Commissioners reserve valuation method
6 for life insurance contracts, other than annuity
7 contracts, subject to subsection (1);

8 (B) the Commissioners annuity reserve
9 valuation method for annuity contracts subject to
10 subsection (1); and

11 (C) minimum reserves for all other policies or
12 contracts subject to subsection (1).

13 (ii) Which policies or contracts or types of
14 policies or contracts are subject to the requirements
15 of a principle-based valuation in paragraph (a) of
16 subsection (9) and the minimum valuation standards
17 consistent with those requirements.

18 (iii) For policies and contracts subject to a
19 principle-based valuation under subsection (9):

20 (A) Requirements for the format of reports to
21 the Director under subparagraph (iii) of paragraph
22 (b) of subsection (9), and which shall include
23 information necessary to determine if the
24 valuation is appropriate and in compliance with
25 this Section.

26 (B) Assumptions shall be prescribed for risks

1 over which the company does not have significant
2 control or influence.

3 (C) Procedures for corporate governance and
4 oversight of the actuarial function, and a process
5 for appropriate waiver or modification of such
6 procedures.

7 (iv) For policies not subject to a principle-based
8 valuation under subsection (9), the minimum valuation
9 standard shall either:

10 (A) be consistent with the minimum standard of
11 valuation prior to the operative date of the
12 Valuation Manual; or

13 (B) develop reserves that quantify the
14 benefits and guarantees and the funding associated
15 with the contracts and their risks at a level of
16 conservatism that reflects conditions that include
17 unfavorable events that have a reasonable
18 probability of occurring.

19 (v) Other requirements, including, but not limited
20 to, those relating to reserve methods, models for
21 measuring risk, generation of economic scenarios,
22 assumptions, margins, use of company experience, risk
23 measurement, disclosure, certifications, reports,
24 actuarial opinions and memorandums, transition rules,
25 and internal controls.

26 (vi) The data and form of the data required under

1 subsection (10) of this Section, with whom the data
2 must be submitted, and may specify other requirements,
3 including data analyses and the reporting of analyses.

4 (e) In the absence of a specific valuation requirement
5 or if a specific valuation requirement in the Valuation
6 Manual is not, in the opinion of the Director, in
7 compliance with this Section, then the company shall, with
8 respect to such requirements, comply with minimum
9 valuation standards prescribed by the Director by rule.

10 (f) The Director may engage a qualified actuary, at
11 the expense of the company, to perform an actuarial
12 examination of the company and opine on the
13 appropriateness of any reserve assumption or method used
14 by the company, or to review and opine on a company's
15 compliance with any requirement set forth in this Section.
16 The Director may rely upon the opinion regarding
17 provisions contained within this Section of a qualified
18 actuary engaged by the Director of another state,
19 district, or territory of the United States. As used in
20 this paragraph, "engage" includes employment and
21 contracting.

22 (g) The Director may require a company to change any
23 assumption or method that in the opinion of the Director
24 is necessary in order to comply with the requirements of
25 the Valuation Manual or this Section; and the company
26 shall adjust the reserves as required by the Director. The

1 Director may take other disciplinary action as permitted
2 pursuant to law.

3 (9) Requirements of a Principle-Based Valuation.

4 (a) A company must establish reserves using a
5 principle-based valuation that meets the following
6 conditions for policies or contracts as specified in the
7 Valuation Manual:

8 (i) Quantify the benefits and guarantees, and the
9 funding, associated with the contracts and their risks
10 at a level of conservatism that reflects conditions
11 that include unfavorable events that have a reasonable
12 probability of occurring during the lifetime of the
13 contracts. For policies or contracts with significant
14 tail risk, reflect conditions appropriately adverse to
15 quantify the tail risk.

16 (ii) Incorporate assumptions, risk analysis
17 methods, and financial models and management
18 techniques that are consistent with, but not
19 necessarily identical to, those utilized within the
20 company's overall risk assessment process, while
21 recognizing potential differences in financial
22 reporting structures and any prescribed assumptions or
23 methods.

24 (iii) Incorporate assumptions that are derived in
25 one of the following manners:

26 (A) The assumption is prescribed in the

1 Valuation Manual.

2 (B) For assumptions that are not prescribed,
3 the assumptions shall:

4 (1) be established utilizing the company's
5 available experience, to the extent it is
6 relevant and statistically credible; or

7 (2) to the extent that company data is not
8 available, relevant, or statistically
9 credible, be established utilizing other
10 relevant, statistically credible experience.

11 (iv) Provide margins for uncertainty, including
12 adverse deviation and estimation error, such that the
13 greater the uncertainty, the larger the margin and
14 resulting reserve.

15 (b) A company using a principle-based valuation for
16 one or more policies or contracts subject to this
17 subsection as specified in the Valuation Manual shall:

18 (i) Establish procedures for corporate governance
19 and oversight of the actuarial valuation function
20 consistent with those described in the Valuation
21 Manual.

22 (ii) Provide to the Director and the board of
23 directors an annual certification of the effectiveness
24 of the internal controls with respect to the
25 principle-based valuation. Such controls shall be
26 designed to ensure that all material risks inherent in

1 the liabilities and associated assets subject to such
2 valuation are included in the valuation, and that
3 valuations are made in accordance with the Valuation
4 Manual. The certification shall be based on the
5 controls in place as of the end of the preceding
6 calendar year.

7 (iii) Develop and file with the Director upon
8 request a principle-based valuation report that
9 complies with standards prescribed in the Valuation
10 Manual.

11 (c) A principle-based valuation may include a
12 prescribed formulaic reserve component.

13 (10) Experience Reporting for Policies In Force On or
14 After the Operative Date of the Valuation Manual. A company
15 shall submit mortality, morbidity, policyholder behavior, or
16 expense experience and other data as prescribed in the
17 Valuation Manual.

18 (11) Confidentiality.

19 (a) For the purposes of this subsection (11),
20 "confidential information" means any of the following:

21 (i) A memorandum in support of an opinion
22 submitted under subsection (1) of this Section and any
23 other documents, materials, and other information,
24 including, but not limited to, all working papers, and
25 copies thereof, created, produced or obtained by or
26 disclosed to the Director or any other person in

1 connection with the memorandum.

2 (ii) All documents, materials, and other
3 information, including, but not limited to, all
4 working papers, and copies thereof, created, produced,
5 or obtained by or disclosed to the Director or any
6 other person in the course of an examination made
7 under paragraph (f) of subsection (8) of this Section.

8 (iii) Any reports, documents, materials, and other
9 information developed by a company in support of, or
10 in connection with, an annual certification by the
11 company under subparagraph (ii) of paragraph (b) of
12 subsection (9) of this Section evaluating the
13 effectiveness of the company's internal controls with
14 respect to a principle-based valuation and any other
15 documents, materials, and other information,
16 including, but not limited to, all working papers, and
17 copies thereof, created, produced, or obtained by or
18 disclosed to the Director or any other person in
19 connection with such reports, documents, materials,
20 and other information.

21 (iv) Any principle-based valuation report
22 developed under subparagraph (iii) of paragraph (b) of
23 subsection (9) of this Section and any other
24 documents, materials and other information, including,
25 but not limited to, all working papers, and copies
26 thereof, created, produced or obtained by or disclosed

1 to the Director or any other person in connection with
2 such report.

3 (v) Any documents, materials, data, and other
4 information submitted by a company under subsection
5 (10) of this Section (collectively, "experience data")
6 and any other documents, materials, data, and other
7 information, including, but not limited to, all
8 working papers, and copies thereof, created or
9 produced in connection with such experience data, in
10 each case that include any potentially
11 company-identifying or personally identifiable
12 information, that is provided to or obtained by the
13 Director (together with any experience data, the
14 "experience materials") and any other documents,
15 materials, data and other information, including, but
16 not limited to, all working papers and copies thereof,
17 created, produced, or obtained by or disclosed to the
18 Director or any other person in connection with such
19 experience materials.

20 (b) Privilege for and Confidentiality of Confidential
21 Information.

22 (i) Except as provided in this subsection (11), a
23 company's confidential information is confidential by
24 law and privileged, and shall not be subject to the
25 Freedom of Information Act, subpoena, or discovery or
26 admissible as evidence in any private civil action;

1 however, the Director is authorized to use the
2 confidential information in the furtherance of any
3 regulatory or legal action brought against the company
4 as a part of the Director's official duties.

5 (ii) Neither the Director nor any person who
6 received confidential information while acting under
7 the authority of the Director shall be permitted or
8 required to testify in any private civil action
9 concerning any confidential information.

10 (iii) In order to assist in the performance of the
11 Director's duties, the Director may share confidential
12 information (A) with other state, federal, and
13 international regulatory agencies and with the NAIC
14 and its affiliates and subsidiaries and (B) in the
15 case of confidential information specified in
16 subparagraphs (i) and (iv) of paragraph (a) of
17 subsection (11) only, with the Actuarial Board for
18 Counseling and Discipline or its successor upon
19 request stating that the confidential information is
20 required for the purpose of professional disciplinary
21 proceedings and with state, federal, and international
22 law enforcement officials; in the case of (A) and (B),
23 provided that such recipient agrees and has the legal
24 authority to agree, to maintain the confidentiality
25 and privileged status of such documents, materials,
26 data, and other information in the same manner and to

1 the same extent as required for the Director.

2 (iv) The Director may receive documents,
3 materials, data, and other information, including
4 otherwise confidential and privileged documents,
5 materials, data, or information, from the NAIC and its
6 affiliates and subsidiaries, from regulatory or law
7 enforcement officials of other foreign or domestic
8 jurisdictions, and from the Actuarial Board for
9 Counseling and Discipline or its successor and shall
10 maintain as confidential or privileged any document,
11 material, data, or other information received with
12 notice or the understanding that it is confidential or
13 privileged under the laws of the jurisdiction that is
14 the source of the document, material, or other
15 information.

16 (v) The Director may enter into agreements
17 governing the sharing and use of information
18 consistent with paragraph (b) of this subsection (11).

19 (vi) No waiver of any applicable privilege or
20 claim of confidentiality in the confidential
21 information shall occur as a result of disclosure to
22 the Director under this subsection (11) or as a result
23 of sharing as authorized in subparagraph (iii) of
24 paragraph (b) of this subsection (11).

25 (vii) A privilege established under the law of any
26 state or jurisdiction that is substantially similar to

1 the privilege established under paragraph (b) of this
2 subsection (11) shall be available and enforced in any
3 proceeding in and in any court of this State.

4 (viii) In this subsection (11), "regulatory
5 agency", "law enforcement agency", and "NAIC" include,
6 but are not limited to, their employees, agents,
7 consultants, and contractors.

8 (c) Notwithstanding paragraph (b) of this subsection
9 (11), any confidential information specified in
10 subparagraphs (i) and (iv) of paragraph (a) of this
11 subsection (11):

12 (i) may be subject to subpoena for the purpose of
13 defending an action seeking damages from the appointed
14 actuary submitting the related memorandum in support
15 of an opinion submitted under subsection (1) of this
16 Section or principle-based valuation report developed
17 under subparagraph (iii) of paragraph (b) of
18 subsection (9) of this Section by reason of an action
19 required by this Section or by regulations promulgated
20 under this Section;

21 (ii) may otherwise be released by the Director
22 with the written consent of the company; and

23 (iii) once any portion of a memorandum in support
24 of an opinion submitted under subsection (1) of this
25 Section or a principle-based valuation report
26 developed under subparagraph (iii) of paragraph (b) of

1 subsection (9) of this Section is cited by the company
2 in its marketing or is publicly volunteered to or
3 before a governmental agency other than a state
4 insurance department or is released by the company to
5 the news media, all portions of such memorandum or
6 report shall no longer be confidential.

7 (12) Exemptions.

8 (a) The Director may exempt specific product forms or
9 product lines of a domestic company that is licensed and
10 doing business only in Illinois from the requirements of
11 subsection (8) of this Section, provided that:

12 (i) the Director has issued an exemption in
13 writing to the company and has not subsequently
14 revoked the exemption in writing; and

15 (ii) the company computes reserves using
16 assumptions and methods used prior to the operative
17 date of the Valuation Manual in addition to any
18 requirements established by the Director and adopted
19 by rule.

20 (b) For any company granted an exemption under this
21 subsection, subsections (1), (2), (3), (4), (5), (6), and
22 (7) shall be applicable. With respect to any company
23 applying this exemption, any reference to subsection (8)
24 found in subsections (1), (2), (3), (4), (5), (6), and (7)
25 shall not be applicable.

26 (13) Definitions. For the purposes of this Section, the

1 following definitions shall apply beginning on the operative
2 date of the Valuation Manual:

3 "Accident and health insurance" means contracts that
4 incorporate morbidity risk and provide protection against
5 economic loss resulting from accident, sickness, or medical
6 conditions and as may be specified in the Valuation Manual.

7 "Appointed actuary" means a qualified actuary who is
8 appointed in accordance with the Valuation Manual to prepare
9 the actuarial opinion required in paragraph (b) of subsection
10 (1) of this Section.

11 "Company" means an entity that (a) has written, issued, or
12 reinsured life insurance contracts, accident and health
13 insurance contracts, or deposit-type contracts in this State
14 and has at least one such policy in force or on claim or (b)
15 has written, issued, or reinsured life insurance contracts,
16 accident and health insurance contracts, or deposit-type
17 contracts in any state and is required to hold a certificate of
18 authority to write life insurance, accident and health
19 insurance, or deposit-type contracts in this State.

20 "Deposit-type contract" means contracts that do not
21 incorporate mortality or morbidity risks and as may be
22 specified in the Valuation Manual.

23 "Life insurance" means contracts that incorporate
24 mortality risk, including annuity and pure endowment
25 contracts, and as may be specified in the Valuation Manual.

26 "NAIC" means the National Association of Insurance

1 Commissioners.

2 "Policyholder behavior" means any action a policyholder,
3 contract holder, or any other person with the right to elect
4 options, such as a certificate holder, may take under a policy
5 or contract subject to this Section including, but not limited
6 to, lapse, withdrawal, transfer, deposit, premium payment,
7 loan, annuitization, or benefit elections prescribed by the
8 policy or contract, but excluding events of mortality or
9 morbidity that result in benefits prescribed in their
10 essential aspects by the terms of the policy or contract.

11 "Principle-based valuation" means a reserve valuation that
12 uses one or more methods or one or more assumptions determined
13 by the insurer and is required to comply with subsection (9) of
14 this Section as specified in the Valuation Manual.

15 "Qualified actuary" means an individual who is qualified
16 to sign the applicable statement of actuarial opinion in
17 accordance with the American Academy of Actuaries
18 qualification standards for actuaries signing such statements
19 and who meets the requirements specified in the Valuation
20 Manual.

21 "Tail risk" means a risk that occurs either where the
22 frequency of low probability events is higher than expected
23 under a normal probability distribution or where there are
24 observed events of very significant size or magnitude.

25 "Valuation Manual" means the manual of valuation
26 instructions adopted by the NAIC as specified in this Section

1 or as subsequently amended.

2 (Source: P.A. 99-162, eff. 1-1-16.)

3 (215 ILCS 5/241) (from Ch. 73, par. 853)

4 Sec. 241. Trust settlements.

5 Any domestic life company shall have the power to hold the
6 proceeds of any policy issued by it under a trust or other
7 agreement upon such terms and restrictions as to revocation by
8 the policyholder and control by beneficiaries, and with such
9 exemptions from the claims of creditors of beneficiaries other
10 than the policyholder as shall have been agreed to in writing
11 by such company and the policyholder. Upon maturity of a
12 policy in the event the policyholder has made no such
13 agreement, the company shall have power to hold the proceeds
14 of the policy under an agreement with the beneficiaries. Such
15 company shall not be required to segregate funds so held but
16 may hold them as part of its general company assets. A foreign
17 or non-domestic ~~alien~~ company, when authorized by its charter
18 or the laws of its domicile, may exercise any such powers in
19 this State.

20 (Source: Laws 1937, p. 696.)

21 (215 ILCS 5/292.1) (from Ch. 73, par. 904.1)

22 (Section scheduled to be repealed on January 1, 2027)

23 Sec. 292.1. Amendments to Laws.

24 (a) A domestic society may amend its laws in accordance

1 with the provisions thereof by action of its supreme governing
2 body at any regular or special meeting thereof or, if its laws
3 so provide, by referendum. Such referendum may be held in
4 accordance with the provisions of its laws by the vote of the
5 voting members of the society, by the vote of delegates or
6 representatives of voting members or by the vote of local
7 lodges. A society may provide for voting by mail. No amendment
8 submitted for adoption by referendum shall be adopted unless,
9 within 6 months from the date of submission thereof, a
10 majority of the members voting shall have signified their
11 consent to such amendment by one of the methods herein
12 specified.

13 (b) No amendment to the laws of any domestic society shall
14 take effect unless approved by the Director, who shall approve
15 such amendment if the Director finds that it has been duly
16 adopted and is not inconsistent with any requirement of the
17 laws of this State or with the character, objects and purposes
18 of the society. Unless the Director shall disapprove any such
19 amendment within 60 days after the filing of same, such
20 amendment shall be considered approved. The approval or
21 disapproval of the Director shall be in writing and mailed to
22 the society. In case the Director disapproves such amendment,
23 the reasons therefor shall be stated in such written notice.

24 (c) Within 90 days from the approval thereof by the
25 Director, all such amendments, or a synopsis thereof, shall be
26 furnished to all members of the society either by mail or by

1 publication in full in the official publication of the
2 society. The affidavit of any officer of the society or of
3 anyone authorized by it to mail any amendments or synopsis
4 thereof, stating facts which show that same have been duly
5 addressed and mailed, shall be prima facie evidence that such
6 amendments, or a synopsis thereof, have been furnished the
7 addressee.

8 (d) Every foreign or non-domestic ~~alien~~ society authorized
9 to do business in this State shall file with the Director a
10 certified copy of all amendments of, or additions to, its laws
11 within 90 days after the enactment of same.

12 (e) Printed copies of the laws as amended, certified by
13 the secretary or corresponding officer of the society, shall
14 be prima facie evidence of the legal adoption thereof.

15 (Source: P.A. 84-303.)

16 (215 ILCS 5/302.1) (from Ch. 73, par. 914.1)

17 (Section scheduled to be repealed on January 1, 2027)

18 Sec. 302.1. Investments and admitted assets. A domestic
19 society shall invest its funds only in such investments as are
20 authorized by the laws of this State for the investment of
21 assets of life insurers and subject to the limitations
22 thereon. Any foreign or non-domestic ~~alien~~ society permitted
23 or seeking to do business in this State which invests its funds
24 in accordance with the laws of the state, district, territory,
25 country or province in which it is incorporated shall be held

1 to meet the requirements of this Section for the investment of
2 funds. Admitted assets in addition to investments authorized
3 by this Section and Article VIII and Article VIII 1/2 of this
4 Code shall be in accordance with Section 3.1 of this Code.

5 (Source: P.A. 84-303.)

6 (215 ILCS 5/308.1) (from Ch. 73, par. 920.1)

7 (Section scheduled to be repealed on January 1, 2027)

8 Sec. 308.1. Examination of societies - adverse
9 publications.

10 (a) The Director, or any person he or she may appoint, may
11 examine any domestic, foreign or non-domestic ~~alien~~ society
12 transacting or applying for admission to transact business in
13 this State in the same manner as authorized for examination of
14 domestic, foreign or non-domestic ~~alien~~ insurance companies.
15 Requirements of notice and an opportunity to respond before
16 findings are made public as provided in the laws regulating
17 insurance companies shall also be applicable to the
18 examination of societies.

19 (b) The expense of each examination and of each valuation,
20 including compensation and actual expense of examiners, shall
21 be paid by the society examined or whose certificates are
22 valued, upon statements furnished by the Director.

23 (Source: P.A. 84-303.)

24 (215 ILCS 5/309.1) (from Ch. 73, par. 921.1)

1 (Section scheduled to be repealed on January 1, 2027)

2 Sec. 309.1. Foreign or non-domestic ~~alien~~ society -
3 admission. No foreign or non-domestic ~~alien~~ society shall
4 transact business in this State without a certificate of
5 authority issued by the Director in accordance with Article VI
6 of this Code. Any such society desiring admission to this
7 State shall comply substantially with the requirements and
8 limitations of this amendatory Act applicable to domestic
9 societies.

10 (Source: P.A. 84-303.)

11 (215 ILCS 5/310.1) (from Ch. 73, par. 922.1)

12 (Section scheduled to be repealed on January 1, 2027)

13 Sec. 310.1. Suspension, revocation or refusal to renew
14 certificate of authority.

15 (a) Domestic Societies. When, upon investigation, the
16 Director is satisfied that any domestic society transacting
17 business under this amendatory Act has exceeded its powers or
18 has failed to comply with any provisions of this amendatory
19 Act or is conducting business fraudulently or in a way
20 hazardous to its members, creditors or the public or is not
21 carrying out its contracts in good faith, the Director shall
22 notify the society of his or her findings, stating in writing
23 the grounds of his or her dissatisfaction, and, after
24 reasonable notice, require the society on a date named to show
25 cause why its certificate of authority should not be revoked

1 or suspended or why such society should not be fined as
2 hereinafter provided or why the Director should not proceed
3 against the society under Article XIII of this Code. If, on the
4 date named in said notice, such objections have not been
5 removed to the satisfaction of the Director or if the society
6 does not present good and sufficient reasons why its authority
7 to transact business in this State should not at that time be
8 revoked or suspended or why such society should not be fined as
9 hereinafter provided, the Director may revoke the authority of
10 the society to continue business in this State and proceed
11 against the society under Article XIII of this Code or suspend
12 such certificate of authority for any period of time up to, but
13 not to exceed, 2 years; or may by order require such society to
14 pay to the people of the State of Illinois a penalty in a sum
15 not exceeding \$10,000, and, upon the failure of such society
16 to pay such penalty within 20 days after the mailing of such
17 order, postage prepaid, registered and addressed to the last
18 known place of business of such society, unless such order is
19 stayed by an order of a court of competent jurisdiction, the
20 Director may revoke or suspend the license of such society for
21 any period of time up to, but not exceeding, a period of 2
22 years.

23 (b) Foreign or non-domestic ~~alien~~ societies. The Director
24 shall suspend, revoke or refuse to renew certificates of
25 authority in accordance with Article VI of this Code.

26 (Source: P.A. 93-32, eff. 7-1-03.)

1 (215 ILCS 5/357.29) (from Ch. 73, par. 969.29)

2 Sec. 357.29. Any policy of a foreign or non-domestic ~~alien~~
3 company, when delivered or issued for delivery to any person
4 in this State, may contain any provision which is not less
5 favorable to the insured or the beneficiary than the
6 provisions of this article and which is prescribed or required
7 by the law of the state under which the company is organized.

8 Any policy of a domestic company may, when issued for
9 delivery in any other state or country, contain any provision
10 permitted or required by the laws of such other state or
11 country.

12 (Source: Laws 1967, p. 1735.)

13 (215 ILCS 5/370) (from Ch. 73, par. 982)

14 Sec. 370. Policies issued in violation of article-Penalty.

15 (1) Any company, or any officer or agent thereof, issuing
16 or delivering to any person in this State any policy in wilful
17 violation of the provision of this article shall be guilty of a
18 petty offense.

19 (2) The Director may revoke the license of any foreign or
20 non-domestic ~~alien~~ company, or of the agent thereof wilfully
21 violating any provision of this article or suspend such
22 license for any period of time up to, but not to exceed, two
23 years; or may by order require such insurance company or agent
24 to pay to the people of the State of Illinois a penalty in a

1 sum not exceeding \$1,000, and upon the failure of such
2 insurance company or agent to pay such penalty within twenty
3 days after the mailing of such order, postage prepaid,
4 registered, and addressed to the last known place of business
5 of such insurance company or agent, unless such order is
6 stayed by an order of a court of competent jurisdiction, the
7 Director of Insurance may revoke or suspend the license of
8 such insurance company or agent for any period of time up to,
9 but not exceeding a period of, two years.

10 (Source: P.A. 93-32, eff. 7-1-03.)

11 (215 ILCS 5/404) (from Ch. 73, par. 1016)

12 Sec. 404. Office of Director; a public office; destruction
13 or disposal of records, papers, documents, and memoranda.

14 (1) (a) The office of the Director shall be a public office
15 and the records, books, and papers thereof on file therein,
16 except those records or documents containing or disclosing any
17 analysis, opinion, calculation, ratio, recommendation, advice,
18 viewpoint, or estimation by any Department staff regarding the
19 financial or market condition of an insurer not otherwise made
20 part of the public record by the Director, shall be accessible
21 to the inspection of the public, except as the Director, for
22 good reason, may decide otherwise, or except as may be
23 otherwise provided in this Code or as otherwise provided in
24 Section 7 of the Freedom of Information Act.

25 (b) Except where another provision of this Code expressly

1 prohibits a disclosure of confidential information to the
2 specific officials or organizations described in this
3 subsection, the Director may disclose or share any
4 confidential records or information in his custody and control
5 with any insurance regulatory officials of any state or
6 country, with the law enforcement officials of this State, any
7 other state, or the federal government, or with the National
8 Association of Insurance Commissioners, upon the written
9 agreement of the official or organization receiving the
10 information to hold the information or records confidential
11 and in a manner consistent with this Code.

12 (c) The Director shall maintain as confidential any
13 records or information received from the National Association
14 of Insurance Commissioners or insurance regulatory officials
15 of other states which is confidential in that other
16 jurisdiction.

17 (2) Upon the filing of the examination to which they
18 relate, the Director is authorized to destroy or otherwise
19 dispose of all working papers relative to any company which
20 has been examined at any time prior to that last examination by
21 the Department, so that in such circumstances only current
22 working papers of that last examination may be retained by the
23 Department.

24 (3) Five years after the conclusion of the transactions to
25 which they relate, the Director is authorized to destroy or
26 otherwise dispose of all books, records, papers, memoranda and

1 correspondence directly related to consumer complaints or
2 inquiries.

3 (4) Two years after the conclusion of the transactions to
4 which they relate, the Director is authorized to destroy or
5 otherwise dispose of all books, records, papers, memoranda,
6 and correspondence directly related to all void, obsolete, or
7 superseded rate filings and schedules required to be filed by
8 statute; and all individual company rating experience data and
9 all records, papers, documents and memoranda in the possession
10 of the Director relating thereto.

11 (5) Five years after the conclusion of the transactions to
12 which they relate, the Director is authorized to destroy or
13 otherwise dispose of all examination reports of companies made
14 by the insurance supervisory officials of states other than
15 Illinois; applications, requisitions, and requests for
16 licenses; all records of hearings; and all similar records,
17 papers, documents, and memoranda in the possession of the
18 Director.

19 (6) Ten years after the conclusion of the transactions to
20 which they relate, the Director is authorized to destroy or
21 otherwise dispose of all official correspondence of foreign
22 and non-domestic ~~alien~~ companies, all foreign companies' and
23 non-domestic ~~alien~~ companies' annual statements, valuation
24 reports, tax reports, and all similar records, papers,
25 documents and memoranda in the possession of the Director.

26 (7) Whenever any records, papers, documents or memoranda

1 are destroyed or otherwise disposed of pursuant to the
2 provisions of this section, the Director shall execute and
3 file in a separate, permanent office file a certificate
4 listing and setting forth by summary description the records,
5 papers, documents or memoranda so destroyed or otherwise
6 disposed of, and the Director may, in his discretion, preserve
7 copies of any such records, papers, documents or memoranda by
8 means of microfilming or photographing the same.

9 (8) This Section shall apply to records, papers,
10 documents, and memoranda presently in the possession of the
11 Director as well as to records, papers, documents, and
12 memoranda hereafter coming into his possession.

13 (Source: P.A. 97-1004, eff. 8-17-12.)

14 (215 ILCS 5/408) (from Ch. 73, par. 1020)

15 Sec. 408. Fees and charges.

16 (1) The Director shall charge, collect and give proper
17 acquittances for the payment of the following fees and
18 charges:

19 (a) For filing all documents submitted for the
20 incorporation or organization or certification of a
21 domestic company, except for a fraternal benefit society,
22 \$2,000.

23 (b) For filing all documents submitted for the
24 incorporation or organization of a fraternal benefit
25 society, \$500.

1 (c) For filing amendments to articles of incorporation
2 and amendments to declaration of organization, except for
3 a fraternal benefit society, a mutual benefit association,
4 a burial society or a farm mutual, \$200.

5 (d) For filing amendments to articles of incorporation
6 of a fraternal benefit society, a mutual benefit
7 association or a burial society, \$100.

8 (e) For filing amendments to articles of incorporation
9 of a farm mutual, \$50.

10 (f) For filing bylaws or amendments thereto, \$50.

11 (g) For filing agreement of merger or consolidation:

12 (i) for a domestic company, except for a fraternal
13 benefit society, a mutual benefit association, a
14 burial society, or a farm mutual, \$2,000.

15 (ii) for a foreign or non-domestic ~~alien~~ company,
16 except for a fraternal benefit society, \$600.

17 (iii) for a fraternal benefit society, a mutual
18 benefit association, a burial society, or a farm
19 mutual, \$200.

20 (h) For filing agreements of reinsurance by a domestic
21 company, \$200.

22 (i) For filing all documents submitted by a foreign or
23 non-domestic ~~alien~~ company to be admitted to transact
24 business or accredited as a reinsurer in this State,
25 except for a fraternal benefit society, \$5,000.

26 (j) For filing all documents submitted by a foreign or

1 non-domestic ~~alien~~ fraternal benefit society to be
2 admitted to transact business in this State, \$500.

3 (k) For filing declaration of withdrawal of a foreign
4 or non-domestic ~~alien~~ company, \$50.

5 (l) For filing annual statement by a domestic company,
6 except a fraternal benefit society, a mutual benefit
7 association, a burial society, or a farm mutual, \$200.

8 (m) For filing annual statement by a domestic
9 fraternal benefit society, \$100.

10 (n) For filing annual statement by a farm mutual, a
11 mutual benefit association, or a burial society, \$50.

12 (o) For issuing a certificate of authority or renewal
13 thereof except to a foreign fraternal benefit society,
14 \$400.

15 (p) For issuing a certificate of authority or renewal
16 thereof to a foreign fraternal benefit society, \$200.

17 (q) For issuing an amended certificate of authority,
18 \$50.

19 (r) For each certified copy of certificate of
20 authority, \$20.

21 (s) For each certificate of deposit, or valuation, or
22 compliance or surety certificate, \$20.

23 (t) For copies of papers or records per page, \$1.

24 (u) For each certification to copies of papers or
25 records, \$10.

26 (v) For multiple copies of documents or certificates

1 listed in subparagraphs (r), (s), and (u) of paragraph (1)
2 of this Section, \$10 for the first copy of a certificate of
3 any type and \$5 for each additional copy of the same
4 certificate requested at the same time, unless, pursuant
5 to paragraph (2) of this Section, the Director finds these
6 additional fees excessive.

7 (w) For issuing a permit to sell shares or increase
8 paid-up capital:

9 (i) in connection with a public stock offering,
10 \$300;

11 (ii) in any other case, \$100.

12 (x) For issuing any other certificate required or
13 permissible under the law, \$50.

14 (y) For filing a plan of exchange of the stock of a
15 domestic stock insurance company, a plan of
16 demutualization of a domestic mutual company, or a plan of
17 reorganization under Article XII, \$2,000.

18 (z) For filing a statement of acquisition of a
19 domestic company as defined in Section 131.4 of this Code,
20 \$2,000.

21 (aa) For filing an agreement to purchase the business
22 of an organization authorized under the Dental Service
23 Plan Act or the Voluntary Health Services Plans Act or of a
24 health maintenance organization or a limited health
25 service organization, \$2,000.

26 (bb) For filing a statement of acquisition of a

1 foreign or non-domestic ~~alien~~ insurance company as defined
2 in Section 131.12a of this Code, \$1,000.

3 (cc) For filing a registration statement as required
4 in Sections 131.13 and 131.14, the notification as
5 required by Sections 131.16, 131.20a, or 141.4, or an
6 agreement or transaction required by Sections 124.2(2),
7 141, 141a, or 141.1, \$200.

8 (dd) For filing an application for licensing of:

9 (i) a religious or charitable risk pooling trust
10 or a workers' compensation pool, \$1,000;

11 (ii) a workers' compensation service company,
12 \$500;

13 (iii) a self-insured automobile fleet, \$200; or

14 (iv) a renewal of or amendment of any license
15 issued pursuant to (i), (ii), or (iii) above, \$100.

16 (ee) For filing articles of incorporation for a
17 syndicate to engage in the business of insurance through
18 the Illinois Insurance Exchange, \$2,000.

19 (ff) For filing amended articles of incorporation for
20 a syndicate engaged in the business of insurance through
21 the Illinois Insurance Exchange, \$100.

22 (gg) For filing articles of incorporation for a
23 limited syndicate to join with other subscribers or
24 limited syndicates to do business through the Illinois
25 Insurance Exchange, \$1,000.

26 (hh) For filing amended articles of incorporation for

1 a limited syndicate to do business through the Illinois
2 Insurance Exchange, \$100.

3 (ii) For a permit to solicit subscriptions to a
4 syndicate or limited syndicate, \$100.

5 (jj) For the filing of each form as required in
6 Section 143 of this Code, \$50 per form. The fee for
7 advisory and rating organizations shall be \$200 per form.

8 (i) For the purposes of the form filing fee,
9 filings made on insert page basis will be considered
10 one form at the time of its original submission.
11 Changes made to a form subsequent to its approval
12 shall be considered a new filing.

13 (ii) Only one fee shall be charged for a form,
14 regardless of the number of other forms or policies
15 with which it will be used.

16 (iii) Fees charged for a policy filed as it will be
17 issued regardless of the number of forms comprising
18 that policy shall not exceed \$1,500. For advisory or
19 rating organizations, fees charged for a policy filed
20 as it will be issued regardless of the number of forms
21 comprising that policy shall not exceed \$2,500.

22 (iv) The Director may by rule exempt forms from
23 such fees.

24 (kk) For filing an application for licensing of a
25 reinsurance intermediary, \$500.

26 (ll) For filing an application for renewal of a

1 license of a reinsurance intermediary, \$200.

2 (2) When printed copies or numerous copies of the same
3 paper or records are furnished or certified, the Director may
4 reduce such fees for copies if he finds them excessive. He may,
5 when he considers it in the public interest, furnish without
6 charge to state insurance departments and persons other than
7 companies, copies or certified copies of reports of
8 examinations and of other papers and records.

9 (3) The expenses incurred in any performance examination
10 authorized by law shall be paid by the company or person being
11 examined. The charge shall be reasonably related to the cost
12 of the examination including but not limited to compensation
13 of examiners, electronic data processing costs, supervision
14 and preparation of an examination report and lodging and
15 travel expenses. All lodging and travel expenses shall be in
16 accord with the applicable travel regulations as published by
17 the Department of Central Management Services and approved by
18 the Governor's Travel Control Board, except that out-of-state
19 lodging and travel expenses related to examinations authorized
20 under Section 132 shall be in accordance with travel rates
21 prescribed under paragraph 301-7.2 of the Federal Travel
22 Regulations, 41 C.F.R. 301-7.2, for reimbursement of
23 subsistence expenses incurred during official travel. All
24 lodging and travel expenses may be reimbursed directly upon
25 authorization of the Director. With the exception of the
26 direct reimbursements authorized by the Director, all

1 performance examination charges collected by the Department
2 shall be paid to the Insurance Producer Administration Fund,
3 however, the electronic data processing costs incurred by the
4 Department in the performance of any examination shall be
5 billed directly to the company being examined for payment to
6 the Technology Management Revolving Fund.

7 (4) At the time of any service of process on the Director
8 as attorney for such service, the Director shall charge and
9 collect the sum of \$20, which may be recovered as taxable costs
10 by the party to the suit or action causing such service to be
11 made if he prevails in such suit or action.

12 (5) (a) The costs incurred by the Department of Insurance
13 in conducting any hearing authorized by law shall be assessed
14 against the parties to the hearing in such proportion as the
15 Director of Insurance may determine upon consideration of all
16 relevant circumstances including: (1) the nature of the
17 hearing; (2) whether the hearing was instigated by, or for the
18 benefit of a particular party or parties; (3) whether there is
19 a successful party on the merits of the proceeding; and (4) the
20 relative levels of participation by the parties.

21 (b) For purposes of this subsection (5) costs incurred
22 shall mean the hearing officer fees, court reporter fees, and
23 travel expenses of Department of Insurance officers and
24 employees; provided however, that costs incurred shall not
25 include hearing officer fees or court reporter fees unless the
26 Department has retained the services of independent

1 contractors or outside experts to perform such functions.

2 (c) The Director shall make the assessment of costs
3 incurred as part of the final order or decision arising out of
4 the proceeding; provided, however, that such order or decision
5 shall include findings and conclusions in support of the
6 assessment of costs. This subsection (5) shall not be
7 construed as permitting the payment of travel expenses unless
8 calculated in accordance with the applicable travel
9 regulations of the Department of Central Management Services,
10 as approved by the Governor's Travel Control Board. The
11 Director as part of such order or decision shall require all
12 assessments for hearing officer fees and court reporter fees,
13 if any, to be paid directly to the hearing officer or court
14 reporter by the party(s) assessed for such costs. The
15 assessments for travel expenses of Department officers and
16 employees shall be reimbursable to the Director of Insurance
17 for deposit to the fund out of which those expenses had been
18 paid.

19 (d) The provisions of this subsection (5) shall apply in
20 the case of any hearing conducted by the Director of Insurance
21 not otherwise specifically provided for by law.

22 (6) The Director shall charge and collect an annual
23 financial regulation fee from every domestic company for
24 examination and analysis of its financial condition and to
25 fund the internal costs and expenses of the Interstate
26 Insurance Receivership Commission as may be allocated to the

1 State of Illinois and companies doing an insurance business in
2 this State pursuant to Article X of the Interstate Insurance
3 Receivership Compact. The fee shall be the greater fixed
4 amount based upon the combination of nationwide direct premium
5 income and nationwide reinsurance assumed premium income or
6 upon admitted assets calculated under this subsection as
7 follows:

8 (a) Combination of nationwide direct premium income
9 and nationwide reinsurance assumed premium.

10 (i) \$150, if the premium is less than \$500,000 and
11 there is no reinsurance assumed premium;

12 (ii) \$750, if the premium is \$500,000 or more, but
13 less than \$5,000,000 and there is no reinsurance
14 assumed premium; or if the premium is less than
15 \$5,000,000 and the reinsurance assumed premium is less
16 than \$10,000,000;

17 (iii) \$3,750, if the premium is less than
18 \$5,000,000 and the reinsurance assumed premium is
19 \$10,000,000 or more;

20 (iv) \$7,500, if the premium is \$5,000,000 or more,
21 but less than \$10,000,000;

22 (v) \$18,000, if the premium is \$10,000,000 or
23 more, but less than \$25,000,000;

24 (vi) \$22,500, if the premium is \$25,000,000 or
25 more, but less than \$50,000,000;

26 (vii) \$30,000, if the premium is \$50,000,000 or

1 more, but less than \$100,000,000;

2 (viii) \$37,500, if the premium is \$100,000,000 or
3 more.

4 (b) Admitted assets.

5 (i) \$150, if admitted assets are less than
6 \$1,000,000;

7 (ii) \$750, if admitted assets are \$1,000,000 or
8 more, but less than \$5,000,000;

9 (iii) \$3,750, if admitted assets are \$5,000,000 or
10 more, but less than \$25,000,000;

11 (iv) \$7,500, if admitted assets are \$25,000,000 or
12 more, but less than \$50,000,000;

13 (v) \$18,000, if admitted assets are \$50,000,000 or
14 more, but less than \$100,000,000;

15 (vi) \$22,500, if admitted assets are \$100,000,000
16 or more, but less than \$500,000,000;

17 (vii) \$30,000, if admitted assets are \$500,000,000
18 or more, but less than \$1,000,000,000;

19 (viii) \$37,500, if admitted assets are
20 \$1,000,000,000 or more.

21 (c) The sum of financial regulation fees charged to
22 the domestic companies of the same affiliated group shall
23 not exceed \$250,000 in the aggregate in any single year
24 and shall be billed by the Director to the member company
25 designated by the group.

26 (7) The Director shall charge and collect an annual

1 financial regulation fee from every foreign or non-domestic
2 ~~alien~~ company, except fraternal benefit societies, for the
3 examination and analysis of its financial condition and to
4 fund the internal costs and expenses of the Interstate
5 Insurance Receivership Commission as may be allocated to the
6 State of Illinois and companies doing an insurance business in
7 this State pursuant to Article X of the Interstate Insurance
8 Receivership Compact. The fee shall be a fixed amount based
9 upon Illinois direct premium income and nationwide reinsurance
10 assumed premium income in accordance with the following
11 schedule:

12 (a) \$150, if the premium is less than \$500,000 and
13 there is no reinsurance assumed premium;

14 (b) \$750, if the premium is \$500,000 or more, but less
15 than \$5,000,000 and there is no reinsurance assumed
16 premium; or if the premium is less than \$5,000,000 and the
17 reinsurance assumed premium is less than \$10,000,000;

18 (c) \$3,750, if the premium is less than \$5,000,000 and
19 the reinsurance assumed premium is \$10,000,000 or more;

20 (d) \$7,500, if the premium is \$5,000,000 or more, but
21 less than \$10,000,000;

22 (e) \$18,000, if the premium is \$10,000,000 or more,
23 but less than \$25,000,000;

24 (f) \$22,500, if the premium is \$25,000,000 or more,
25 but less than \$50,000,000;

26 (g) \$30,000, if the premium is \$50,000,000 or more,

1 but less than \$100,000,000;

2 (h) \$37,500, if the premium is \$100,000,000 or more.

3 The sum of financial regulation fees under this subsection
4 (7) charged to the foreign or non-domestic ~~alien~~ companies
5 within the same affiliated group shall not exceed \$250,000 in
6 the aggregate in any single year and shall be billed by the
7 Director to the member company designated by the group.

8 (8) Beginning January 1, 1992, the financial regulation
9 fees imposed under subsections (6) and (7) of this Section
10 shall be paid by each company or domestic affiliated group
11 annually. After January 1, 1994, the fee shall be billed by
12 Department invoice based upon the company's premium income or
13 admitted assets as shown in its annual statement for the
14 preceding calendar year. The invoice is due upon receipt and
15 must be paid no later than June 30 of each calendar year. All
16 financial regulation fees collected by the Department shall be
17 paid to the Insurance Financial Regulation Fund. The
18 Department may not collect financial examiner per diem charges
19 from companies subject to subsections (6) and (7) of this
20 Section undergoing financial examination after June 30, 1992.

21 (9) In addition to the financial regulation fee required
22 by this Section, a company undergoing any financial
23 examination authorized by law shall pay the following costs
24 and expenses incurred by the Department: electronic data
25 processing costs, the expenses authorized under Section 131.21
26 and subsection (d) of Section 132.4 of this Code, and lodging

1 and travel expenses.

2 Electronic data processing costs incurred by the
3 Department in the performance of any examination shall be
4 billed directly to the company undergoing examination for
5 payment to the Technology Management Revolving Fund. Except
6 for direct reimbursements authorized by the Director or direct
7 payments made under Section 131.21 or subsection (d) of
8 Section 132.4 of this Code, all financial regulation fees and
9 all financial examination charges collected by the Department
10 shall be paid to the Insurance Financial Regulation Fund.

11 All lodging and travel expenses shall be in accordance
12 with applicable travel regulations published by the Department
13 of Central Management Services and approved by the Governor's
14 Travel Control Board, except that out-of-state lodging and
15 travel expenses related to examinations authorized under
16 Sections 132.1 through 132.7 shall be in accordance with
17 travel rates prescribed under paragraph 301-7.2 of the Federal
18 Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of
19 subsistence expenses incurred during official travel. All
20 lodging and travel expenses may be reimbursed directly upon
21 the authorization of the Director.

22 In the case of an organization or person not subject to the
23 financial regulation fee, the expenses incurred in any
24 financial examination authorized by law shall be paid by the
25 organization or person being examined. The charge shall be
26 reasonably related to the cost of the examination including,

1 but not limited to, compensation of examiners and other costs
2 described in this subsection.

3 (10) Any company, person, or entity failing to make any
4 payment of \$150 or more as required under this Section shall be
5 subject to the penalty and interest provisions provided for in
6 subsections (4) and (7) of Section 412.

7 (11) Unless otherwise specified, all of the fees collected
8 under this Section shall be paid into the Insurance Financial
9 Regulation Fund.

10 (12) For purposes of this Section:

11 (a) "Domestic company" means a company as defined in
12 Section 2 of this Code which is incorporated or organized
13 under the laws of this State, and in addition includes a
14 not-for-profit corporation authorized under the Dental
15 Service Plan Act or the Voluntary Health Services Plans
16 Act, a health maintenance organization, and a limited
17 health service organization.

18 (b) "Foreign company" means a company as defined in
19 Section 2 of this Code which is incorporated or organized
20 under the laws of any state of the United States other than
21 this State and in addition includes a health maintenance
22 organization and a limited health service organization
23 which is incorporated or organized under the laws of any
24 state of the United States other than this State.

25 (c) "Non-domestic ~~Alien~~ company" means a company as
26 defined in Section 2 of this Code which is incorporated or

1 organized under the laws of any country other than the
2 United States.

3 (d) "Fraternal benefit society" means a corporation,
4 society, order, lodge or voluntary association as defined
5 in Section 282.1 of this Code.

6 (e) "Mutual benefit association" means a company,
7 association or corporation authorized by the Director to
8 do business in this State under the provisions of Article
9 XVIII of this Code.

10 (f) "Burial society" means a person, firm,
11 corporation, society or association of individuals
12 authorized by the Director to do business in this State
13 under the provisions of Article XIX of this Code.

14 (g) "Farm mutual" means a district, county and
15 township mutual insurance company authorized by the
16 Director to do business in this State under the provisions
17 of the Farm Mutual Insurance Company Act of 1986.

18 (Source: P.A. 100-23, eff. 7-6-17.)

19 (215 ILCS 5/412) (from Ch. 73, par. 1024)

20 Sec. 412. Refunds; penalties; collection.

21 (1)(a) Whenever it appears to the satisfaction of the
22 Director that because of some mistake of fact, error in
23 calculation, or erroneous interpretation of a statute of this
24 or any other state, any authorized company, surplus line
25 producer, or industrial insured has paid to him, pursuant to

1 any provision of law, taxes, fees, or other charges in excess
2 of the amount legally chargeable against it, during the 6 year
3 period immediately preceding the discovery of such
4 overpayment, he shall have power to refund to such company,
5 surplus line producer, or industrial insured the amount of the
6 excess or excesses by applying the amount or amounts thereof
7 toward the payment of taxes, fees, or other charges already
8 due, or which may thereafter become due from that company
9 until such excess or excesses have been fully refunded, or
10 upon a written request from the authorized company, surplus
11 line producer, or industrial insured, the Director shall
12 provide a cash refund within 120 days after receipt of the
13 written request if all necessary information has been filed
14 with the Department in order for it to perform an audit of the
15 tax report for the transaction or period or annual return for
16 the year in which the overpayment occurred or within 120 days
17 after the date the Department receives all the necessary
18 information to perform such audit. The Director shall not
19 provide a cash refund if there are insufficient funds in the
20 Insurance Premium Tax Refund Fund to provide a cash refund, if
21 the amount of the overpayment is less than \$100, or if the
22 amount of the overpayment can be fully offset against the
23 taxpayer's estimated liability for the year following the year
24 of the cash refund request. Any cash refund shall be paid from
25 the Insurance Premium Tax Refund Fund, a special fund hereby
26 created in the State treasury.

1 (b) Beginning January 1, 2000 and thereafter, the
2 Department shall deposit a percentage of the amounts collected
3 under Sections 409, 444, and 444.1 of this Code into the
4 Insurance Premium Tax Refund Fund. The percentage deposited
5 into the Insurance Premium Tax Refund Fund shall be the annual
6 percentage. The annual percentage shall be calculated as a
7 fraction, the numerator of which shall be the amount of cash
8 refunds approved by the Director for payment and paid during
9 the preceding calendar year as a result of overpayment of tax
10 liability under Sections 121-2.08, 409, 444, 444.1, and 445 of
11 this Code and the denominator of which shall be the amounts
12 collected pursuant to Sections 121-2.08, 409, 444, 444.1, and
13 445 of this Code during the preceding calendar year. However,
14 if there were no cash refunds paid in a preceding calendar
15 year, the Department shall deposit 5% of the amount collected
16 in that preceding calendar year pursuant to Sections 121-2.08,
17 409, 444, 444.1, and 445 of this Code into the Insurance
18 Premium Tax Refund Fund instead of an amount calculated by
19 using the annual percentage.

20 (c) Beginning July 1, 1999, moneys in the Insurance
21 Premium Tax Refund Fund shall be expended exclusively for the
22 purpose of paying cash refunds resulting from overpayment of
23 tax liability under Sections 121-2.08, 409, 444, 444.1, and
24 445 of this Code as determined by the Director pursuant to
25 subsection 1(a) of this Section. Cash refunds made in
26 accordance with this Section may be made from the Insurance

1 Premium Tax Refund Fund only to the extent that amounts have
2 been deposited and retained in the Insurance Premium Tax
3 Refund Fund.

4 (d) This Section shall constitute an irrevocable and
5 continuing appropriation from the Insurance Premium Tax Refund
6 Fund for the purpose of paying cash refunds pursuant to the
7 provisions of this Section.

8 (2)(a) When any insurance company fails to file any tax
9 return required under Sections 408.1, 409, 444, and 444.1 of
10 this Code or Section 12 of the Fire Investigation Act on the
11 date prescribed, including any extensions, there shall be
12 added as a penalty \$400 or 10% of the amount of such tax,
13 whichever is greater, for each month or part of a month of
14 failure to file, the entire penalty not to exceed \$2,000 or 50%
15 of the tax due, whichever is greater.

16 (b) When any industrial insured or surplus line producer
17 fails to file any tax return or report required under Sections
18 121-2.08 and 445 of this Code or Section 12 of the Fire
19 Investigation Act on the date prescribed, including any
20 extensions, there shall be added:

21 (i) as a late fee, if the return or report is received
22 at least one day but not more than 7 days after the
23 prescribed due date, \$400 or 10% of the tax due, whichever
24 is greater, the entire fee not to exceed \$1,000;

25 (ii) as a late fee, if the return or report is received
26 at least 8 days but not more than 14 days after the

1 prescribed due date, \$400 or 10% of the tax due, whichever
2 is greater, the entire fee not to exceed \$1,500;

3 (iii) as a late fee, if the return or report is
4 received at least 15 days but not more than 21 days after
5 the prescribed due date, \$400 or 10% of the tax due,
6 whichever is greater, the entire fee not to exceed \$2,000;
7 or

8 (iv) as a penalty, if the return or report is received
9 more than 21 days after the prescribed due date, \$400 or
10 10% of the tax due, whichever is greater, for each month or
11 part of a month of failure to file, the entire penalty not
12 to exceed \$2,000 or 50% of the tax due, whichever is
13 greater.

14 A tax return or report shall be deemed received as of the
15 date mailed as evidenced by a postmark, proof of mailing on a
16 recognized United States Postal Service form or a form
17 acceptable to the United States Postal Service or other
18 commercial mail delivery service, or other evidence acceptable
19 to the Director.

20 (3)(a) When any insurance company fails to pay the full
21 amount due under the provisions of this Section, Sections
22 408.1, 409, 444, or 444.1 of this Code, or Section 12 of the
23 Fire Investigation Act, there shall be added to the amount due
24 as a penalty an amount equal to 10% of the deficiency.

25 (a-5) When any industrial insured or surplus line producer
26 fails to pay the full amount due under the provisions of this

1 Section, Sections 121-2.08 or 445 of this Code, or Section 12
2 of the Fire Investigation Act on the date prescribed, there
3 shall be added:

4 (i) as a late fee, if the payment is received at least
5 one day but not more than 7 days after the prescribed due
6 date, 10% of the tax due, the entire fee not to exceed
7 \$1,000;

8 (ii) as a late fee, if the payment is received at least
9 8 days but not more than 14 days after the prescribed due
10 date, 10% of the tax due, the entire fee not to exceed
11 \$1,500;

12 (iii) as a late fee, if the payment is received at
13 least 15 days but not more than 21 days after the
14 prescribed due date, 10% of the tax due, the entire fee not
15 to exceed \$2,000; or

16 (iv) as a penalty, if the return or report is received
17 more than 21 days after the prescribed due date, 10% of the
18 tax due.

19 A tax payment shall be deemed received as of the date
20 mailed as evidenced by a postmark, proof of mailing on a
21 recognized United States Postal Service form or a form
22 acceptable to the United States Postal Service or other
23 commercial mail delivery service, or other evidence acceptable
24 to the Director.

25 (b) If such failure to pay is determined by the Director to
26 be wilful, after a hearing under Sections 402 and 403, there

1 shall be added to the tax as a penalty an amount equal to the
2 greater of 50% of the deficiency or 10% of the amount due and
3 unpaid for each month or part of a month that the deficiency
4 remains unpaid commencing with the date that the amount
5 becomes due. Such amount shall be in lieu of any determined
6 under paragraph (a) or (a-5).

7 (4) Any insurance company, industrial insured, or surplus
8 line producer that fails to pay the full amount due under this
9 Section or Sections 121-2.08, 408.1, 409, 444, 444.1, or 445
10 of this Code, or Section 12 of the Fire Investigation Act is
11 liable, in addition to the tax and any late fees and penalties,
12 for interest on such deficiency at the rate of 12% per annum,
13 or at such higher adjusted rates as are or may be established
14 under subsection (b) of Section 6621 of the Internal Revenue
15 Code, from the date that payment of any such tax was due,
16 determined without regard to any extensions, to the date of
17 payment of such amount.

18 (5) The Director, through the Attorney General, may
19 institute an action in the name of the People of the State of
20 Illinois, in any court of competent jurisdiction, for the
21 recovery of the amount of such taxes, fees, and penalties due,
22 and prosecute the same to final judgment, and take such steps
23 as are necessary to collect the same.

24 (6) In the event that the certificate of authority of a
25 foreign or non-domestic ~~alien~~ company is revoked for any cause
26 or the company withdraws from this State prior to the renewal

1 date of the certificate of authority as provided in Section
2 114, the company may recover the amount of any such tax paid in
3 advance. Except as provided in this subsection, no revocation
4 or withdrawal excuses payment of or constitutes grounds for
5 the recovery of any taxes or penalties imposed by this Code.

6 (7) When an insurance company or domestic affiliated group
7 fails to pay the full amount of any fee of \$200 or more due
8 under Section 408 of this Code, there shall be added to the
9 amount due as a penalty the greater of \$100 or an amount equal
10 to 10% of the deficiency for each month or part of a month that
11 the deficiency remains unpaid.

12 (8) The Department shall have a lien for the taxes, fees,
13 charges, fines, penalties, interest, other charges, or any
14 portion thereof, imposed or assessed pursuant to this Code,
15 upon all the real and personal property of any company or
16 person to whom the assessment or final order has been issued or
17 whenever a tax return is filed without payment of the tax or
18 penalty shown therein to be due, including all such property
19 of the company or person acquired after receipt of the
20 assessment, issuance of the order, or filing of the return.
21 The company or person is liable for the filing fee incurred by
22 the Department for filing the lien and the filing fee incurred
23 by the Department to file the release of that lien. The filing
24 fees shall be paid to the Department in addition to payment of
25 the tax, fee, charge, fine, penalty, interest, other charges,
26 or any portion thereof, included in the amount of the lien.

1 However, where the lien arises because of the issuance of a
2 final order of the Director or tax assessment by the
3 Department, the lien shall not attach and the notice referred
4 to in this Section shall not be filed until all administrative
5 proceedings or proceedings in court for review of the final
6 order or assessment have terminated or the time for the taking
7 thereof has expired without such proceedings being instituted.

8 Upon the granting of Department review after a lien has
9 attached, the lien shall remain in full force except to the
10 extent to which the final assessment may be reduced by a
11 revised final assessment following the rehearing or review.
12 The lien created by the issuance of a final assessment shall
13 terminate, unless a notice of lien is filed, within 3 years
14 after the date all proceedings in court for the review of the
15 final assessment have terminated or the time for the taking
16 thereof has expired without such proceedings being instituted,
17 or (in the case of a revised final assessment issued pursuant
18 to a rehearing or review by the Department) within 3 years
19 after the date all proceedings in court for the review of such
20 revised final assessment have terminated or the time for the
21 taking thereof has expired without such proceedings being
22 instituted. Where the lien results from the filing of a tax
23 return without payment of the tax or penalty shown therein to
24 be due, the lien shall terminate, unless a notice of lien is
25 filed, within 3 years after the date when the return is filed
26 with the Department.

1 The time limitation period on the Department's right to
2 file a notice of lien shall not run during any period of time
3 in which the order of any court has the effect of enjoining or
4 restraining the Department from filing such notice of lien. If
5 the Department finds that a company or person is about to
6 depart from the State, to conceal himself or his property, or
7 to do any other act tending to prejudice or to render wholly or
8 partly ineffectual proceedings to collect the amount due and
9 owing to the Department unless such proceedings are brought
10 without delay, or if the Department finds that the collection
11 of the amount due from any company or person will be
12 jeopardized by delay, the Department shall give the company or
13 person notice of such findings and shall make demand for
14 immediate return and payment of the amount, whereupon the
15 amount shall become immediately due and payable. If the
16 company or person, within 5 days after the notice (or within
17 such extension of time as the Department may grant), does not
18 comply with the notice or show to the Department that the
19 findings in the notice are erroneous, the Department may file
20 a notice of jeopardy assessment lien in the office of the
21 recorder of the county in which any property of the company or
22 person may be located and shall notify the company or person of
23 the filing. The jeopardy assessment lien shall have the same
24 scope and effect as the statutory lien provided for in this
25 Section. If the company or person believes that the company or
26 person does not owe some or all of the tax for which the

1 jeopardy assessment lien against the company or person has
2 been filed, or that no jeopardy to the revenue in fact exists,
3 the company or person may protest within 20 days after being
4 notified by the Department of the filing of the jeopardy
5 assessment lien and request a hearing, whereupon the
6 Department shall hold a hearing in conformity with the
7 provisions of this Code and, pursuant thereto, shall notify
8 the company or person of its findings as to whether or not the
9 jeopardy assessment lien will be released. If not, and if the
10 company or person is aggrieved by this decision, the company
11 or person may file an action for judicial review of the final
12 determination of the Department in accordance with the
13 Administrative Review Law. If, pursuant to such hearing (or
14 after an independent determination of the facts by the
15 Department without a hearing), the Department determines that
16 some or all of the amount due covered by the jeopardy
17 assessment lien is not owed by the company or person, or that
18 no jeopardy to the revenue exists, or if on judicial review the
19 final judgment of the court is that the company or person does
20 not owe some or all of the amount due covered by the jeopardy
21 assessment lien against them, or that no jeopardy to the
22 revenue exists, the Department shall release its jeopardy
23 assessment lien to the extent of such finding of nonliability
24 for the amount, or to the extent of such finding of no jeopardy
25 to the revenue. The Department shall also release its jeopardy
26 assessment lien against the company or person whenever the

1 amount due and owing covered by the lien, plus any interest
2 which may be due, are paid and the company or person has paid
3 the Department in cash or by guaranteed remittance an amount
4 representing the filing fee for the lien and the filing fee for
5 the release of that lien. The Department shall file that
6 release of lien with the recorder of the county where that lien
7 was filed.

8 Nothing in this Section shall be construed to give the
9 Department a preference over the rights of any bona fide
10 purchaser, holder of a security interest, mechanics
11 lienholder, mortgagee, or judgment lien creditor arising prior
12 to the filing of a regular notice of lien or a notice of
13 jeopardy assessment lien in the office of the recorder in the
14 county in which the property subject to the lien is located.
15 For purposes of this Section, "bona fide" shall not include
16 any mortgage of real or personal property or any other credit
17 transaction that results in the mortgagee or the holder of the
18 security acting as trustee for unsecured creditors of the
19 company or person mentioned in the notice of lien who executed
20 such chattel or real property mortgage or the document
21 evidencing such credit transaction. The lien shall be inferior
22 to the lien of general taxes, special assessments, and special
23 taxes levied by any political subdivision of this State. In
24 case title to land to be affected by the notice of lien or
25 notice of jeopardy assessment lien is registered under the
26 provisions of the Registered Titles (Torrens) Act, such notice

1 shall be filed in the office of the Registrar of Titles of the
2 county within which the property subject to the lien is
3 situated and shall be entered upon the register of titles as a
4 memorial or charge upon each folium of the register of titles
5 affected by such notice, and the Department shall not have a
6 preference over the rights of any bona fide purchaser,
7 mortgagee, judgment creditor, or other lienholder arising
8 prior to the registration of such notice. The regular lien or
9 jeopardy assessment lien shall not be effective against any
10 purchaser with respect to any item in a retailer's stock in
11 trade purchased from the retailer in the usual course of the
12 retailer's business.

13 (Source: P.A. 98-158, eff. 8-2-13; 98-978, eff. 1-1-15.)

14 (215 ILCS 5/413) (from Ch. 73, par. 1025)

15 Sec. 413. Privilege Tax Payable on Admission of Foreign or
16 Non-domestic ~~Alien~~ Company.

17 (1) Every foreign or non-domestic ~~alien~~ company applying
18 for a certificate of authority to transact business in this
19 State shall pay to the Director a tax for the privilege of
20 transacting business in this State in accordance with Section
21 409.

22 (2) If during all or any part of the 3 year period next
23 preceding the date of application for a certificate of
24 authority the company had a certificate of authority to
25 transact business in this State, or if it survives or was

1 formed by a merger, consolidation, reorganization or
2 reincorporation, and one or more of the parties thereto was a
3 foreign or non-domestic ~~alien~~ company authorized to transact
4 business in this State during all or any part of such 3 year
5 period, then the tax shall be determined in accordance with
6 Section 409 on the basis of the last entire calendar year
7 during which the company or any one of the foreign or
8 non-domestic ~~alien~~ companies parties to the merger,
9 consolidation, reorganization or reincorporation was
10 authorized to transact business in this State, or if none was
11 authorized during any entire calendar year, then on the basis
12 of the last partial calendar year during which any of such
13 companies were authorized to transact business in this State.

14 (Source: P.A. 77-2087.)

15 (215 ILCS 5/415) (from Ch. 73, par. 1027)

16 Sec. 415. No taxes to be imposed by political
17 subdivisions. The fees, charges and taxes provided for by
18 this Article shall be in lieu of all license fees or privilege
19 or occupation taxes or other fees levied or assessed by any
20 municipality, county or other political subdivision of this
21 State, and no municipality, county or other political
22 subdivision of this State shall impose any license fee or
23 privilege or occupation tax or fee upon any domestic, foreign
24 or non-domestic ~~alien~~ company, or upon any of its agents, for
25 the privilege of doing an insurance business therein, except

1 the tax authorized by Division 10 of Article 11 of the Illinois
2 Municipal Code, as heretofore and hereafter amended. This
3 Section shall not be construed to prohibit the levy and
4 collection of:

5 (a) State, county or municipal taxes upon the real and
6 personal property of such a company, including the tax
7 imposed by Section 414 of this Code, and

8 (b) taxes for the purpose of maintaining the Office of
9 the State Fire Marshal and paying the expenses incident
10 thereto.

11 (Source: P.A. 91-357, eff. 7-29-99.)

12 (215 ILCS 5/444) (from Ch. 73, par. 1056)

13 Sec. 444. Retaliation.

14 (1) Whenever the existing or future laws of any other
15 state or country shall require of companies incorporated or
16 organized under the laws of this State as a condition
17 precedent to their doing business in such other state or
18 country, compliance with laws, rules, regulations, and
19 prohibitions more onerous or burdensome than the rules and
20 regulations imposed by this State on foreign or non-domestic
21 ~~alien~~ companies, or shall require any deposit of securities or
22 other obligations in such state or country, for the protection
23 of policyholders or otherwise or require of such companies or
24 agents thereof or brokers the payment of penalties, fees,
25 charges, or taxes greater than the penalties, fees, charges,

1 or taxes required in the aggregate for like purposes by this
2 Code or any other law of this State, of foreign or non-domestic
3 ~~alien~~ companies, agents thereof or brokers, then such laws,
4 rules, regulations, and prohibitions of said other state or
5 country shall apply to companies incorporated or organized
6 under the laws of such state or country doing business in this
7 State, and all such companies, agents thereof, or brokers
8 doing business in this State, shall be required to make
9 deposits, pay penalties, fees, charges, and taxes, in amounts
10 equal to those required in the aggregate for like purposes of
11 Illinois companies doing business in such state or country,
12 agents thereof or brokers. Whenever any other state or country
13 shall refuse to permit any insurance company incorporated or
14 organized under the laws of this State to transact business
15 according to its usual plan in such other state or country, the
16 director may, if satisfied that such company of this State is
17 solvent, properly managed, and can operate legally under the
18 laws of such other state or country, forthwith suspend or
19 cancel the license of every insurance company doing business
20 in this State which is incorporated or organized under the
21 laws of such other state or country to the extent that it
22 insures in this State against any of the risks or hazards which
23 are sought to be insured against by the company of this State
24 in such other state or country.

25 (2) The provisions of this Section shall not apply to
26 residual market or special purpose assessments or guaranty

1 fund or guaranty association assessments, both under the laws
2 of this State and under the laws of any other state or country,
3 and any tax offset or credit for any such assessment shall, for
4 purposes of this Section, be treated as a tax paid both under
5 the laws of this State and under the laws of any other state or
6 country.

7 (3) The terms "penalties", "fees", "charges", and "taxes"
8 in subsection (1) of this Section shall include: the
9 penalties, fees, charges, and taxes collected on a cash basis
10 under State law and referenced within Article XXV exclusive of
11 any items referenced by subsection (2) of this Section, but
12 including any tax offset allowed under Section 531.13 of this
13 Code; the aggregate Illinois corporate income taxes paid under
14 Sections 601 and 803 of the Illinois Income Tax Act during the
15 calendar year for which the retaliatory tax calculation is
16 being made, less the recapture of any Illinois corporate
17 income tax cash refunds to the extent that the amount of tax
18 refunded was reported as part of the Illinois basis in the
19 calculation of the retaliatory tax for a prior tax year,
20 provided that such recaptured refund shall not exceed the
21 amount necessary for equivalence of the Illinois basis with
22 the state of incorporation basis in such tax year, and after
23 any tax offset allowed under Section 531.13 of this Code;
24 income or personal property taxes imposed by other states or
25 countries; penalties, fees, charges, and taxes of other states
26 or countries imposed for purposes like those of the penalties,

1 fees, charges, and taxes specified in Article XXV of this Code
2 exclusive of any item referenced in subsection (2) of this
3 Section; and any penalties, fees, charges, and taxes required
4 as a franchise, privilege, or licensing tax for conducting the
5 business of insurance whether calculated as a percentage of
6 income, gross receipts, premium, or otherwise.

7 (4) Nothing contained in this Section or Section 409 or
8 Section 444.1 is intended to authorize or expand any power of
9 local governmental units or municipalities to impose taxes,
10 fees, or charges.

11 (5) This Section is subject to the provisions of Section
12 10 of the New Markets Development Program Act.

13 (Source: P.A. 98-1169, eff. 1-9-15.)

14 (215 ILCS 5/444.1) (from Ch. 73, par. 1056.1)

15 Sec. 444.1. Payment of retaliatory taxes.

16 (1) Every foreign or non-domestic ~~alien~~ company doing
17 insurance business in this State shall pay the Director the
18 retaliatory tax determined in accordance with Section 444.

19 (2) (a) All companies subject to the provisions of this
20 Section shall make an annual return for the preceding calendar
21 year on or before March 15 setting forth such information on
22 such forms as the Director may reasonably require. Payments of
23 quarterly installments of the taxpayer's total estimated
24 retaliatory tax for the current calendar year shall be due on
25 or before April 15, June 15, September 15, and December 15 of

1 such year, except that all companies transacting insurance
2 business in this State whose annual tax for the immediately
3 preceding calendar year was less than \$5,000 shall make only
4 an annual return. Failure of a company to make the annual
5 payment, or to make the quarterly payments, if required, of at
6 least one-fourth of either (i) the total tax paid during the
7 previous calendar year or (ii) 80% of the actual tax for the
8 current calendar year shall subject it to the penalty
9 provisions set forth in Section 412 of this Code.

10 (b) Notwithstanding the foregoing provisions of paragraph
11 (a) of this subsection, the retaliatory tax liability of
12 companies under Section 444 of this Code for the calendar year
13 ended December 31, 1997 shall be determined in accordance with
14 this amendatory Act of 1998 and shall include in the aggregate
15 comparative tax burden for the State of Illinois, any tax
16 offset allowed under Section 531.13 of this Code and any
17 income taxes paid for the year 1997 under subsections (a)
18 through (d) of Section 201 of the Illinois Income Tax Act after
19 any tax offset allowed under Section 531.13 of this Code.

20 (i) Any annual retaliatory tax returns and payments
21 made for the year ended December 31, 1997 and any
22 quarterly installments of the taxpayer's total estimated
23 1998 retaliatory tax liability paid prior to the effective
24 date of this Amendatory Act of 1998 that do not include the
25 items specified by subsection (1) of this Section shall be
26 amended and restated, at the taxpayer's election, on forms

1 prepared by the Director so as to provide for the
2 inclusion of such items. An amended and restated return
3 for the year ended December 31, 1997 filed under this
4 subparagraph shall treat any payment of estimated
5 privilege taxes under Section 409 as in effect prior to
6 October 23, 1997 as a payment of estimated retaliatory
7 taxes for the year ended December 31, 1997.

8 (ii) Any overpayment resulting from such amended
9 return and restated tax liability shall be allowed as a
10 credit against any subsequent privilege or retaliatory tax
11 obligations of the taxpayer.

12 (iii) In the year 1999 and thereafter all companies
13 shall make annual and quarterly installments of their
14 estimated tax as provided by paragraph (a) of this
15 subsection.

16 (3) Any tax payment made under this Section and any tax
17 returns prepared in compliance with Section 410 shall give
18 full consideration to the impact of any future reduction in or
19 elimination of a taxpayer's liability under Section 409,
20 whether such reduction or elimination is due to an operation
21 of law or an Act of the General Assembly.

22 (4) Any foreign or non-domestic ~~alien~~ taxpayer who makes,
23 under protest, a tax payment required by Section 409 shall, at
24 the time of payment, file a retaliatory tax return sufficient
25 to disclose the full amount of retaliatory taxes which would
26 be due and owing for the tax period in question if the protest

1 were upheld. Notwithstanding the provisions of the State
2 Officers and Employees Money Disposition Act or any other laws
3 of this State, the protested payment, to the extent of the
4 retaliatory tax so disclosed, shall be deposited directly in
5 the General Revenue Fund; and the balance of the payment, if
6 any, shall be deposited in a protest account pursuant to the
7 provisions of the aforesaid Act, as now or hereafter amended.

8 (5) The failure of a company to make the annual payment or
9 to make the quarterly payments, if required, of at least
10 one-fourth of either (i) the total tax paid during the
11 preceding calendar year or (ii) 80% of the actual tax for the
12 current calendar year shall subject it to the penalty
13 provisions set forth in Section 412 of this Code.

14 (6) This Section is subject to the provisions of Section
15 10 of the New Markets Development Program Act.

16 (Source: P.A. 95-1024, eff. 12-31-08.)

17 (215 ILCS 5/445) (from Ch. 73, par. 1057)

18 Sec. 445. Surplus line.

19 (1) Definitions. For the purposes of this Section:

20 "Affiliate" means, with respect to an insured, any entity
21 that controls, is controlled by, or is under common control
22 with the insured. For the purpose of this definition, an
23 entity has control over another entity if:

24 (A) the entity directly or indirectly or acting
25 through one or more other persons owns, controls, or has

1 the power to vote 25% or more of any class of voting
2 securities of the other entity; or

3 (B) the entity controls in any manner the election of
4 a majority of the directors or trustees of the other
5 entity.

6 "Affiliated group" means any group of entities that are
7 all affiliated.

8 "Authorized insurer" means an insurer that holds a
9 certificate of authority issued by the Director but, for the
10 purposes of this Section, does not include a domestic surplus
11 line insurer as defined in Section 445a or any residual market
12 mechanism.

13 "Exempt commercial purchaser" means any person purchasing
14 commercial insurance that, at the time of placement, meets the
15 following requirements:

16 (A) The person employs or retains a qualified risk
17 manager to negotiate insurance coverage.

18 (B) The person has paid aggregate nationwide
19 commercial property and casualty insurance premiums in
20 excess of \$100,000 in the immediately preceding 12 months.

21 (C) The person meets at least one of the following
22 criteria:

23 (I) The person possesses a net worth in excess of
24 \$20,000,000, as such amount is adjusted pursuant to
25 the provision in this definition concerning percentage
26 change.

1 (II) The person generates annual revenues in
2 excess of \$50,000,000, as such amount is adjusted
3 pursuant to the provision in this definition
4 concerning percentage change.

5 (III) The person employs more than 500 full-time
6 or full-time equivalent employees per individual
7 insured or is a member of an affiliated group
8 employing more than 1,000 employees in the aggregate.

9 (IV) The person is a not-for-profit organization
10 or public entity generating annual budgeted
11 expenditures of at least \$30,000,000, as such amount
12 is adjusted pursuant to the provision in this
13 definition concerning percentage change.

14 (V) The person is a municipality with a population
15 in excess of 50,000 persons.

16 Effective on January 1, 2015 and each fifth January 1
17 occurring thereafter, the amounts in subitems (I), (II), and
18 (IV) of item (C) of this definition shall be adjusted to
19 reflect the percentage change for such 5-year period in the
20 Consumer Price Index for All Urban Consumers published by the
21 Bureau of Labor Statistics of the Department of Labor.

22 "Home state" means the following:

23 (A) With respect to an insured, except as provided in
24 item (B) of this definition:

25 (I) the state in which an insured maintains its
26 principal place of business or, in the case of an

1 individual, the individual's principal residence; or
2 (II) if 100% of the insured risk is located out of
3 the state referred to in subitem (I), the state to
4 which the greatest percentage of the insured's taxable
5 premium for that insurance contract is allocated.

6 (B) If more than one insured from an affiliated group
7 are named insureds on a single surplus line insurance
8 contract, then "home state" means the home state, as
9 determined pursuant to item (A) of this definition, of the
10 member of the affiliated group that has the largest
11 percentage of premium attributed to it under such
12 insurance contract.

13 If more than one insured from a group that is not
14 affiliated are named insureds on a single surplus line
15 insurance contract, then:

16 (I) if individual group members pay 100% of the
17 premium for the insurance from their own funds, "home
18 state" means the home state, as determined pursuant to
19 item (A) of this definition, of each individual group
20 member; each individual group member's coverage under
21 the surplus line insurance contract shall be treated
22 as a separate surplus line contract for the purposes
23 of this Section;

24 (II) otherwise, "home state" means the home state,
25 as determined pursuant to item (A) of this definition,
26 of the group.

1 Nothing in this definition shall be construed to alter the
2 terms of the surplus line insurance contract.

3 "Master policy" means a surplus line insurance contract
4 with a single set of general contractual terms that are
5 designed to apply on a group basis to multiple insureds who may
6 or may not be affiliated and who may be added to or removed
7 from the contract throughout the course of the contract
8 period. A master policy may include certain provisions that
9 vary for each insured depending on the insured's
10 characteristics and the coverage sought.

11 "Multi-State risk" means a risk with insured exposures in
12 more than one State.

13 "NAIC" means the National Association of Insurance
14 Commissioners or any successor entity.

15 "Personal lines insurance" means insurance as defined in
16 subsection (a), (b), or (c) of Section 143.13 of this Code.

17 "Premium" means any amount designated as premium on the
18 declarations page or elsewhere in a policy and on any
19 endorsement, but does not include taxes, the Surplus Line
20 Association of Illinois recording fee, or any other fee.

21 "Program business" means a clearly defined group of
22 insurance contracts procured by a licensed surplus line
23 producer from an unauthorized insurer, under a single
24 agreement between the producer and insurer, for insureds with
25 the same or similar characteristics and containing the same or
26 similar contract terms.

1 "Qualified risk manager" means, with respect to a
2 policyholder of commercial insurance, a person who meets all
3 of the following requirements:

4 (A) The person is an employee of, or third-party
5 consultant retained by, the commercial policyholder.

6 (B) The person provides skilled services in loss
7 prevention, loss reduction, or risk and insurance coverage
8 analysis, and purchase of insurance.

9 (C) With regard to the person:

10 (I) the person has:

11 (a) a bachelor's degree or higher from an
12 accredited college or university in risk
13 management, business administration, finance,
14 economics, or any other field determined by the
15 Director or his designee to demonstrate minimum
16 competence in risk management; and

17 (b) the following:

18 (i) three years of experience in risk
19 financing, claims administration, loss
20 prevention, risk and insurance analysis, or
21 purchasing commercial lines of insurance; or

22 (ii) alternatively has:

23 (AA) a designation as a Chartered
24 Property and Casualty Underwriter (in this
25 subparagraph (ii) referred to as "CPCU")
26 issued by the American Institute for

1 CPCU/Insurance Institute of America;

2 (BB) a designation as an Associate in
3 Risk Management (ARM) issued by the
4 American Institute for CPCU/Insurance
5 Institute of America;

6 (CC) a designation as Certified Risk
7 Manager (CRM) issued by the National
8 Alliance for Insurance Education &
9 Research;

10 (DD) a designation as a RIMS Fellow
11 (RF) issued by the Global Risk Management
12 Institute; or

13 (EE) any other designation,
14 certification, or license determined by
15 the Director or his designee to
16 demonstrate minimum competency in risk
17 management;

18 (II) the person has:

19 (a) at least 7 years of experience in risk
20 financing, claims administration, loss prevention,
21 risk and insurance coverage analysis, or
22 purchasing commercial lines of insurance; and

23 (b) has any one of the designations specified
24 in subparagraph (ii) of paragraph (b);

25 (III) the person has at least 10 years of
26 experience in risk financing, claims administration,

1 loss prevention, risk and insurance coverage analysis,
2 or purchasing commercial lines of insurance; or

3 (IV) the person has a graduate degree from an
4 accredited college or university in risk management,
5 business administration, finance, economics, or any
6 other field determined by the Director or his or her
7 designee to demonstrate minimum competence in risk
8 management.

9 "Residual market mechanism" means an association,
10 organization, or other entity described in Article XXXIII of
11 this Code or Section 7-501 of the Illinois Vehicle Code or any
12 similar association, organization, or other entity.

13 "State" means any state of the United States, the District
14 of Columbia, the Commonwealth of Puerto Rico, Guam, the
15 Northern Mariana Islands, the Virgin Islands, and American
16 Samoa.

17 "Surplus line insurance" means insurance on a risk:

18 (A) of the kinds specified in Classes 2 and 3 of
19 Section 4 of this Code; and

20 (B) that is procured from an unauthorized insurer
21 after the insurance producer representing the insured or
22 the surplus line producer is unable, after diligent
23 effort, to procure the insurance from authorized insurers;
24 and

25 (C) where Illinois is the home state of the insured,
26 for policies effective, renewed or extended on July 21,

1 2011 or later and for multiyear policies upon the policy
2 anniversary that falls on or after July 21, 2011; and

3 (D) that is located in Illinois, for policies
4 effective prior to July 21, 2011.

5 "Taxable premium" means a premium for any risk that is
6 located in or attributed to any state.

7 "Unauthorized insurer" means an insurer that does not hold
8 a valid certificate of authority issued by the Director but,
9 for the purposes of this Section, shall also include a
10 domestic surplus line insurer as defined in Section 445a.

11 (1.5) Procuring surplus line insurance; surplus line
12 insurer requirements.

13 (a) License required. Insurance producers may procure
14 surplus line insurance only if licensed as a surplus line
15 producer under this Section.

16 (b) Domestic and foreign insurer eligibility. Licensed
17 surplus line producers may procure surplus line insurance
18 from an unauthorized insurer domiciled in any state only
19 if the insurer:

20 (i) is permitted in its domiciliary jurisdiction
21 to write the type of insurance involved; and

22 (ii) has, based upon information available to the
23 surplus line producer, a policyholders surplus of not
24 less than \$15,000,000 determined in accordance with
25 the laws of its domiciliary jurisdiction; and

26 (iii) has standards of solvency and management

1 that are adequate for the protection of policyholders.

2 Where an unauthorized insurer does not meet the
3 standards set forth in (ii) and (iii) above, a surplus
4 line producer may, if necessary, procure insurance from
5 that insurer only if prior written warning of such fact or
6 condition is given to the insured by the insurance
7 producer or surplus line producer.

8 (c) Non-domestic ~~Alien~~ insurer eligibility. Licensed
9 surplus line producers may procure surplus line insurance
10 from an unauthorized insurer not domiciled in any state
11 only if the insurer meets the standards for unauthorized
12 insurers domiciled in any state in paragraph (b) of this
13 subsection (1.5) or is listed on the Quarterly Listing of
14 Alien Insurers maintained by the International Insurers
15 Department of the NAIC at the time of procurement. The
16 Director shall make the Quarterly Listing of Alien
17 Insurers available to surplus line producers without
18 charge.

19 (d) Prohibited transactions. Insurance producers shall
20 not procure from an unauthorized insurer an insurance
21 policy:

22 (i) that is designed to satisfy the proof of
23 financial responsibility and insurance requirements in
24 any Illinois law where the law requires that the proof
25 of insurance is issued by an authorized insurer or
26 residual market mechanism;

1 (ii) that covers the risk of accidental injury to
2 employees arising out of and in the course of
3 employment according to the provisions of the Workers'
4 Compensation Act; or

5 (iii) that insures any Illinois personal lines
6 risk that is eligible for residual market mechanism
7 coverage, unless the insured or prospective insured
8 requests limits of liability greater than the limits
9 provided by the residual market mechanism. In the
10 course of making a diligent effort to procure
11 insurance from authorized insurers, an insurance
12 producer shall not be required to submit a risk to a
13 residual market mechanism when the risk is not
14 eligible for coverage or exceeds the limits available
15 in the residual market mechanism.

16 Where there is an insurance policy issued by an
17 authorized insurer or residual market mechanism insuring a
18 risk described in item (i), (ii), or (iii) above, nothing
19 in this paragraph shall be construed to prohibit a surplus
20 line producer from procuring from an unauthorized insurer
21 a policy insuring the risk on an excess or umbrella basis
22 where the excess or umbrella policy is written over one or
23 more underlying policies.

24 (e) Exempt commercial purchaser diligent effort.
25 Licensed surplus line producers may procure surplus line
26 insurance from an unauthorized insurer for an exempt

1 commercial purchaser without making the required diligent
2 effort to procure the insurance from authorized insurers
3 if:

4 (i) the producer has disclosed to the exempt
5 commercial purchaser that such insurance may or may
6 not be available from authorized insurers that may
7 provide greater protection with more regulatory
8 oversight; and

9 (ii) the exempt commercial purchaser has
10 subsequently in writing requested the producer to
11 procure such insurance from an unauthorized insurer.

12 (f) Commercial wholesale transaction diligent effort.
13 A licensed surplus line producer may procure a surplus
14 line insurance contract, other than a personal lines
15 insurance contract, from an unauthorized insurer without
16 making the required diligent effort to procure the
17 insurance from authorized insurers if the risk was
18 referred to the surplus line producer by an
19 Illinois-licensed insurance producer who is not affiliated
20 with the surplus line producer.

21 (g) Master policy diligent effort. For a master policy
22 insurance contract, a licensed surplus line producer may
23 make the required diligent effort to procure the insurance
24 from authorized insurers annually for the master policy
25 rather than individually for each insured that is added
26 during the policy period. The diligent effort shall

1 include all variable provisions of the master policy.

2 (h) Program business diligent effort. For program
3 business, a licensed surplus line producer may make the
4 required diligent effort to procure the insurance from
5 authorized insurers annually for the program rather than
6 individually for each contract. The diligent effort shall
7 include all variable provisions of the master policy.

8 (2) Surplus line producer; license. Any licensed producer
9 who is a resident of this State, or any nonresident who
10 qualifies under Section 500-40, may be licensed as a surplus
11 line producer upon payment of an annual license fee of \$400.

12 A surplus line producer so licensed shall keep a separate
13 account of the business transacted thereunder for 7 years from
14 the policy effective date which shall be open at all times to
15 the inspection of the Director or his representative.

16 No later than July 21, 2012, the State of Illinois shall
17 participate in the national insurance producer database of the
18 NAIC, or any other equivalent uniform national database, for
19 the licensure of surplus line producers and the renewal of
20 such licenses.

21 (3) Taxes and reports.

22 (a) Surplus line tax and penalty for late payment. The
23 surplus line tax rate for a surplus line insurance policy
24 or contract is determined as follows:

25 (i) 3% for policies or contracts with an effective
26 date prior to July 1, 2003;

1 (ii) 3.5% for policies or contracts with an
2 effective date of July 1, 2003 or later.

3 A surplus line producer shall file with the Director
4 on or before February 1 and August 1 of each year a report
5 in the form prescribed by the Director on all surplus line
6 insurance procured from unauthorized insurers and
7 submitted to the Surplus Line Association of Illinois
8 during the preceding 6 month period ending December 31 or
9 June 30 respectively, and on the filing of such report
10 shall pay to the Director for the use and benefit of the
11 State a sum equal to the surplus line tax rate multiplied
12 by the gross taxable premiums less returned taxable
13 premiums upon all surplus line insurance submitted to the
14 Surplus Line Association of Illinois during the preceding
15 6 months.

16 Any surplus line producer who fails to pay the full
17 amount due under this subsection is liable, in addition to
18 the amount due, for such late fee, penalty, and interest
19 charges as are provided for under Section 412 of this
20 Code. The Director, through the Attorney General, may
21 institute an action in the name of the People of the State
22 of Illinois, in any court of competent jurisdiction, for
23 the recovery of the amount of such taxes, late fees,
24 interest, and penalties due, and prosecute the same to
25 final judgment, and take such steps as are necessary to
26 collect the same.

1 (b) Fire Marshal Tax. Each surplus line producer shall
2 file with the Director on or before February 1 of each year
3 a report in the form prescribed by the Director on all fire
4 insurance procured from unauthorized insurers and
5 submitted to the Surplus Line Association of Illinois
6 during the previous year that is subject to tax under
7 Section 12 of the Fire Investigation Act and shall pay to
8 the Director the fire marshal tax required thereunder.

9 (c) Taxes and fees charged to insured. The taxes
10 imposed under this subsection and the recording fees
11 charged by the Surplus Line Association of Illinois may be
12 charged to and collected from surplus line insureds.

13 (4) (Blank).

14 (5) Submission of documents to Surplus Line Association of
15 Illinois. A surplus line producer shall submit every insurance
16 contract and premium-bearing endorsement issued under his or
17 her license to the Surplus Line Association of Illinois for
18 recording. The submission and recording may be effected
19 through electronic means. The submission shall set forth:

20 (a) the name of the insured;

21 (b) the description and location of the insured
22 property or risk;

23 (c) (blank);

24 (d) the gross premiums charged or returned;

25 (e) the name of the unauthorized insurer from whom
26 coverage has been procured;

1 (f) the kind or kinds of insurance procured; and
2 (g) amount of premium subject to tax required by
3 Section 12 of the Fire Investigation Act.

4 Proposals, endorsements, and other documents which are
5 incidental to the insurance but which do not affect the
6 premium charged are exempted from the submission and recording
7 requirements.

8 The submission of insuring contracts to the Surplus Line
9 Association of Illinois constitutes a certification by the
10 surplus line producer or by the insurance producer who
11 presented the risk to the surplus line producer for placement
12 as a surplus line risk that after diligent effort, where
13 required, the required insurance could not be procured from
14 authorized insurers and that such procurement was otherwise in
15 accordance with the surplus line law.

16 (6) Evidence of recording required. It shall be unlawful
17 for an insurance producer to deliver any unauthorized insurer
18 contract or premium-bearing endorsement unless it contains
19 evidence of recording by the Surplus Line Association of
20 Illinois.

21 (7) Inspection of records. A surplus line producer shall
22 maintain separate records of the business transacted under his
23 or her license for 7 years from the policy effective date,
24 including complete copies of surplus line insurance contracts
25 maintained on paper or by electronic means, which records
26 shall be open at all times for inspection by the Director and

1 by the Surplus Line Association of Illinois.

2 (8) Violations and penalties. The Director may suspend or
3 revoke or refuse to renew a surplus line producer license for
4 any violation of this Code. In addition to or in lieu of
5 suspension or revocation, the Director may subject a surplus
6 line producer to a civil penalty of up to \$2,000 for each cause
7 for suspension or revocation. Such penalty is enforceable
8 under subsection (5) of Section 403A of this Code.

9 Whenever it appears to the satisfaction of the Director
10 that a surplus line producer has made a documented good faith
11 determination of the home state for a surplus line insurance
12 contract and has paid the surplus line taxes to a state other
13 than Illinois, and the Director determines that the producer's
14 good faith determination was incorrect and the home state is
15 Illinois, the surplus line producer may, at the discretion of
16 the Director, be required to submit the contract to the
17 Surplus Line Association of Illinois and pay applicable taxes
18 and recording fees, but there shall be no penalty, interest,
19 or late fee assessed.

20 (9) Director may declare insurer ineligible. If the
21 Director determines that the further assumption of risks might
22 be hazardous to the policyholders of an unauthorized insurer,
23 the Director may order the Surplus Line Association of
24 Illinois not to accept and record insurance contracts
25 evidencing insurance in such insurer and order surplus line
26 producers to cease procuring insurance from such insurer.

1 (10) Service of process upon Director. Insurance contracts
2 delivered under this Section from unauthorized insurers, other
3 than domestic surplus line insurers as defined in Section
4 445a, shall contain a provision designating the Director and
5 his successors in office the true and lawful attorney of the
6 insurer upon whom may be served all lawful process in any
7 action, suit or proceeding arising out of such insurance.
8 Service of process made upon the Director to be valid
9 hereunder must state the name of the insured, the name of the
10 unauthorized insurer and identify the contract of insurance.
11 The Director at his option is authorized to forward a copy of
12 the process to the Surplus Line Association of Illinois for
13 delivery to the unauthorized insurer or the Director may
14 deliver the process to the unauthorized insurer by other means
15 which he considers to be reasonably prompt and certain.

16 (10.5) Required notice to policyholder. Insurance
17 contracts delivered under this Section from unauthorized
18 insurers, other than domestic surplus line insurers as defined
19 in Section 445a, shall have stamped or imprinted on the first
20 page thereof in not less than 12-pt. bold face type the
21 following legend: "Notice to Policyholder: This contract is
22 issued, pursuant to Section 445 of the Illinois Insurance
23 Code, by a company not authorized and licensed to transact
24 business in Illinois and as such is not covered by the Illinois
25 Insurance Guaranty Fund." Insurance contracts delivered under
26 this Section from domestic surplus line insurers as defined in

1 Section 445a shall have stamped or imprinted on the first page
2 thereof in not less than 12-pt. bold face type the following
3 legend: "Notice to Policyholder: This contract is issued by a
4 domestic surplus line insurer, as defined in Section 445a of
5 the Illinois Insurance Code, pursuant to Section 445, and as
6 such is not covered by the Illinois Insurance Guaranty Fund."

7 (11) Marine, aviation, and transportation. The Illinois
8 Surplus Line law does not apply to insurance of property and
9 operations of railroads or aircraft engaged in interstate or
10 foreign commerce, insurance of vessels, crafts or hulls,
11 cargoes, marine builder's risks, marine protection and
12 indemnity, or other risks including strikes and war risks
13 insured under ocean or wet marine forms of policies.

14 (12) Applicability of Illinois Insurance Code. Surplus
15 line insurance procured under this Section, including
16 insurance procured from a domestic surplus line insurer, is
17 not subject to the provisions of the Illinois Insurance Code
18 other than Sections 123, 123.1, 401, 401.1, 402, 403, 403A,
19 408, 412, 445, 445a, 445.1, 445.2, 445.3, 445.4, and all of the
20 provisions of Article XXXI to the extent that the provisions
21 of Article XXXI are not inconsistent with the terms of this
22 Act.

23 (Source: P.A. 102-224, eff. 1-1-22.)

24 (215 ILCS 5/448) (from Ch. 73, par. 1060)

25 Sec. 448. Certain powers reserved to General Assembly.

1 The General Assembly shall at all times have power to
2 prescribe such regulations, provisions, and limitations as it
3 may deem advisable, which regulations, provisions, and
4 limitations shall be binding upon any and all companies,
5 domestic, foreign or non-domestic ~~alien~~, subject to the
6 provisions of this Code, and the General Assembly shall have
7 power to amend, repeal, or modify this Code at pleasure.

8 (Source: Laws 1937, p. 696.)

9 (215 ILCS 5/451) (from Ch. 73, par. 1063)

10 Sec. 451. Companies not subject to Code. This Code shall
11 not apply to companies now or hereafter organized or
12 transacting business under the Title Insurance Act, or Act
13 amendatory thereof, supplementary thereto, or in replacement
14 thereof; nor to corporations now or hereafter organized and
15 transacting business under "An Act to provide for the
16 incorporation and regulation of nonprofit hospital service
17 corporations" approved July 6, 1935, or Act amendatory thereof
18 or supplementary thereto; nor shall any part of this Code
19 other than Articles X, XI, XIII, and XXIV apply to companies
20 now or hereafter organized or transacting business under an
21 Act entitled, "An Act relating to local mutual district,
22 county and township insurance companies," approved March 13,
23 1936, or Act amendatory thereof or supplementary thereto. No
24 domestic company shall be organized under this Code, nor shall
25 any foreign or non-domestic ~~alien~~ company receive a

1 certificate of authority under this Code, to transact the
2 business of title insurance. The changes made to this Section
3 by Public Act 96-334 are a statement and clarification of
4 existing law.

5 (Source: P.A. 96-334, eff. 1-1-10; 96-1000, eff. 7-2-10.)

6 (215 ILCS 5/531.09) (from Ch. 73, par. 1065.80-9)

7 Sec. 531.09. Assessments.

8 (1) For the purpose of providing the funds necessary to
9 carry out the powers and duties of the Association, the board
10 of directors shall assess the member insurers, separately for
11 each account, at such times and for such amounts as the board
12 finds necessary. Assessments shall be due not less than 30
13 days after written notice to the member insurers and shall
14 accrue interest from the due date at such adjusted rate as is
15 established under Section 6621 of Chapter 26 of the United
16 States Code and such interest shall be compounded daily.

17 (2) There shall be 2 classes of assessments, as follows:

18 (a) Class A assessments shall be made for the purpose
19 of meeting administrative costs and other general expenses
20 and examinations conducted under the authority of the
21 Director under subsection (5) of Section 531.12.

22 (b) Class B assessments shall be made to the extent
23 necessary to carry out the powers and duties of the
24 Association under Section 531.08 with regard to an
25 impaired or insolvent domestic insurer or insolvent

1 foreign or non-domestic ~~alien~~ insurers.

2 (3) (a) The amount of any Class A assessment shall be
3 determined at the discretion of the board of directors and
4 such assessments shall be authorized and called on a non-pro
5 rata basis. The amount of any Class B assessment, except for
6 assessments related to long-term care insurance, shall be
7 allocated for assessment purposes among the accounts and
8 subaccounts pursuant to an allocation formula which may be
9 based on the premiums or reserves of the impaired or insolvent
10 insurer or any other standard deemed by the board in its sole
11 discretion as being fair and reasonable under the
12 circumstances.

13 (b) Class B assessments against member insurers for each
14 account and subaccount shall be in the proportion that the
15 premiums received on business in this State by each assessed
16 member insurer on policies or contracts covered by each
17 account or subaccount for the three most recent calendar years
18 for which information is available preceding the year in which
19 the member insurer became impaired or insolvent, as the case
20 may be, bears to such premiums received on business in this
21 State for such calendar years by all assessed member insurers.

22 (b-5) The amount of the Class B assessment for long-term
23 care insurance written by the impaired or insolvent insurer
24 shall be allocated according to a methodology included in the
25 plan of operation and approved by the Director. The
26 methodology shall provide for 50% of the assessment to be

1 allocated to accident and health member insurers and 50% to be
2 allocated to life and annuity member insurers.

3 (c) Assessments for funds to meet the requirements of the
4 Association with respect to an impaired or insolvent insurer
5 shall not be made until necessary to implement the purposes of
6 this Article. Classification of assessments under subsection
7 (2) and computations of assessments under this subsection
8 shall be made with a reasonable degree of accuracy,
9 recognizing that exact determinations may not always be
10 possible.

11 (4) The Association may abate or defer, in whole or in
12 part, the assessment of a member insurer if, in the opinion of
13 the board, payment of the assessment would endanger the
14 ability of the member insurer to fulfill its contractual
15 obligations. In the event an assessment against a member
16 insurer is abated or deferred in whole or in part the amount by
17 which the assessment is abated or deferred may be assessed
18 against the other member insurers in a manner consistent with
19 the basis for assessments set forth in this Section. Once the
20 conditions that caused a deferral have been removed or
21 rectified, the member insurer shall pay all assessments that
22 were deferred pursuant to a repayment plan approved by the
23 Association.

24 (5) (a) Subject to the provisions of this paragraph, the
25 total of all assessments authorized by the Association with
26 respect to a member insurer for each subaccount of the life

1 insurance and annuity account and for the health account shall
2 not in one calendar year exceed 2% of that member insurer's
3 average annual premiums received in this State on the policies
4 and contracts covered by the subaccount or account during the
5 3 calendar years preceding the year in which the member
6 insurer became an impaired or insolvent insurer.

7 If 2 or more assessments are authorized in one calendar
8 year with respect to member insurers that become impaired or
9 insolvent in different calendar years, the average annual
10 premiums for purposes of the aggregate assessment percentage
11 limitation referenced in subparagraph (a) of this paragraph
12 shall be equal and limited to the higher of the 3-year average
13 annual premiums for the applicable subaccount or account as
14 calculated pursuant to this Section.

15 If the maximum assessment, together with the other assets
16 of the Association in an account, does not provide in one year
17 in either account an amount sufficient to carry out the
18 responsibilities of the Association, the necessary additional
19 funds shall be assessed as soon thereafter as permitted by
20 this Article.

21 (b) The board may provide in the plan of operation a method
22 of allocating funds among claims, whether relating to one or
23 more impaired or insolvent insurers, when the maximum
24 assessment will be insufficient to cover anticipated claims.

25 (c) If the maximum assessment for a subaccount of the life
26 insurance and annuity account in one year does not provide an

1 amount sufficient to carry out the responsibilities of the
2 Association, then pursuant to paragraph (b) of subsection (3),
3 the board shall assess the other subaccounts of the life
4 insurance and annuity account for the necessary additional
5 amount, subject to the maximum stated in paragraph (a) of this
6 subsection.

7 (6) The board may, by an equitable method as established
8 in the plan of operation, refund to member insurers, in
9 proportion to the contribution of each member insurer to that
10 account, the amount by which the assets of the account exceed
11 the amount the board finds is necessary to carry out during the
12 coming year the obligations of the Association with regard to
13 that account, including assets accruing from net realized
14 gains and income from investments. A reasonable amount may be
15 retained in any account to provide funds for the continuing
16 expenses of the Association and for future losses.

17 (7) An assessment is deemed to occur on the date upon which
18 the board votes such assessment. The board may defer calling
19 the payment of the assessment or may call for payment in one or
20 more installments.

21 (8) It is proper for any member insurer, in determining
22 its premium rates and policy owner dividends as to any kind of
23 insurance or health maintenance organization business within
24 the scope of this Article, to consider the amount reasonably
25 necessary to meet its assessment obligations under this
26 Article.

1 (9) The Association must issue to each member insurer
2 paying a Class B assessment under this Article a certificate
3 of contribution, in a form acceptable to the Director, for the
4 amount of the assessment so paid. All outstanding certificates
5 are of equal dignity and priority without reference to amounts
6 or dates of issue. A certificate of contribution may be shown
7 by the member insurer in its financial statement as an asset in
8 such form and for such amount, if any, and period of time as
9 the Director may approve, provided the member insurer shall in
10 any event at its option have the right to show a certificate of
11 contribution as an admitted asset at percentages of the
12 original face amount for calendar years as follows:

13 100% for the calendar year after the year of issuance;

14 80% for the second calendar year after the year of
15 issuance;

16 60% for the third calendar year after the year of
17 issuance;

18 40% for the fourth calendar year after the year of
19 issuance;

20 20% for the fifth calendar year after the year of
21 issuance.

22 (10) The Association may request information of member
23 insurers in order to aid in the exercise of its power under
24 this Section and member insurers shall promptly comply with a
25 request.

26 (Source: P.A. 100-687, eff. 8-3-18.)

1 (215 ILCS 5/531.11) (from Ch. 73, par. 1065.80-11)

2 Sec. 531.11. Duties and powers of the Director. In
3 addition to the duties and powers enumerated elsewhere in this
4 Article:

5 (1) The Director must do all of the following:

6 (a) Upon request of the board of directors,
7 provide the Association with a statement of the
8 premiums in the appropriate accounts for each member
9 insurer.

10 (b) Notify the board of directors of the existence
11 of an impaired or insolvent insurer not later than 3
12 days after a determination of impairment or insolvency
13 is made or when the Director receives notice of
14 impairment or insolvency.

15 (c) Give notice to an impaired insurer as required
16 by Sections 34 or 60. Notice to the impaired insurer
17 shall constitute notice to its shareholders, if any.

18 (d) In any liquidation or rehabilitation
19 proceeding involving a domestic member insurer, be
20 appointed as the liquidator or rehabilitator. If a
21 foreign or non-domestic ~~alien~~ member insurer is
22 subject to a liquidation proceeding in its domiciliary
23 jurisdiction or state of entry, the Director shall be
24 appointed conservator.

25 (2) The Director may suspend or revoke, after notice

1 and hearing, the certificate of authority to transact
2 business in this State of any member insurer which fails
3 to pay an assessment when due or fails to comply with the
4 plan of operation. As an alternative the Director may levy
5 a forfeiture on any member insurer which fails to pay an
6 assessment when due. Such forfeiture may not exceed 5% of
7 the unpaid assessment per month, but no forfeiture may be
8 less than \$100 per month.

9 (3) Any action of the board of directors or the
10 Association may be appealed to the Director by any member
11 insurer or any other person adversely affected by such
12 action if such appeal is taken within 30 days of the action
13 being appealed. Any final action or order of the Director
14 is subject to judicial review in a court of competent
15 jurisdiction.

16 (4) The liquidator, rehabilitator, or conservator of
17 any impaired insurer may notify all interested persons of
18 the effect of this Article.

19 (Source: P.A. 100-687, eff. 8-3-18.)

20 (215 ILCS 5/534.5) (from Ch. 73, par. 1065.84-5)

21 Sec. 534.5. Member company. "Member Company" means any
22 insurance company organized as a stock company, mutual
23 company, reciprocal or Lloyds, which holds a certificate of
24 authority to transact any kind of insurance in this State to
25 which this Article applies, and which is either:

1 (a) a domestic insurance company formed before or after
2 the effective date of this Article; or

3 (b) a foreign or non-domestic ~~alien~~ insurance company.

4 An insurance company shall cease to be a member company
5 effective on the day following the termination or expiration
6 of its license to transact the kinds of insurance to which this
7 Article applies; provided, however, that the insurance company
8 shall remain liable as a member company for any and all
9 obligations, including obligations for assessments levied
10 before the termination or expiration of the insurance
11 company's license and assessments levied after the termination
12 or expiration, based on any insolvency as to which the
13 determination of insolvency by a court of competent
14 jurisdiction occurs before the termination or expiration of
15 the insurance company's license.

16 (Source: P.A. 89-97, eff. 7-7-95.)

17 (215 ILCS 5/543.1) (from Ch. 73, par. 1065.93-1)

18 Sec. 543.1. The Director shall serve a copy of the
19 complaint seeking an Order of Liquidation with a finding of
20 insolvency against a domestic member company on the Fund at
21 the same time that such complaint is filed with the circuit
22 court or shall forward to the Fund notice of the filing of such
23 a complaint against a foreign or non-domestic ~~alien~~ member
24 company promptly upon receipt thereof. The Director also shall
25 serve on the Fund a copy of an Order of Liquidation with a

1 finding of insolvency against a domestic member company
2 immediately after it is entered by the circuit court or shall
3 forward to the Fund a copy of such order against a foreign or
4 non-domestic ~~alien~~ member company promptly upon receipt
5 thereof.

6 (Source: P.A. 85-576.)

7 (215 ILCS 5/1103) (from Ch. 73, par. 1065.803)

8 Sec. 1103. Name. The corporate name of any trust organized
9 under this Article shall not be the same as or deceptively
10 similar to the name of any domestic insurance company or of any
11 foreign or non-domestic ~~alien~~ insurance company authorized to
12 transact business in this State.

13 (Source: P.A. 84-1431.)

14 Section 95. The Reinsurance Intermediary Act is amended by
15 changing Section 5 as follows:

16 (215 ILCS 100/5) (from Ch. 73, par. 1605)

17 Sec. 5. Definitions.

18 "Actuary" means a person who is a member in good standing
19 of the American Academy of Actuaries.

20 "Controlling person" means any person, firm, association,
21 or corporation that directly or indirectly has the power to
22 direct or cause to be directed the management, control, or
23 activities of the reinsurance intermediary.

1 "Director" means the Director of the Department of
2 Insurance.

3 "Insurer" means any person, firm, association, or
4 corporation duly licensed in this State under the applicable
5 provisions of law as an insurer.

6 "Licensed producer" means an agent, broker, or reinsurance
7 intermediary licensed under the applicable provision of the
8 insurance law.

9 "Reinsurance intermediary" means an intermediary broker or
10 a manager.

11 "Intermediary broker" means any person, other than an
12 officer or employee of the ceding insurer, firm, association,
13 or corporation, who solicits, negotiates, or places
14 reinsurance cessions or retrocessions on behalf of a ceding
15 insurer without the authority or power to bind reinsurance on
16 behalf of the insurer.

17 "Intermediary manager" means any person, firm,
18 association, or corporation that has authority to bind or
19 manages all or part of the assumed reinsurance business of a
20 reinsurer (including the management of a separate division,
21 department, or underwriting office) and acts as an agent for
22 the reinsurer. However, the following persons shall not be
23 considered an intermediary manager, with respect to the
24 reinsurer, for the purposes of this Act:

25 (1) An employee of the reinsurer.

26 (2) A U.S. Manager of the United States branch of a

1 non-domestic ~~an alien~~ reinsurer.

2 (3) An underwriting manager that, under a contract,
3 manages all the reinsurance operations of the reinsurer,
4 is under common control with the reinsurer, subject to
5 Article VIII 1/2 of the Illinois Insurance Code, and whose
6 compensation is not based on the volume of premiums
7 written.

8 (4) The manager of a group, association, pool, or
9 organization of insurers that engage in joint underwriting
10 or joint reinsurance and who are subject to examinations
11 by the insurance regulatory authority of the state in
12 which the manager's principal business office is located.

13 "Reinsurer" means any person, firm, association, or
14 corporation duly licensed in this State under the applicable
15 provisions of law as an insurer with the authority to assume
16 reinsurance.

17 "To be in violation" means that the reinsurance
18 intermediary, insurer, or reinsurer for whom the reinsurance
19 intermediary was acting failed to substantially comply with
20 the provisions of this Act.

21 "Qualified United States financial institution" means an
22 institution that:

23 (1) is organized or (in the case of a U.S. office of a
24 foreign banking organization) licensed under the laws of
25 the United States or any state thereof;

26 (2) is regulated, supervised, and examined by federal

1 or state authorities having regulatory authority over
2 banks and trust companies; and

3 (3) has been determined by either the Director or the
4 Securities Valuation Office of the National Association of
5 Insurance Commissioners to meet the standards of financial
6 condition and standing as are considered necessary and
7 appropriate to regulate the quality of financial
8 institutions whose letters of credit will be acceptable to
9 the Director.

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

11 Section 100. The Comprehensive Health Insurance Plan Act
12 is amended by changing Section 7 as follows:

13 (215 ILCS 105/7) (from Ch. 73, par. 1307)

14 Sec. 7. Eligibility.

15 a. Except as provided in subsection (e) of this Section or
16 in Section 15 of this Act, any person who is either a citizen
17 of the United States or a noncitizen ~~an alien~~ lawfully
18 admitted for permanent residence and who has been for a period
19 of at least 180 days and continues to be a resident of this
20 State shall be eligible for Plan coverage under this Section
21 if evidence is provided of:

22 (1) A notice of rejection or refusal to issue
23 substantially similar individual health insurance coverage
24 for health reasons by a health insurance issuer;

1 (2) A refusal by a health insurance issuer to issue
2 individual health insurance coverage except at a rate
3 exceeding the applicable Plan rate for which the person is
4 responsible; or

5 (3) The absence of available health insurance coverage
6 for a person under 19 years of age.

7 A rejection or refusal by a group health plan or health
8 insurance issuer offering only stop-loss or excess of loss
9 insurance or contracts, agreements, or other arrangements for
10 reinsurance coverage with respect to the applicant shall not
11 be sufficient evidence under this subsection.

12 b. The Board shall promulgate a list of medical or health
13 conditions for which a person who is either a citizen of the
14 United States or a noncitizen ~~an alien~~ lawfully admitted for
15 permanent residence and a resident of this State would be
16 eligible for Plan coverage without applying for health
17 insurance coverage pursuant to subsection a. of this Section.
18 Persons who can demonstrate the existence or history of any
19 medical or health conditions on the list promulgated by the
20 Board shall not be required to provide the evidence specified
21 in subsection a. of this Section. The list shall be effective
22 on the first day of the operation of the Plan and may be
23 amended from time to time as appropriate.

24 c. Family members of the same household who each are
25 covered persons are eligible for optional family coverage
26 under the Plan.

1 d. For persons qualifying for coverage in accordance with
2 Section 7 of this Act, the Board shall, if it determines that
3 such appropriations as are made pursuant to Section 12 of this
4 Act are insufficient to allow the Board to accept all of the
5 eligible persons which it projects will apply for enrollment
6 under the Plan, limit or close enrollment to ensure that the
7 Plan is not over-subscribed and that it has sufficient
8 resources to meet its obligations to existing enrollees. The
9 Board shall not limit or close enrollment for federally
10 eligible individuals.

11 e. A person shall not be eligible for coverage under the
12 Plan if:

13 (1) He or she has or obtains other coverage under a
14 group health plan or health insurance coverage
15 substantially similar to or better than a Plan policy as
16 an insured or covered dependent or would be eligible to
17 have that coverage if he or she elected to obtain it.
18 Persons otherwise eligible for Plan coverage may, however,
19 solely for the purpose of having coverage for a
20 pre-existing condition, maintain other coverage only while
21 satisfying any pre-existing condition waiting period under
22 a Plan policy or a subsequent replacement policy of a Plan
23 policy.

24 (1.1) His or her prior coverage under a group health
25 plan or health insurance coverage, provided or arranged by
26 an employer of more than 10 employees was discontinued for

1 any reason without the entire group or plan being
2 discontinued and not replaced, provided he or she remains
3 an employee, or dependent thereof, of the same employer.

4 (2) He or she is a recipient of or is approved to
5 receive medical assistance, except that a person may
6 continue to receive medical assistance through the medical
7 assistance no grant program, but only while satisfying the
8 requirements for a preexisting condition under Section 8,
9 subsection f. of this Act. Payment of premiums pursuant to
10 this Act shall be allocable to the person's spenddown for
11 purposes of the medical assistance no grant program, but
12 that person shall not be eligible for any Plan benefits
13 while that person remains eligible for medical assistance.
14 If the person continues to receive or be approved to
15 receive medical assistance through the medical assistance
16 no grant program at or after the time that requirements
17 for a preexisting condition are satisfied, the person
18 shall not be eligible for coverage under the Plan. In that
19 circumstance, coverage under the Plan shall terminate as
20 of the expiration of the preexisting condition limitation
21 period. Under all other circumstances, coverage under the
22 Plan shall automatically terminate as of the effective
23 date of any medical assistance.

24 (3) Except as provided in Section 15, the person has
25 previously participated in the Plan and voluntarily
26 terminated Plan coverage, unless 12 months have elapsed

1 since the person's latest voluntary termination of
2 coverage.

3 (4) The person fails to pay the required premium under
4 the covered person's terms of enrollment and
5 participation, in which event the liability of the Plan
6 shall be limited to benefits incurred under the Plan for
7 the time period for which premiums had been paid and the
8 covered person remained eligible for Plan coverage.

9 (5) The Plan has paid a total of \$5,000,000 in
10 benefits on behalf of the covered person.

11 (6) The person is a resident of a public institution.

12 (7) The person's premium is paid for or reimbursed
13 under any government sponsored program or by any
14 government agency or health care provider, except as an
15 otherwise qualifying full-time employee, or dependent of
16 such employee, of a government agency or health care
17 provider or, except when a person's premium is paid by the
18 U.S. Treasury Department pursuant to the federal Trade Act
19 of 2002.

20 (8) The person has or later receives other benefits or
21 funds from any settlement, judgement, or award resulting
22 from any accident or injury, regardless of the date of the
23 accident or injury, or any other circumstances creating a
24 legal liability for damages due that person by a third
25 party, whether the settlement, judgment, or award is in
26 the form of a contract, agreement, or trust on behalf of a

1 minor or otherwise and whether the settlement, judgment,
2 or award is payable to the person, his or her dependent,
3 estate, personal representative, or guardian in a lump sum
4 or over time, so long as there continues to be benefits or
5 assets remaining from those sources in an amount in excess
6 of \$300,000.

7 (9) Within the 5 years prior to the date a person's
8 Plan application is received by the Board, the person's
9 coverage under any health care benefit program as defined
10 in 18 U.S.C. 24, including any public or private plan or
11 contract under which any medical benefit, item, or service
12 is provided, was terminated as a result of any act or
13 practice that constitutes fraud under State or federal law
14 or as a result of an intentional misrepresentation of
15 material fact; or if that person knowingly and willfully
16 obtained or attempted to obtain, or fraudulently aided or
17 attempted to aid any other person in obtaining, any
18 coverage or benefits under the Plan to which that person
19 was not entitled.

20 f. The Board or the administrator shall require
21 verification of residency and may require any additional
22 information or documentation, or statements under oath, when
23 necessary to determine residency upon initial application and
24 for the entire term of the policy.

25 g. Coverage shall cease (i) on the date a person is no
26 longer a resident of Illinois, (ii) on the date a person

1 requests coverage to end, (iii) upon the death of the covered
2 person, (iv) on the date State law requires cancellation of
3 the policy, or (v) at the Plan's option, 30 days after the Plan
4 makes any inquiry concerning a person's eligibility or place
5 of residence to which the person does not reply.

6 h. Except under the conditions set forth in subsection g
7 of this Section, the coverage of any person who ceases to meet
8 the eligibility requirements of this Section shall be
9 terminated at the end of the current policy period for which
10 the necessary premiums have been paid.

11 (Source: P.A. 96-938, eff. 6-24-10; 97-661, eff. 1-13-12.)

12 Section 105. The Religious and Charitable Risk Pooling
13 Trust Act is amended by changing Section 15 as follows:

14 (215 ILCS 150/15) (from Ch. 148, par. 215)

15 Sec. 15. Ineligible beneficiaries. A beneficiary is
16 ineligible (1) if it is not exempt from taxation under
17 paragraph (3) of subsection (c) of Section 501 of the Internal
18 Revenue Code of 1954 as amended, or an affiliate of a
19 corporation exempt from taxation under paragraph (3) of
20 subsection (c) of Section 501 of the Internal Revenue Code, as
21 amended, and exempt from taxation under paragraph (2) of
22 subsection (c) of Section 501 of the Internal Revenue Code of
23 1954, as amended, or tax exempt as a unit of local government
24 or as a hospital owned and operated by a unit of local

1 government; (2) if a corporation, it is not incorporated as a
2 not-for-profit corporation; or (3) if a foreign or
3 non-domestic ~~alien~~ corporation, it no longer has a Certificate
4 of Authority issued by the Secretary of State.

5 (Source: P.A. 92-99, eff. 7-20-01.)

6 Section 110. The Title Insurance Act is amended by
7 changing Sections 11 and 15.1 as follows:

8 (215 ILCS 155/11) (from Ch. 73, par. 1411)

9 Sec. 11. Statutory premium reserve.

10 (a) A domestic title insurance company shall establish and
11 maintain a statutory premium reserve computed in accordance
12 with this Section. The reserve shall be reported as a
13 liability of the title insurance company in its financial
14 statements. The statutory premium reserve shall be maintained
15 by the title insurance company for the protection of holders
16 of title insurance policies. Except as provided in this
17 Section, assets equal in value to the statutory premium
18 reserve are not subject to distribution among creditors or
19 stockholders of the title insurance company until all claims
20 of policyholders or claims under reinsurance contracts have
21 been paid in full and discharged, lawfully reinsured, or
22 otherwise assumed by another title insurance company
23 authorized to do business under this Act.

24 (b) A foreign or non-domestic ~~alien~~ title insurance

1 company authorized to do business under this Act shall
2 maintain at least the same reserves on title insurance
3 policies issued on properties located in this State as are
4 required of domestic title insurance companies.

5 (c) The statutory premium reserve shall consist of:

6 (1) the amount of the statutory premium reserve on
7 January 1, 1990; and

8 (2) a sum equal to 12 1/2 cents for each \$1,000 of net
9 retained liability under each title insurance policy on a
10 single risk written on properties located in this State
11 after January 1, 1990.

12 (d) Amounts placed in the statutory premium reserve in any
13 year in accordance with this Section shall be deducted in
14 determining the net profit of the title insurance company for
15 that year.

16 (e) A title insurance company shall release from the
17 statutory premium reserve a sum equal to 10% of the amount
18 added to the reserve during a calendar year on July 1 of each
19 of the 5 years following the year in which the sum was added,
20 and shall release from the statutory premium reserve a sum
21 equal to 3 1/3% of the amount added to the reserve during that
22 year on each succeeding July 1 until the entire amount for that
23 year has been released. The amount of the statutory premium
24 reserve or similar premium reserve maintained before January
25 1, 1990, shall be released in accordance with the law in effect
26 before January 1, 1990.

1 (f) This reserve is independent of the deposit
2 requirements of Section 4 of this Act.

3 (Source: P.A. 94-893, eff. 6-20-06.)

4 (215 ILCS 155/15.1)

5 Sec. 15.1. No taxes to be imposed by political
6 subdivisions. The fees, charges, and taxes provided for by
7 this Act shall be in lieu of all license fees or privilege or
8 occupation taxes or other fees levied or assessed by any
9 municipality, county, or other political subdivision of this
10 State. No municipality, county, or other political subdivision
11 of this State shall impose any license fee or privilege or
12 occupation tax or fee upon any domestic, foreign, or
13 non-domestic ~~alien~~ company, or upon any of its agents, for the
14 privilege of doing insurance business therein. This Section
15 shall not be construed to prohibit the levy and collection of
16 State, county, or municipal taxes upon the real and personal
17 property of the company, including the tax imposed by
18 subsections (c) and (d) of Section 201 of the Illinois Income
19 Tax Act. This Section 15.1 is declared to be a denial and
20 limitation of the powers of home rule units pursuant to
21 paragraph (g) of Section 6 of Article VII of the Illinois
22 Constitution of 1970.

23 (Source: P.A. 90-317, eff. 8-1-97.)

24 Section 115. The Viatical Settlements Act of 2009 is

1 amended by changing Sections 5 and 30 as follows:

2 (215 ILCS 159/5)

3 Sec. 5. Definitions.

4 "Accredited investor" means an accredited investor as
5 defined in Rule 501(a) promulgated under the Securities Act of
6 1933 (15 U.S.C. 77 et seq.), as amended.

7 "Advertising" means any written, electronic, or printed
8 communication or any communication by means of recorded
9 telephone messages or transmitted on radio, television, the
10 Internet, or similar communications media, including film
11 strips, digital picture slides, motion pictures, and videos
12 published, disseminated, circulated, or placed before the
13 public in this State, for the purpose of creating an interest
14 in or inducing a person to sell, assign, devise, bequest, or
15 transfer the death benefit or ownership of a policy pursuant
16 to a viatical settlement contract.

17 "Non-domestic ~~Alien~~ licensee" means a licensee
18 incorporated or organized under the laws of any country other
19 than the United States.

20 "Business of viatical settlements" means any activity
21 involved in, but not limited to, the offering, soliciting,
22 negotiating, procuring, effectuating, purchasing, investing,
23 financing, monitoring, tracking, underwriting, selling,
24 transferring, assigning, pledging, or hypothecating or in any
25 other manner acquiring an interest in a life insurance policy

1 by means of a viatical settlement contract or other agreement.

2 "Chronically ill" means having been certified within the
3 preceding 12-month period by a licensed health professional
4 as:

5 (1) being unable to perform, without substantial
6 assistance from another individual and for at least 90
7 days due to a loss of functional capacity, at least 2
8 activities of daily living, including, but not limited to,
9 eating, toileting, transferring, bathing, dressing, or
10 continence;

11 (2) requiring substantial supervision to protect the
12 individual from threats to health and safety due to severe
13 cognitive impairment; or

14 (3) having a level of disability similar to that
15 described in paragraph (1) as determined by the Secretary
16 of Health and Human Services.

17 "Controlling person" means any person, firm, association,
18 or corporation that directly or indirectly has the power to
19 direct or cause to be directed the management, control, or
20 activities of the viatical settlement provider.

21 "Director" means the Director of the Division of Insurance
22 of the Department of Financial and Professional Regulation.

23 "Division" means the Division of Insurance of the
24 Department of Financial and Professional Regulation.

25 "Escrow agent" means an independent third-party person
26 who, pursuant to a written agreement signed by the viatical

1 settlement provider and viator, provides escrow services
2 related to the acquisition of a life insurance policy pursuant
3 to a viatical settlement contract. "Escrow agent" does not
4 include any person associated or affiliated with or under the
5 control of a licensee.

6 "Financial institution" means a financial institution as
7 defined by the Financial Institutions Insurance Sales Law in
8 Article XLIV of the Illinois Insurance Code.

9 "Financing entity" means an underwriter, placement agent,
10 lender, purchaser of securities, purchaser of a policy or
11 certificate from a viatical settlement provider, credit
12 enhancer, or an entity that has a direct ownership in a policy
13 that is the subject of a viatical settlement contract, and to
14 which both of the following apply:

15 (1) its principal activity related to the transaction
16 is providing funds to effect the viatical settlement or
17 purchase of one or more viaticated policies; and

18 (2) it has an agreement in writing with one or more
19 licensed viatical settlement providers to finance the
20 acquisition of viatical settlement contracts.

21 "Financing entity" does not include an investor that is not an
22 accredited investor.

23 "Financing transaction" means a transaction in which a
24 viatical settlement provider obtains financing from a
25 financing entity, including, without limitation, any secured
26 or unsecured financing, securitization transaction, or

1 securities offering that either is registered or exempt from
2 registration under federal and State securities law.

3 "Foreign licensee" means any viatical settlement provider
4 incorporated or organized under the laws of any state of the
5 United States other than this State.

6 "Insurance producer" means an insurance producer as
7 defined by Section 10 of Article XXXI of the Illinois
8 Insurance Code.

9 "Licensee" means a viatical settlement provider or
10 viatical settlement broker.

11 "Life expectancy provider" means a person who determines
12 or holds himself or herself out as determining life
13 expectancies or mortality ratings used to determine life
14 expectancies on behalf of or in connection with any of the
15 following:

16 (1) A viatical settlement provider, viatical
17 settlement broker, or person engaged in the business of
18 viatical settlements.

19 (2) A viatical investment as defined by Section 2.33
20 of the Illinois Securities Law of 1953 or a viatical
21 settlement contract.

22 "NAIC" means the National Association of Insurance
23 Commissioners.

24 "Person" means an individual or a legal entity, including,
25 without limitation, a partnership, limited liability company,
26 limited liability partnership, association, trust, business

1 trust, or corporation.

2 "Policy" means an individual or group policy, group
3 certificate, contract, or arrangement of insurance of the
4 class defined by subsection (a) of Section 4 of the Illinois
5 Insurance Code owned by a resident of this State, regardless
6 of whether delivered or issued for delivery in this State.

7 "Qualified institutional buyer" means a qualified
8 institutional buyer as defined in Rule 144 promulgated under
9 the Securities Act of 1933, as amended.

10 "Related provider trust" means a titling trust or other
11 trust established by a licensed viatical settlement provider
12 or a financing entity for the sole purpose of holding the
13 ownership or beneficial interest in purchased policies in
14 connection with a financing transaction. The trust shall have
15 a written agreement with the licensed viatical settlement
16 provider under which the licensed viatical settlement provider
17 is responsible for ensuring compliance with all statutory and
18 regulatory requirements and under which the trust agrees to
19 make all records and files related to viatical settlement
20 transactions available to the Director as if those records and
21 files were maintained directly by the licensed viatical
22 settlement provider.

23 "Special purpose entity" means a corporation, partnership,
24 trust, limited liability company, or other similar entity
25 formed only to provide, directly or indirectly, access to
26 institutional capital markets (i) for a financing entity or

1 licensed viatical settlement provider; or (ii) in connection
2 with a transaction in which the securities in the special
3 purposes entity are acquired by the viator or by qualified
4 institutional buyers or the securities pay a fixed rate of
5 return commensurate with established asset-backed
6 institutional capital markets.

7 "Stranger-originated life insurance" or "STOLI" means an
8 act, practice, or arrangement to initiate a life insurance
9 policy for the benefit of a third-party investor who, at the
10 time of policy origination, has no insurable interest in the
11 insured. STOLI practices include, but are not limited to,
12 cases in which life insurance is purchased with resources or
13 guarantees from or through a person or entity who, at the time
14 of policy inception, could not lawfully initiate the policy
15 himself or itself and where, at the time of policy inception,
16 there is an arrangement or agreement, whether verbal or
17 written, to directly or indirectly transfer the ownership of
18 the policy or policy benefits to a third party. Trusts created
19 to give the appearance of an insurable interest and used to
20 initiate policies for investors violate insurance interest
21 laws and the prohibition against wagering on life. STOLI
22 arrangements do not include lawful viatical settlement
23 contracts as permitted by this Act.

24 "Terminally ill" means certified by a physician as having
25 an illness or physical condition that reasonably is expected
26 to result in death in 24 months or less.

1 "Viatical settlement broker" means a licensed insurance
2 producer who has been issued a license pursuant to paragraph
3 (1) or (2) of subsection (a) of Section 500-35 of the Illinois
4 Insurance Code who, working exclusively on behalf of a viator
5 and for a fee, commission, or other valuable consideration,
6 offers, solicits, promotes, or attempts to negotiate viatical
7 settlement contracts between a viator and one or more viatical
8 settlement providers or one or more viatical settlement
9 brokers. "Viatical settlement broker" does not include an
10 attorney, certified public accountant, or a financial planner
11 accredited by a nationally recognized accreditation agency,
12 who is retained to represent the viator and whose compensation
13 is not paid directly or indirectly by the viatical settlement
14 provider or purchaser.

15 "Viatical settlement contract" means any of the following:

16 (1) A written agreement between a viator and a
17 viatical settlement provider establishing the terms under
18 which compensation or anything of value is or will be
19 paid, which compensation or value is less than the
20 expected death benefits of the policy, in return for the
21 viator's present or future assignment, transfer, sale,
22 devise, or bequest of the death benefit or ownership of
23 any portion of the insurance policy.

24 (2) A written agreement for a loan or other lending
25 transaction, secured primarily by an individual life
26 insurance policy or an individual certificate of a group

1 life insurance policy.

2 (3) The transfer for compensation or value of
3 ownership of a beneficial interest in a trust or other
4 entity that owns such policy, if the trust or other entity
5 was formed or availed of for the principal purpose of
6 acquiring one or more life insurance contracts and the
7 life insurance contract insures the life of a person
8 residing in this State.

9 (4) A premium finance loan made for a life insurance
10 policy by a lender to a viator on, before, or after the
11 date of issuance of the policy in either of the following
12 situations:

13 (A) The viator or the insured receives a guarantee
14 of the viatical settlement value of the policy.

15 (B) The viator or the insured agrees to sell the
16 policy or any portion of the policy's death benefit on
17 any date before or after issuance of the policy.

18 "Viatical settlement contract" does not include any of the
19 following acts, practices, or arrangements listed below in
20 subparagraphs (a) through (i) of this definition of "viatical
21 settlement contract", unless part of a plan, scheme, device,
22 or artifice to avoid application of this Act; provided,
23 however, that the list of excluded items contained in
24 subparagraphs (a) through (i) is not intended to be an
25 exhaustive list and that an act, practice, or arrangement that
26 is not described below in subparagraphs (a) through (i) does

1 not necessarily constitute a viatical settlement contract:

2 (a) A policy loan or accelerated death benefit made by
3 the insurer pursuant to the policy's terms;

4 (b) Loan proceeds that are used solely to pay: (i)
5 premiums for the policy and (ii) the costs of the loan,
6 including, without limitation, interest, arrangement fees,
7 utilization fees and similar fees, closing costs, legal
8 fees and expenses, trustee fees and expenses, and third
9 party collateral provider fees and expenses, including
10 fees payable to letter of credit issuers;

11 (c) A loan made by a bank or other financial
12 institution in which the lender takes an interest in a
13 life insurance policy solely to secure repayment of a loan
14 or, if there is a default on the loan and the policy is
15 transferred, the transfer of such a policy by the lender,
16 provided that neither the default itself nor the transfer
17 of the policy in connection with the default is pursuant
18 to an agreement or understanding with any other person for
19 the purpose of evading regulation under this Act;

20 (d) A loan made by a lender that does not violate
21 Article XXXIIa of the Illinois Insurance Code, provided
22 that the premium finance loan is not described in this
23 Act;

24 (e) An agreement in which all the parties (i) are
25 closely related to the insured by blood or law or (ii) have
26 a lawful substantial economic interest in the continued

1 life, health, and bodily safety of the person insured, or
2 trusts established primarily for the benefit of such
3 parties;

4 (f) Any designation, consent, or agreement by an
5 insured who is an employee of an employer in connection
6 with the purchase by the employer, or trust established by
7 the employer, of life insurance on the life of the
8 employee;

9 (g) A bona fide business succession planning
10 arrangement: (i) between one or more shareholders in a
11 corporation or between a corporation and one or more of
12 its shareholders or one or more trusts established by its
13 shareholders; (ii) between one or more partners in a
14 partnership or between a partnership and one or more of
15 its partners or one or more trusts established by its
16 partners; or (iii) between one or more members in a
17 limited liability company or between a limited liability
18 company and one or more of its members or one or more
19 trusts established by its members;

20 (h) An agreement entered into by a service recipient,
21 or a trust established by the service recipient, and a
22 service provider, or a trust established by the service
23 provider, who performs significant services for the
24 service recipient's trade or business; or

25 (i) Any other contract, transaction, or arrangement
26 exempted from the definition of viatical settlement

1 contract by the Director based on the Director's
2 determination that the contract, transaction, or
3 arrangement is not of the type intended to be regulated by
4 this Act.

5 "Viatical settlement investment agent" means a person who
6 is an appointed or contracted agent of a licensed viatical
7 settlement provider who solicits or arranges the funding for
8 the purchase of a viatical settlement by a viatical settlement
9 purchaser and who is acting on behalf of a viatical settlement
10 provider. A viatical settlement investment agent is deemed to
11 represent the viatical settlement provider of whom the
12 viatical settlement investment agent is an appointed or
13 contracted agent.

14 "Viatical settlement provider" means a person, other than
15 a viator, who enters into or effectuates a viatical settlement
16 contract with a viator. "Viatical settlement provider" does
17 not include:

18 (1) a bank, savings bank, savings and loan
19 association, credit union, or other financial institution
20 that takes an assignment of a policy as collateral for a
21 loan;

22 (2) a financial institution or premium finance company
23 making premium finance loans and exempted by the Director
24 from the licensing requirement under the premium finance
25 laws where the institution or company takes an assignment
26 of a life insurance policy solely as collateral for a

1 premium finance loan;

2 (3) the issuer of the life insurance policy;

3 (4) an authorized or eligible insurer that provides
4 stop loss coverage or financial guaranty insurance to a
5 viatical settlement provider, purchaser, financing entity,
6 special purpose entity, or related provider trust;

7 (5) An individual person who enters into or
8 effectuates no more than one viatical settlement contract
9 in a calendar year for the transfer of policies for any
10 value less than the expected death benefit;

11 (6) a financing entity;

12 (7) a special purpose entity;

13 (8) a related provider trust;

14 (9) a viatical settlement purchaser; or

15 (10) any other person that the Director determines is
16 consistent with the definition of viatical settlement
17 provider.

18 "Viatical settlement purchaser" means a person who
19 provides a sum of money as consideration for a life insurance
20 policy or an interest in the death benefits of a life insurance
21 policy, or a person who owns or acquires or is entitled to a
22 beneficial interest in a trust that owns a viatical settlement
23 contract or is the beneficiary of a life insurance policy, in
24 each case where such policy has been or will be the subject of
25 a viatical settlement contract, for the purpose of deriving an
26 economic benefit. "Viatical settlement purchaser" does not

1 include: (i) a licensee under this Act; (ii) an accredited
2 investor or qualified institutional buyer; (iii) a financing
3 entity; (iv) a special purpose entity; or (v) a related
4 provider trust.

5 "Viaticated policy" means a life insurance policy that has
6 been acquired by a viatical settlement provider pursuant to a
7 viatical settlement contract.

8 "Viator" means the owner of a life insurance policy or a
9 certificate holder under a group policy who enters or seeks to
10 enter into a viatical settlement contract. For the purposes of
11 this Act, a viator is not limited to an owner of a life
12 insurance policy or a certificate holder under a group policy
13 insuring the life of an individual with a terminal or chronic
14 illness or condition, except where specifically addressed.

15 "Viator" does not include:

- 16 (1) a licensee;
- 17 (2) a qualified institutional buyer;
- 18 (3) a financing entity;
- 19 (4) a special purpose entity; or
- 20 (5) a related provider trust.

21 (Source: P.A. 100-863, eff. 8-14-18.)

22 (215 ILCS 159/30)

23 Sec. 30. Examination or investigation.

24 (a) The Director may when and as often as the Director
25 deems it reasonably necessary to protect the interests of the

1 public, examine the business affairs of any licensee.

2 In scheduling and determining the nature, scope, and
3 frequency of the examinations, the Director shall consider
4 such matters as consumer complaints, results of financial
5 statement analyses and ratios, changes in management or
6 ownership, actuarial opinions, report of independent certified
7 public accountants, and other relevant criteria as determined
8 by the Director.

9 (b) For purposes of completing an examination of a
10 licensee under this Act, the Director may examine or
11 investigate any person, or the business of any person, in so
12 far as the examination or investigation is, in the sole
13 discretion of the Director, necessary or material to the
14 examination.

15 (c) In lieu of an examination under this Act of any foreign
16 licensee or non-domestic ~~alien~~ licensee licensed in this
17 State, the Director may, at the Director's discretion, accept
18 an examination report on the licensee as prepared by the chief
19 insurance regulatory official for the licensee's state of
20 domicile or port-of-entry state.

21 (d) As far as practical, the examination of a foreign
22 licensee or non-domestic ~~alien~~ licensee shall be made in
23 cooperation with the insurance supervisory officials of other
24 states in which the licensee transacts business.

25 (e) Licensees shall for 5 years retain copies of:

26 (1) all proposed, offered, or executed contracts,

1 purchase agreements, underwriting documents, policy forms,
2 and applications from the date of the proposal, offer, or
3 execution of the contract or purchase agreement, whichever
4 is later;

5 (2) all checks, drafts, or other evidence and
6 documentation related to the payment, transfer, deposit,
7 or release of funds from the date of the transaction;

8 (3) all other records and documents in any format
9 related to the requirements of this Act, including a
10 record of complaints received against the licensee and
11 agents representing the licensee and a list of all life
12 expectancy providers that have provider services to the
13 licensee.

14 This subsection (e) does not relieve a person of the
15 obligation to produce records required by this subsection to
16 the Director after the retention period has expired if the
17 person has retained the documents.

18 Records required to be retained by this subsection (e)
19 must be legible and complete and may be retained in paper,
20 photograph, microprocessor, magnetic, mechanical, or
21 electronic media, or by any process that accurately reproduces
22 or forms a durable medium for the reproduction of a record.

23 (f) Upon determining that an examination should be
24 conducted, the Director shall appoint one or more examiners to
25 perform the examination and instruct them as to the scope of
26 the examination. The Director may employ any guidelines or

1 procedures for purposes of this subsection (f) that the
2 Director deems appropriate.

3 Every licensee or person, including all officers,
4 partners, members, directors, employees, controlling persons,
5 and agents of any licensee or person, from whom information is
6 sought shall provide to the examiners timely, convenient, and
7 free access at all reasonable hours at the licensee's or
8 person's offices to all books, records, accounts, papers,
9 documents, assets, and computer or other recordings relating
10 to the property, assets, business, and affairs of the licensee
11 being examined. The officers, directors, employees, and agents
12 of the licensee or person shall facilitate the examination and
13 aid in the examination so far as it is in their power to do so.
14 The refusal of a licensee by its officers, directors,
15 employees, or agents to submit to examination or to comply
16 with any reasonable written request of the Director shall be
17 grounds for revocation, denial of issuance, or non-renewal of
18 any license or authority held by the licensee to engage in the
19 viatical settlement business or other business subject to the
20 Director's jurisdiction.

21 The Director shall have the power to issue subpoenas, to
22 administer oaths, and to examine under oath any person as to
23 any matter pertinent to the examination. Upon the failure or
24 refusal of a person to obey a subpoena, the Director may
25 petition a court of competent jurisdiction, and upon proper
26 showing, the court may enter an order compelling the witness

1 to appear and testify or produce documentary evidence. Failure
2 to obey the court order shall be punishable as contempt of
3 court. Subpoenas may be enforced pursuant to Section 403 of
4 the Illinois Insurance Code.

5 When making an examination under this Act, the Director
6 may retain attorneys, appraisers, independent actuaries,
7 independent certified public accountants, or other
8 professionals and specialists as examiners, the reasonable
9 cost of which shall be borne by the licensee that is the
10 subject of the examination.

11 (g) Nothing contained in this Act limits the Director's
12 authority to terminate or suspend an examination in order to
13 pursue other legal or regulatory action pursuant to the
14 insurance laws of this State. Findings of fact and conclusions
15 made pursuant to any examination shall be prima facie evidence
16 in any legal or regulatory action.

17 (h) Nothing contained in this Act shall be construed to
18 limit the Director's authority to use and, if appropriate, to
19 make public any final or preliminary examination report, any
20 examiner or licensee workpapers or other documents, or any
21 other information discovered or developed during the course of
22 any examination in the furtherance of any legal or regulatory
23 action that the Director may, in the Director's discretion,
24 deem appropriate.

25 (i) No later than 60 days following completion of the
26 examination, the examiner in charge shall file with the

1 Director a verified written report of examination under oath.
2 Upon receipt of the verified report, the Director shall
3 transmit the report to the licensee examined.

4 (j) Examination reports shall be comprised only of facts
5 appearing upon the books, records, or other documents of the
6 licensee, its agents, or other persons examined, or as
7 ascertained from the testimony of its officers or agents or
8 other persons examined concerning its affairs and the
9 conclusions and recommendations that the examiners find
10 reasonably warranted from the facts.

11 (k) The licensee may request a hearing within 10 days
12 after receipt of the examination report by giving the Director
13 written notice of that request, together with a statement of
14 its objections. The Director then must conduct a hearing in
15 conjunction with Sections 402 and 403 of the Illinois
16 Insurance Code. The Director must issue a written order based
17 upon the examination report and upon the hearing within 90
18 days after the report is filed or within 90 days after the
19 hearing. After the hearing, the Director may make such order
20 or orders as may be reasonably necessary to correct,
21 eliminate, or remedy unlawful conduct.

22 (l) If the Director determines that regulatory action is
23 appropriate as a result of an examination, the Director may
24 initiate any proceedings or actions provided by law.

25 (m) Names and individual identification data for all
26 viators in the possession and control of the Director shall be

1 considered private and confidential and shall not be disclosed
2 by the Director unless required by law.

3 Except as otherwise provided in this Act, all examination
4 reports, working papers, recorded information, documents, and
5 copies thereof produced by, obtained by or disclosed to the
6 Director or any other person in the course of an examination
7 made under this Act or the law of another state or jurisdiction
8 that is substantially similar to this Act, or in the course of
9 analysis or investigation by the Director of the financial
10 condition or market conduct of a licensee are (i) confidential
11 by law and privileged, (ii) not subject to the Freedom of
12 Information Act, (iii) not subject to subpoena, and (iv) not
13 subject to discovery or admissible in evidence in any private
14 civil action.

15 The Director is authorized to use the documents,
16 materials, or other information in the furtherance of any
17 regulatory or legal action brought as part of the Director's
18 official duties.

19 Documents, materials, or other information, including, but
20 not limited to, all working papers and copies thereof, in the
21 possession or control of the NAIC and its affiliates and
22 subsidiaries are:

- 23 (1) confidential by law and privileged;
24 (2) not subject to subpoena; and
25 (3) not subject to discovery or admissible in evidence
26 in any private civil action if they are:

1 (A) created, produced or obtained by, or disclosed
2 to the NAIC and its affiliates and subsidiaries in the
3 course of assisting an examination made under this Act
4 or assisting the Director or the chief insurance
5 regulatory official in another state in the analysis
6 or investigation of the financial condition or market
7 conduct of a licensee; or

8 (B) disclosed under this subsection (m) by the
9 Director or disclosed under a comparable provision in
10 law of another state by that state's chief insurance
11 regulatory official to the NAIC and its affiliates and
12 subsidiaries.

13 Neither the Director nor any person that received the
14 documents, material, or other information while acting under
15 the authority of the Director, including the NAIC and its
16 affiliates and subsidiaries, shall be permitted to testify in
17 any private civil action concerning any confidential
18 documents, materials, or information subject to this
19 subsection (m).

20 (n) In order to assist in the performance of the
21 Director's duties, the Director may:

22 (1) share documents, materials, or other information,
23 including the confidential and privileged documents,
24 materials, or information subject to subsection (m) of
25 this Section, with other state, federal, and international
26 regulatory agencies, with the NAIC and its affiliates and

1 subsidiaries, and with state, federal, and international
2 law enforcement authorities, provided that the recipient
3 agrees to maintain the confidentiality and privileged
4 status of the document, material, communication, or other
5 information;

6 (2) receive documents, materials, communications, or
7 information, including otherwise confidential and
8 privileged documents, materials, or information, from the
9 NAIC and its affiliates and subsidiaries and from
10 regulatory and law enforcement officials of other foreign
11 or domestic jurisdictions, and shall maintain as
12 confidential or privileged any document, material, or
13 information received with notice or the understanding that
14 it is confidential or privileged under the laws of the
15 jurisdiction that is the source of the document, material,
16 or information; and

17 (3) enter into agreements governing sharing and use of
18 information consistent with this Section.

19 (o) No waiver of any applicable privilege or claim of
20 confidentiality in the documents, materials, or information
21 shall occur as a result of disclosure to the Director under
22 this Section or as a result of sharing as authorized in
23 subsection (n) of this Section.

24 (p) A privilege established under the law of any state or
25 jurisdiction that is substantially similar to the privilege
26 established under this Section shall be available and enforced

1 in any proceeding in, and in any court of, this State.

2 (q) Nothing contained in this Act prevents or prohibits
3 the Director from disclosing the content of an examination
4 report, preliminary examination report or results, or any
5 matter relating to those reports or results, to the chief
6 insurance regulatory official of any other state or country,
7 or to law enforcement officials of this or any other state or
8 agency of the federal government at any time or to the NAIC, if
9 the agency or office receiving the report or matters relating
10 to it agrees in writing to hold it confidential and in a manner
11 consistent with this Act.

12 (r) The expenses incurred in conducting an examination
13 shall be paid by the licensee.

14 (s) No cause of action shall arise nor shall any liability
15 be imposed against the Director, the Director's authorized
16 representatives, or any examiner appointed by the Director for
17 any statements made or conduct performed in good faith while
18 carrying out the provisions of this Act.

19 No cause of action shall arise, nor shall any liability be
20 imposed against any person for the act of communicating or
21 delivering information or data to the Director or the
22 Director's authorized representative or examiner pursuant to
23 an examination made under this Section, if the act of
24 communication or delivery was performed in good faith and
25 without fraudulent intent or the intent to deceive. This
26 subsection (s) does not abrogate or modify in any way any

1 common law or statutory privilege or immunity heretofore
2 enjoyed by any person identified in this subsection (s).

3 A person identified in this subsection (s) shall be
4 entitled to an award of attorney's fees and costs if he or she
5 is the prevailing party in a civil cause of action for libel,
6 slander, or any other relevant tort arising out of activities
7 in carrying out the provisions of this Section and the party
8 bringing the action was not substantially justified in doing
9 so. For purposes of this Section, a proceeding is
10 "substantially justified" if it had a reasonable basis in law
11 or fact at the time that it was initiated.

12 (t) The Director may investigate suspected viatical
13 settlement fraud and persons engaged in the business of
14 viatical settlements.

15 (Source: P.A. 96-736, eff. 7-1-10.)

16 Section 120. The Hearing Instrument Consumer Protection
17 Act is amended by changing Section 8 as follows:

18 (225 ILCS 50/8) (from Ch. 111, par. 7408)

19 (Section scheduled to be repealed on January 1, 2026)

20 Sec. 8. Applicant qualifications; examination.

21 (a) In order to protect persons who are deaf or hard of
22 hearing, the Department shall authorize or shall conduct an
23 appropriate examination, which may be the International
24 Hearing Society's licensure examination, for persons who

1 dispense, test, select, recommend, fit, or service hearing
2 instruments. The frequency of holding these examinations shall
3 be determined by the Department by rule. Those who
4 successfully pass such an examination shall be issued a
5 license as a hearing instrument dispenser, which shall be
6 effective for a 2-year period.

7 (b) Applicants shall be:

8 (1) at least 18 years of age;

9 (2) of good moral character;

10 (3) the holder of an associate's degree or the
11 equivalent;

12 (4) free of contagious or infectious disease; and

13 (5) a citizen or person who has the status as a legal
14 noncitizen ~~alien~~.

15 Felony convictions of the applicant and findings against
16 the applicant involving matters set forth in Sections 17 and
17 18 shall be considered in determining moral character, but
18 such a conviction or finding shall not make an applicant
19 ineligible to register for examination.

20 (c) Prior to engaging in the practice of fitting,
21 dispensing, or servicing hearing instruments, an applicant
22 shall demonstrate, by means of written and practical
23 examinations, that such person is qualified to practice the
24 testing, selecting, recommending, fitting, selling, or
25 servicing of hearing instruments as defined in this Act. An
26 applicant must obtain a license within 12 months after passing

1 either the written or practical examination, whichever is
2 passed first, or must take and pass those examinations again
3 in order to be eligible to receive a license.

4 The Department shall, by rule, determine the conditions
5 under which an individual is examined.

6 (d) Proof of having met the minimum requirements of
7 continuing education as determined by the Board shall be
8 required of all license renewals. Pursuant to rule, the
9 continuing education requirements may, upon petition to the
10 Board, be waived in whole or in part if the hearing instrument
11 dispenser can demonstrate that he or she served in the Coast
12 Guard or Armed Forces, had an extreme hardship, or obtained
13 his or her license by examination or endorsement within the
14 preceding renewal period.

15 (e) Persons applying for an initial license must
16 demonstrate having earned, at a minimum, an associate degree
17 or its equivalent from an accredited institution of higher
18 education that is recognized by the U.S. Department of
19 Education or that meets the U.S. Department of Education
20 equivalency as determined through a National Association of
21 Credential Evaluation Services (NACES) member, and meet the
22 other requirements of this Section. In addition, the applicant
23 must demonstrate the successful completion of (1) 12 semester
24 hours or 18 quarter hours of academic undergraduate course
25 work in an accredited institution consisting of 3 semester
26 hours of anatomy and physiology of the hearing mechanism, 3

1 semester hours of hearing science, 3 semester hours of
2 introduction to audiology, and 3 semester hours of aural
3 rehabilitation, or the quarter hour equivalent or (2) an
4 equivalent program as determined by the Department that is
5 consistent with the scope of practice of a hearing instrument
6 dispenser as defined in Section 3 of this Act. Persons
7 licensed before January 1, 2003 who have a valid license on
8 that date may have their license renewed without meeting the
9 requirements of this subsection.

10 (Source: P.A. 98-827, eff. 1-1-15; 99-204, eff. 7-30-15;
11 99-847, eff. 8-19-16.)

12 Section 125. The Appraisal Management Company Registration
13 Act is amended by changing Section 10 as follows:

14 (225 ILCS 459/10)

15 Sec. 10. Definitions. In this Act:

16 "Address of record" means the principal address recorded
17 by the Department in the applicant's or registrant's
18 application file or registration file maintained by the
19 Department's registration maintenance unit.

20 "Applicant" means a person or entity who applies to the
21 Department for a registration under this Act.

22 "Appraisal" means (noun) the act or process of developing
23 an opinion of value; an opinion of value (adjective) of or
24 pertaining to appraising and related functions.

1 "Appraisal firm" means an appraisal entity that is 100%
2 owned and controlled by a person or persons licensed in
3 Illinois as a certified general real estate appraiser or a
4 certified residential real estate appraiser. An appraisal firm
5 does not include an appraisal management company.

6 "Appraisal management company" means any corporation,
7 limited liability company, partnership, sole proprietorship,
8 subsidiary, unit, or other business entity that directly or
9 indirectly: (1) provides appraisal management services to
10 creditors or secondary mortgage market participants, including
11 affiliates; (2) provides appraisal management services in
12 connection with valuing the consumer's principal dwelling as
13 security for a consumer credit transaction (including consumer
14 credit transactions incorporated into securitizations); and
15 (3) any appraisal management company that, within a given
16 12-month period, oversees an appraiser panel of 16 or more
17 State-certified appraisers in Illinois or 25 or more
18 State-certified or State-licensed appraisers in 2 or more
19 jurisdictions. "Appraisal management company" includes a
20 hybrid entity.

21 "Appraisal management company national registry fee" means
22 the fee implemented pursuant to Title XI of the federal
23 Financial Institutions Reform, Recovery, and Enforcement Act
24 of 1989 for an appraiser management company's national
25 registry.

26 "Appraisal management services" means one or more of the

1 following:

2 (1) recruiting, selecting, and retaining appraisers;

3 (2) contracting with State-certified or State-licensed
4 appraisers to perform appraisal assignments;

5 (3) managing the process of having an appraisal
6 performed, including providing administrative services
7 such as receiving appraisal orders and appraisal reports;
8 submitting completed appraisal reports to creditors and
9 secondary market participants; collecting compensation
10 from creditors, underwriters, or secondary market
11 participants for services provided; or paying appraisers
12 for services performed; or

13 (4) reviewing and verifying the work of appraisers.

14 "Appraiser panel" means a network, list, or roster of
15 licensed or certified appraisers approved by the appraisal
16 management company or by the end-user client to perform
17 appraisals as independent contractors for the appraisal
18 management company. "Appraiser panel" includes both appraisers
19 accepted by an appraisal management company for consideration
20 for future appraisal assignments and appraisers engaged by an
21 appraisal management company to perform one or more
22 appraisals. For the purposes of determining the size of an
23 appraiser panel, only independent contractors of hybrid
24 entities shall be counted towards the appraiser panel.

25 "Appraiser panel fee" means the amount collected from a
26 registrant that, where applicable, includes an appraisal

1 management company's national registry fee.

2 "Appraisal report" means a written appraisal by an
3 appraiser to a client.

4 "Appraisal practice service" means valuation services
5 performed by an individual acting as an appraiser, including,
6 but not limited to, appraisal or appraisal review.

7 "Appraisal subcommittee" means the appraisal subcommittee
8 of the Federal Financial Institutions Examination Council as
9 established by Title XI.

10 "Appraiser" means a person who performs real estate or
11 real property appraisals.

12 "Assignment result" means an appraiser's opinions and
13 conclusions developed specific to an assignment.

14 "Audit" includes, but is not limited to, an annual or
15 special audit, visit, or review necessary under this Act or
16 required by the Secretary or the Secretary's authorized
17 representative in carrying out the duties and responsibilities
18 under this Act.

19 "Client" means the party or parties who engage an
20 appraiser by employment or contract in a specific appraisal
21 assignment.

22 "Controlling person" means:

23 (1) an owner, officer, or director of an entity
24 seeking to offer appraisal management services;

25 (2) an individual employed, appointed, or authorized
26 by an appraisal management company who has the authority

1 to:

2 (A) enter into a contractual relationship with a
3 client for the performance of an appraisal management
4 service or appraisal practice service; and

5 (B) enter into an agreement with an appraiser for
6 the performance of a real estate appraisal activity;

7 (3) an individual who possesses, directly or
8 indirectly, the power to direct or cause the direction of
9 the management or policies of an appraisal management
10 company; or

11 (4) an individual who will act as the sole compliance
12 officer with regard to this Act and any rules adopted
13 under this Act.

14 "Covered transaction" means a consumer credit transaction
15 secured by a consumer's principal dwelling.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "Email address of record" means the designated email
19 address recorded by the Department in the applicant's
20 application file or the registrant's registration file
21 maintained by the Department's registration maintenance unit.

22 "Entity" means a corporation, a limited liability company,
23 partnership, a sole proprietorship, or other entity providing
24 services or holding itself out to provide services as an
25 appraisal management company or an appraisal management
26 service.

1 "End-user client" means any person who utilizes or engages
2 the services of an appraiser through an appraisal management
3 company.

4 "Federally regulated appraisal management company" means
5 an appraisal management company that is owned and controlled
6 by an insured depository institution, as defined in 12 U.S.C.
7 1813, or an insured credit union, as defined in 12 U.S.C. 1752,
8 and regulated by the Office of the Comptroller of the
9 Currency, the Federal Reserve Board, the National Credit Union
10 Association, or the Federal Deposit Insurance Corporation.

11 "Financial institution" means any bank, savings bank,
12 savings and loan association, credit union, mortgage broker,
13 mortgage banker, registrant under the Consumer Installment
14 Loan Act or the Sales Finance Agency Act, or a corporate
15 fiduciary, subsidiary, affiliate, parent company, or holding
16 company of any registrant, or any institution involved in real
17 estate financing that is regulated by State or federal law.

18 "Foreign appraisal management company" means any appraisal
19 management company organized under the laws of any other state
20 of the United States, the District of Columbia, or any other
21 jurisdiction of the United States.

22 "Hybrid entity" means an appraisal management company that
23 hires an appraiser as an employee to perform an appraisal and
24 engages an independent contractor to perform an appraisal.

25 "Multi-state licensing system" means a web-based platform
26 that allows an applicant to submit the application or

1 registration renewal to the Department online.

2 "Person" means individuals, entities, sole
3 proprietorships, corporations, limited liability companies,
4 and non-domestic ~~alien~~, foreign, or domestic partnerships,
5 except that when the context otherwise requires, the term may
6 refer to a single individual or other described entity.

7 "Principal dwelling" means a residential structure that
8 contains one to 4 units, whether or not that structure is
9 attached to real property. "Principal dwelling" includes an
10 individual condominium unit, cooperative unit, manufactured
11 home, mobile home, and trailer, if it is used as a residence.

12 "Principal office" means the actual, physical business
13 address, which shall not be a post office box or a virtual
14 business address, of a registrant, at which (i) the Department
15 may contact the registrant and (ii) records required under
16 this Act are maintained.

17 "Qualified to transact business in this State" means being
18 in compliance with the requirements of the Business
19 Corporation Act of 1983.

20 "Quality control review" means a review of an appraisal
21 report for compliance and completeness, including grammatical,
22 typographical, or other similar errors, unrelated to
23 developing an opinion of value.

24 "Real estate" means an identified parcel or tract of land,
25 including any improvements.

26 "Real estate related financial transaction" means any

1 transaction involving:

2 (1) the sale, lease, purchase, investment in, or
3 exchange of real property, including interests in property
4 or the financing thereof;

5 (2) the refinancing of real property or interests in
6 real property; and

7 (3) the use of real property or interest in property
8 as security for a loan or investment, including mortgage
9 backed securities.

10 "Real property" means the interests, benefits, and rights
11 inherent in the ownership of real estate.

12 "Secretary" means the Secretary of Financial and
13 Professional Regulation.

14 "USPAP" means the Uniform Standards of Professional
15 Appraisal Practice as adopted by the Appraisal Standards Board
16 under Title XI.

17 "Valuation" means any estimate of the value of real
18 property in connection with a creditor's decision to provide
19 credit, including those values developed under a policy of a
20 government sponsored enterprise or by an automated valuation
21 model or other methodology or mechanism.

22 "Written notice" means a communication transmitted by mail
23 or by electronic means that can be verified between an
24 appraisal management company and a licensed or certified real
25 estate appraiser.

26 (Source: P.A. 102-20, eff. 1-1-22; 102-687, eff. 12-17-21.)

1 Section 130. The Illinois Public Aid Code is amended by
2 changing Section 5-3 as follows:

3 (305 ILCS 5/5-3) (from Ch. 23, par. 5-3)

4 Sec. 5-3. Residence.) Any person who has established his
5 residence in this State and lives therein, including any
6 person who is a migrant worker, may qualify for medical
7 assistance. A person who, while temporarily in this State,
8 suffers injury or illness endangering his life and health and
9 necessitating emergency care, may also qualify.

10 Temporary absence from the State shall not disqualify a
11 person from maintaining his eligibility under this Article.

12 As used in this Section, "migrant worker" means any person
13 residing temporarily and employed in Illinois who moves
14 seasonally from one place to another for the purpose of
15 employment in agricultural activities, including the planting,
16 raising or harvesting of any agricultural or horticultural
17 commodities and the handling, packing or processing of such
18 commodities on the farm where produced or at the point of first
19 processing, in animal husbandry, or in other activities
20 connected with the care of animals. Dependents of such person
21 shall be considered eligible if they are living with the
22 person during his or her temporary residence and employment in
23 Illinois.

24 In order to be eligible for medical assistance under this

1 section, each migrant worker shall show proof of citizenship
2 or legal noncitizen ~~alien~~ status.

3 (Source: P.A. 81-746.)

4 Section 135. The Housing Development and Construction Act
5 is amended by changing Section 5 as follows:

6 (310 ILCS 20/5) (from Ch. 67 1/2, par. 57)

7 Sec. 5. Any grants paid hereunder to a housing authority
8 shall be deposited in a separate fund and, subject to the
9 approval of the Department of Commerce and Economic
10 Opportunity, may be used for any or all of the following
11 purposes as the needs of the community may require: the
12 acquisition of land by purchase, gift or condemnation and the
13 improvement thereof, the purchase and installation of
14 temporary housing facilities, the construction of housing
15 units for rent or sale to veterans, the families of deceased
16 servicemen, and for persons and families who by reason of
17 overcrowded housing conditions or displacement by eviction,
18 fires or other calamities, or slum clearance or other private
19 or public project involving relocation, are in urgent need of
20 safe and sanitary housing, the making of grants in connection
21 with the sale or lease of real property as provided in the
22 following paragraph of this section, and for any and all
23 purposes authorized by the "Housing Authorities Act," approved
24 March 19, 1934, as amended, including administrative expenses

1 of the housing authorities in relation to the aforesaid
2 objectives, to the extent and for the purposes authorized and
3 approved by the Department of Commerce and Economic
4 Opportunity. Each housing authority is vested with power to
5 exercise the right of eminent domain for the purposes
6 authorized by this Act. Condemnation proceedings instituted by
7 any such authority shall be in all respects in the manner
8 provided for the exercise of the right of eminent domain under
9 the Eminent Domain Act.

10 In addition to the foregoing, and for the purpose of
11 facilitating the development and construction of housing,
12 housing authorities may, with the approval of the Department
13 of Commerce and Economic Opportunity, enter into contracts and
14 agreements for the sale or lease of real property acquired by
15 the Authority through the use of the grant hereunder, and may
16 sell or lease such property to (1) housing corporations
17 operating under "An Act in relation to housing," approved July
18 12, 1933, as amended; (2) neighborhood redevelopment
19 corporations operating under the "Neighborhood Redevelopment
20 Corporation Law," approved July 9, 1941; (3) insurance
21 companies operating under Article VIII of the Illinois
22 Insurance Code; (4) non-profit corporations organized for the
23 purpose of constructing, managing and operating housing
24 projects and the improvement of housing conditions, including
25 the sale or rental of housing units to persons in need thereof;
26 or (5) to any other individual, association or corporation,

1 including bona fide housing cooperatives, desiring to engage
2 in a development or redevelopment project. The term
3 "corporation" as used in this section, means a corporation
4 organized under the laws of this or any other state of the
5 United States, or of any country, which may legally make
6 investments in this State of the character herein prescribed,
7 including foreign and non-domestic ~~alien~~ insurance companies
8 as defined in Section 2 of the "Illinois Insurance Code." No
9 sale or lease shall be made hereunder to any of the aforesaid
10 corporations, associations or individuals unless a plan
11 approved by the Authority has been presented by the purchaser
12 or lessee for the development or redevelopment of such
13 property, together with a bond, with satisfactory sureties, of
14 not less than 10% of the cost of such development or
15 redevelopment, conditioned upon the completion of such
16 development or redevelopment; provided that the requirement of
17 the bond may be waived by the Department of Commerce and
18 Economic Opportunity if it is satisfied of the financial
19 ability of the purchaser or lessee to complete such
20 development or redevelopment in accordance with the presented
21 plan. To further assure that the real property so sold or
22 leased shall be used in accordance with the plan, the
23 Department of Commerce and Economic Opportunity may require
24 the purchaser or lessee to execute in writing such
25 undertakings as the Department deems necessary to obligate
26 such purchaser or lessee (1) to use the property for the

1 purposes presented in the plan; (2) to commence and complete
2 the building of the improvements designated in the plan within
3 the periods of time that the Department of Commerce and
4 Economic Opportunity fixes as reasonable, and (3) to comply
5 with such other conditions as are necessary to carry out the
6 purposes of this Act. Any such property may be sold pursuant to
7 this section for any legal consideration in an amount to be
8 approved by the Department of Commerce and Economic
9 Opportunity. Subject to the approval of the Department of
10 Commerce and Economic Opportunity, a housing authority may pay
11 to any non-profit corporation of the character described in
12 this section from grants made available from state funds, such
13 sum of money which, when added to the value of the land so sold
14 or leased to such non-profit corporation and the value of
15 other assets of such non-profit corporation available for use
16 in the project, will enable such non-profit corporation to
17 obtain Federal Housing Administration insured construction
18 mortgages. Any such authority may also sell, transfer, convey
19 or assign to any such non-profit corporation any personal
20 property, including building materials and supplies, as it
21 deems necessary to facilitate the completion of the
22 development or redevelopment by such non-profit corporation.

23 If the area of operation of a housing authority includes a
24 city, village or incorporated town having a population in
25 excess of 500,000, as determined by the last preceding Federal
26 Census, no real property or interest in real property shall be

1 acquired in such municipality by the housing authority until
2 such time as the housing authority has advised the governing
3 body of such municipality of the description of the real
4 property, or interest therein, proposed to be acquired, and
5 the governing body of the municipality has approved the
6 acquisition thereof by the housing authority.

7 (Source: P.A. 94-793, eff. 5-19-06; 94-1055, eff. 1-1-07.)

8 Section 140. The Urban Renewal Consolidation Act of 1961
9 is amended by changing Section 18 as follows:

10 (315 ILCS 30/18) (from Ch. 67 1/2, par. 91.118)

11 Sec. 18. The Department may at such times as it deems
12 expedient transfer and sell the fee simple title, or such
13 lesser estate as the Department may have acquired, or as may
14 theretofore have been acquired by a land clearance commission,
15 to all or any part of the real property within the area of a
16 redevelopment project not disposed of in accordance with
17 Sections 15, 16, and 17 hereof to (1) Neighborhood
18 Redevelopment Corporations operating under the "Neighborhood
19 Redevelopment Corporation Law," approved July 9, 1941, as
20 amended, (2) Insurance Companies operating under Section 125a
21 of the "Illinois Insurance Code," approved June 29, 1937, as
22 amended, (3) any individual, association, or corporation,
23 organized under the laws of this State or of any other State or
24 country, which may legally make such investments in this

1 State, including foreign and non-domestic ~~alien~~ insurance
2 companies, as defined in Section 2 of said "Illinois Insurance
3 Code", or (4) bodies politic and corporate, public
4 corporations, or any private interest empowered by law to
5 acquire, develop and use such real property for such uses,
6 public or private, as are in accordance with an approved plan;
7 provided, however, that any sale of real property to a housing
8 authority shall be made only in accordance with the provisions
9 of Sections 16 and 17 hereof. To assure that the real property
10 so sold is used in accordance with the approved plan referred
11 to in Section 19 hereof, the Department shall inquire into and
12 satisfy itself concerning the financial ability of the
13 purchaser to complete the redevelopment in accordance with the
14 approved plan and shall require the purchaser to execute in
15 writing such undertakings as the Department may deem necessary
16 to obligate the purchaser: (1) to use the land for the purposes
17 designated in the approved plan, (2) to commence and complete
18 the building of the improvements within the periods of time
19 which the Department fixes as reasonable, and (3) to comply
20 with such other conditions as are necessary to carry out the
21 purposes of this Act. Any such area may be sold either as an
22 entirety or in such parcels as the Department shall deem
23 expedient. It shall not be necessary that title be acquired to
24 all real property within the area of a redevelopment project
25 before the sale of a part thereof may be made as provided
26 herein. Any real property sold pursuant to the foregoing

1 provisions of this Section shall be sold at its use value
2 (which may be less than its acquisition cost), which
3 represents the value at which the Department determines such
4 land should be made available in order that it may be developed
5 or redeveloped for the purposes specified in the approved
6 plan.

7 Any real property lying within the area of the
8 redevelopment project which has not been sold by the
9 Department within five years after the Department has acquired
10 title to all the real property within the area of that
11 redevelopment project, shall be forthwith sold by the
12 Department at public sale for cash to the highest bidder
13 obligating himself in the manner set forth in the preceding
14 paragraph of this Section to redevelop the property in
15 accordance with the approved plan. Notice of such sale and of
16 the place where the approved plan may be inspected shall be
17 published once in a newspaper having a general circulation in
18 the municipality in which the real property is situated at
19 least twenty (20) days prior to the date of such public sale,
20 and shall contain a description of the real property to be
21 sold.

22 The Department may reject the bids received if, in the
23 opinion of the Department, the highest bid does not equal or
24 exceed the use value (as hereinabove defined) of the land to be
25 sold. At the expiration of six (6) months from the date of
26 rejecting bids, the Department shall again advertise for sale

1 any real property then remaining unsold. Each publication
2 shall be subject to the same requirements and conditions as
3 the original publication.

4 (Source: P.A. 83-333.)

5 Section 145. The Service Member Employment and
6 Reemployment Rights Act is amended by changing Section 1-10 as
7 follows:

8 (330 ILCS 61/1-10)

9 Sec. 1-10. Definitions. As used in this Act:

10 "Accrue" means to accumulate in regular or increasing
11 amounts over time subject to customary allocation of cost.

12 "Active duty" means any full-time military service
13 regardless of length or voluntariness including, but not
14 limited to, annual training, full-time National Guard duty,
15 and State active duty. "Active duty" does not include any form
16 of inactive duty service such as drill duty or muster duty.
17 "Active duty", unless provided otherwise, includes active duty
18 without pay.

19 "Active service" means all forms of active and inactive
20 duty regardless of voluntariness including, but not limited
21 to, annual training, active duty for training, initial active
22 duty training, overseas training duty, full-time National
23 Guard duty, active duty other than training, State active
24 duty, mobilizations, and muster duty. "Active service", unless

1 provided otherwise, includes active service without pay.

2 "Active service" includes:

3 (1) Reserve component voluntary active service means
4 service under one of the following authorities:

5 (A) any duty under 32 U.S.C. 502(f)(1)(B);

6 (B) active guard reserve duty, operational
7 support, or additional duty under 10 U.S.C. 12301(d)
8 or 32 U.S.C. 502(f)(1)(B);

9 (C) funeral honors under 10 U.S.C. 12503 or 32
10 U.S.C. 115;

11 (D) duty at the National Guard Bureau under 10
12 U.S.C. 12402;

13 (E) unsatisfactory participation under 10 U.S.C.
14 10148 or 10 U.S.C. 12303;

15 (F) discipline under 10 U.S.C. 802(d);

16 (G) extended active duty under 10 U.S.C. 12311;

17 and

18 (H) reserve program administrator under 10 U.S.C.
19 10211.

20 (2) Reserve component involuntary active service
21 includes, but is not limited to, service under one of the
22 following authorities:

23 (A) annual training or drill requirements under 10
24 U.S.C. 10147, 10 U.S.C. 12301(b) or 32 U.S.C. 502(a).

25 (B) additional training duty or other duty under
26 32 U.S.C. 502(f)(1)(A);

1 (C) pre-planned or pre-programmed combatant
2 commander support under 10 U.S.C. 12304b;

3 (D) mobilization under 10 U.S.C. 12301(a) or 10
4 U.S.C. 12302;

5 (E) presidential reserve call-up under 10 U.S.C.
6 12304;

7 (F) emergencies and natural disasters under 10
8 U.S.C. 12304a or 14 U.S.C. 712;

9 (G) muster duty under 10 U.S.C. 12319;

10 (H) retiree recall under 10 U.S.C. 688;

11 (I) captive status under 10 U.S.C. 12301(g);

12 (J) insurrection under 10 U.S.C. 331, 10 U.S.C.
13 332, or 10 U.S.C. 12406;

14 (K) pending line of duty determination for
15 response to sexual assault under 10 U.S.C. 12323; and

16 (L) initial active duty for training under 10
17 U.S.C. 671.

18 Reserve component active service not listed in paragraph
19 (1) or (2) shall be considered involuntary active service
20 under paragraph (2).

21 "Active service without pay" means active service
22 performed under any authority in which base pay is not
23 received regardless of other allowances.

24 "Annual training" means any active duty performed under
25 Section 10147 or 12301(b) of Title 10 of the United States Code
26 or under Section 502(a) of Title 32 of the United States Code.

1 "Base pay" means the main component of military pay,
2 whether active or inactive, based on rank and time in service.
3 It does not include the addition of conditional funds for
4 specific purposes such as allowances, incentive and special
5 pay. Base pay, also known as basic pay, can be determined by
6 referencing the appropriate military pay chart covering the
7 time period in question located on the federal Defense Finance
8 and Accounting Services website or as reflected on a federal
9 Military Leave and Earnings Statement.

10 "Benefits" includes, but is not limited to, the terms,
11 conditions, or privileges of employment, including any
12 advantage, profit, privilege, gain, status, account, or
13 interest, including wages or salary for work performed, that
14 accrues by reason of an employment contract or agreement or an
15 employer policy, plan, or practice and includes rights and
16 benefits under a pension plan, a health plan, an employee
17 stock ownership plan, insurance coverage and awards, bonuses,
18 severance pay, supplemental unemployment benefits, vacations,
19 and the opportunity to select work hours or location of
20 employment.

21 "Differential compensation" means pay due when the
22 employee's daily rate of compensation for military service is
23 less than his or her daily rate of compensation as a public
24 employee.

25 "Employee" means anyone employed by an employer.
26 "Employee" includes any person who is a citizen, national, or

1 permanent resident noncitizen ~~alien~~ of the United States
2 employed in a workplace that the State has legal authority to
3 regulate business and employment. "Employee" does not include
4 an independent contractor.

5 "Employer" means any person, institution, organization, or
6 other entity that pays salary or wages for work performed or
7 that has control over employment opportunities, including:

8 (1) a person, institution, organization, or other
9 entity to whom the employer has delegated the performance
10 of employment-related responsibilities;

11 (2) an employer of a public employee;

12 (3) any successor in interest to a person,
13 institution, organization, or other entity referred to
14 under this definition; and

15 (4) a person, institution, organization, or other
16 entity that has been denied initial employment in
17 violation of Section 5-15.

18 "Inactive duty" means inactive duty training, including
19 drills, consisting of regularly scheduled unit training
20 assemblies, additional training assemblies, periods of
21 appropriate duty or equivalent training, and any special
22 additional duties authorized for reserve component personnel
23 by appropriate military authority. "Inactive duty" does not
24 include active duty.

25 "Military leave" means a furlough or leave of absence
26 while performing active service. It cannot be substituted for

1 accrued vacation, annual, or similar leave with pay except at
2 the sole discretion of the service member employee. It is not a
3 benefit of employment that is requested but a legal
4 requirement upon receiving notice of pending military service.

5 "Military service" means:

6 (1) Service in the Armed Forces of the United States,
7 the National Guard of any state or territory regardless of
8 status, and the State Guard as defined in the State Guard
9 Act. "Military service", whether active or reserve,
10 includes service under the authority of U.S.C. Titles 10,
11 14, or 32, or State active duty.

12 (2) Service in a federally recognized auxiliary of the
13 United States Armed Forces when performing official duties
14 in support of military or civilian authorities as a result
15 of an emergency.

16 (3) A period for which an employee is absent from a
17 position of employment for the purpose of medical or
18 dental treatment for a condition, illness, or injury
19 sustained or aggravated during a period of active service
20 in which treatment is paid by the United States Department
21 of Defense Military Health System.

22 "Public employee" means any person classified as a
23 full-time employee of the State of Illinois, a unit of local
24 government, a public institution of higher education as
25 defined in Section 1 of the Board of Higher Education Act, or a
26 school district, other than an independent contractor.

1 "Reserve component" means the reserve components of
2 Illinois and the United States Armed Forces regardless of
3 status.

4 "Service member" means any person who is a member of a
5 military service.

6 "State active duty" means full-time State-funded military
7 duty under the command and control of the Governor and subject
8 to the Military Code of Illinois.

9 "Unit of local government" means any city, village, town,
10 county, or special district.

11 (Source: P.A. 100-1101, eff. 1-1-19.)

12 Section 150. The Firearm Owners Identification Card Act is
13 amended by changing Sections 1.1, 4, and 8 as follows:

14 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

15 Sec. 1.1. For purposes of this Act:

16 "Addicted to narcotics" means a person who has been:

17 (1) convicted of an offense involving the use or
18 possession of cannabis, a controlled substance, or
19 methamphetamine within the past year; or

20 (2) determined by the Illinois State Police to be
21 addicted to narcotics based upon federal law or federal
22 guidelines.

23 "Addicted to narcotics" does not include possession or use
24 of a prescribed controlled substance under the direction and

1 authority of a physician or other person authorized to
2 prescribe the controlled substance when the controlled
3 substance is used in the prescribed manner.

4 "Adjudicated as a person with a mental disability" means
5 the person is the subject of a determination by a court, board,
6 commission or other lawful authority that the person, as a
7 result of marked subnormal intelligence, or mental illness,
8 mental impairment, incompetency, condition, or disease:

9 (1) presents a clear and present danger to himself,
10 herself, or to others;

11 (2) lacks the mental capacity to manage his or her own
12 affairs or is adjudicated a person with a disability as
13 defined in Section 11a-2 of the Probate Act of 1975;

14 (3) is not guilty in a criminal case by reason of
15 insanity, mental disease or defect;

16 (3.5) is guilty but mentally ill, as provided in
17 Section 5-2-6 of the Unified Code of Corrections;

18 (4) is incompetent to stand trial in a criminal case;

19 (5) is not guilty by reason of lack of mental
20 responsibility under Articles 50a and 72b of the Uniform
21 Code of Military Justice, 10 U.S.C. 850a, 876b;

22 (6) is a sexually violent person under subsection (f)
23 of Section 5 of the Sexually Violent Persons Commitment
24 Act;

25 (7) is a sexually dangerous person under the Sexually
26 Dangerous Persons Act;

1 (8) is unfit to stand trial under the Juvenile Court
2 Act of 1987;

3 (9) is not guilty by reason of insanity under the
4 Juvenile Court Act of 1987;

5 (10) is subject to involuntary admission as an
6 inpatient as defined in Section 1-119 of the Mental Health
7 and Developmental Disabilities Code;

8 (11) is subject to involuntary admission as an
9 outpatient as defined in Section 1-119.1 of the Mental
10 Health and Developmental Disabilities Code;

11 (12) is subject to judicial admission as set forth in
12 Section 4-500 of the Mental Health and Developmental
13 Disabilities Code; or

14 (13) is subject to the provisions of the Interstate
15 Agreements on Sexually Dangerous Persons Act.

16 "Clear and present danger" means a person who:

17 (1) communicates a serious threat of physical violence
18 against a reasonably identifiable victim or poses a clear
19 and imminent risk of serious physical injury to himself,
20 herself, or another person as determined by a physician,
21 clinical psychologist, or qualified examiner; or

22 (2) demonstrates threatening physical or verbal
23 behavior, such as violent, suicidal, or assaultive
24 threats, actions, or other behavior, as determined by a
25 physician, clinical psychologist, qualified examiner,
26 school administrator, or law enforcement official.

1 "Clinical psychologist" has the meaning provided in
2 Section 1-103 of the Mental Health and Developmental
3 Disabilities Code.

4 "Controlled substance" means a controlled substance or
5 controlled substance analog as defined in the Illinois
6 Controlled Substances Act.

7 "Counterfeit" means to copy or imitate, without legal
8 authority, with intent to deceive.

9 "Federally licensed firearm dealer" means a person who is
10 licensed as a federal firearms dealer under Section 923 of the
11 federal Gun Control Act of 1968 (18 U.S.C. 923).

12 "Firearm" means any device, by whatever name known, which
13 is designed to expel a projectile or projectiles by the action
14 of an explosion, expansion of gas or escape of gas; excluding,
15 however:

16 (1) any pneumatic gun, spring gun, paint ball gun, or
17 B-B gun which expels a single globular projectile not
18 exceeding .18 inch in diameter or which has a maximum
19 muzzle velocity of less than 700 feet per second;

20 (1.1) any pneumatic gun, spring gun, paint ball gun,
21 or B-B gun which expels breakable paint balls containing
22 washable marking colors;

23 (2) any device used exclusively for signaling or
24 safety and required or recommended by the United States
25 Coast Guard or the Interstate Commerce Commission;

26 (3) any device used exclusively for the firing of stud

1 cartridges, explosive rivets or similar industrial
2 ammunition; and

3 (4) an antique firearm (other than a machine-gun)
4 which, although designed as a weapon, the Illinois State
5 Police finds by reason of the date of its manufacture,
6 value, design, and other characteristics is primarily a
7 collector's item and is not likely to be used as a weapon.

8 "Firearm ammunition" means any self-contained cartridge or
9 shotgun shell, by whatever name known, which is designed to be
10 used or adaptable to use in a firearm; excluding, however:

11 (1) any ammunition exclusively designed for use with a
12 device used exclusively for signaling ~~signalling~~ or safety
13 and required or recommended by the United States Coast
14 Guard or the Interstate Commerce Commission; and

15 (2) any ammunition designed exclusively for use with a
16 stud or rivet driver or other similar industrial
17 ammunition.

18 "Gun show" means an event or function:

19 (1) at which the sale and transfer of firearms is the
20 regular and normal course of business and where 50 or more
21 firearms are displayed, offered, or exhibited for sale,
22 transfer, or exchange; or

23 (2) at which not less than 10 gun show vendors
24 display, offer, or exhibit for sale, sell, transfer, or
25 exchange firearms.

26 "Gun show" includes the entire premises provided for an

1 event or function, including parking areas for the event or
2 function, that is sponsored to facilitate the purchase, sale,
3 transfer, or exchange of firearms as described in this
4 Section. Nothing in this definition shall be construed to
5 exclude a gun show held in conjunction with competitive
6 shooting events at the World Shooting Complex sanctioned by a
7 national governing body in which the sale or transfer of
8 firearms is authorized under subparagraph (5) of paragraph (g)
9 of subsection (A) of Section 24-3 of the Criminal Code of 2012.

10 Unless otherwise expressly stated, "gun show" does not
11 include training or safety classes, competitive shooting
12 events, such as rifle, shotgun, or handgun matches, trap,
13 skeet, or sporting clays shoots, dinners, banquets, raffles,
14 or any other event where the sale or transfer of firearms is
15 not the primary course of business.

16 "Gun show promoter" means a person who organizes or
17 operates a gun show.

18 "Gun show vendor" means a person who exhibits, sells,
19 offers for sale, transfers, or exchanges any firearms at a gun
20 show, regardless of whether the person arranges with a gun
21 show promoter for a fixed location from which to exhibit,
22 sell, offer for sale, transfer, or exchange any firearm.

23 "Involuntarily admitted" has the meaning as prescribed in
24 Sections 1-119 and 1-119.1 of the Mental Health and
25 Developmental Disabilities Code.

26 "Mental health facility" means any licensed private

1 hospital or hospital affiliate, institution, or facility, or
2 part thereof, and any facility, or part thereof, operated by
3 the State or a political subdivision thereof which provides
4 ~~provide~~ treatment of persons with mental illness and includes
5 all hospitals, institutions, clinics, evaluation facilities,
6 mental health centers, colleges, universities, long-term care
7 facilities, and nursing homes, or parts thereof, which provide
8 treatment of persons with mental illness whether or not the
9 primary purpose is to provide treatment of persons with mental
10 illness.

11 "National governing body" means a group of persons who
12 adopt rules and formulate policy on behalf of a national
13 firearm sporting organization.

14 "Noncitizen" means a person who is not a citizen of the
15 United States, but is a person who is a foreign-born person who
16 lives in the United States, has not been naturalized, and is
17 still a citizen of a foreign country.

18 "Patient" means:

19 (1) a person who is admitted as an inpatient or
20 resident of a public or private mental health facility for
21 mental health treatment under Chapter III of the Mental
22 Health and Developmental Disabilities Code as an informal
23 admission, a voluntary admission, a minor admission, an
24 emergency admission, or an involuntary admission, unless
25 the treatment was solely for an alcohol abuse disorder; or

26 (2) a person who voluntarily or involuntarily receives

1 mental health treatment as an out-patient or is otherwise
2 provided services by a public or private mental health
3 facility, and who poses a clear and present danger to
4 himself, herself, or ~~to~~ others.

5 "Person with a developmental disability" means a person
6 with a disability which is attributable to any other condition
7 which results in impairment similar to that caused by an
8 intellectual disability and which requires services similar to
9 those required by persons with intellectual disabilities. The
10 disability must originate before the age of 18 years, be
11 expected to continue indefinitely, and constitute a
12 substantial disability. This disability results, in the
13 professional opinion of a physician, clinical psychologist, or
14 qualified examiner, in significant functional limitations in 3
15 or more of the following areas of major life activity:

- 16 (i) self-care;
17 (ii) receptive and expressive language;
18 (iii) learning;
19 (iv) mobility; or
20 (v) self-direction.

21 "Person with an intellectual disability" means a person
22 with a significantly subaverage general intellectual
23 functioning which exists concurrently with impairment in
24 adaptive behavior and which originates before the age of 18
25 years.

26 "Physician" has the meaning as defined in Section 1-120 of

1 the Mental Health and Developmental Disabilities Code.

2 "Protective order" means any orders of protection issued
3 under the Illinois Domestic Violence Act of 1986, stalking no
4 contact orders issued under the Stalking No Contact Order Act,
5 civil no contact orders issued under the Civil No Contact
6 Order Act, and firearms restraining orders issued under the
7 Firearms Restraining Order Act.

8 "Qualified examiner" has the meaning provided in Section
9 1-122 of the Mental Health and Developmental Disabilities
10 Code.

11 "Sanctioned competitive shooting event" means a shooting
12 contest officially recognized by a national or state shooting
13 sport association, and includes any sight-in or practice
14 conducted in conjunction with the event.

15 "School administrator" means the person required to report
16 under the School Administrator Reporting of Mental Health
17 Clear and Present Danger Determinations Law.

18 "Stun gun or taser" has the meaning ascribed to it in
19 Section 24-1 of the Criminal Code of 2012.

20 (Source: P.A. 102-237, eff. 1-1-22; 102-538, eff. 8-20-21;
21 revised 10-6-21.)

22 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

23 Sec. 4. Application for Firearm Owner's Identification
24 Cards.

25 (a) Each applicant for a Firearm Owner's Identification

1 Card must:

2 (1) Submit an application as made available by the
3 Illinois State Police; and

4 (2) Submit evidence to the Illinois State Police that:

5 (i) This subparagraph (i) applies through the
6 180th day following July 12, 2019 (the effective date
7 of Public Act 101-80) ~~this amendatory Act of the 101st~~
8 ~~General Assembly~~. He or she is 21 years of age or over,
9 or if he or she is under 21 years of age that he or she
10 has the written consent of his or her parent or legal
11 guardian to possess and acquire firearms and firearm
12 ammunition and that he or she has never been convicted
13 of a misdemeanor other than a traffic offense or
14 adjudged delinquent, provided, however, that such
15 parent or legal guardian is not an individual
16 prohibited from having a Firearm Owner's
17 Identification Card and files an affidavit with the
18 Department as prescribed by the Department stating
19 that he or she is not an individual prohibited from
20 having a Card;

21 (i-5) This subparagraph (i-5) applies on and after
22 the 181st day following July 12, 2019 (the effective
23 date of Public Act 101-80) ~~this amendatory Act of the~~
24 ~~101st General Assembly~~. He or she is 21 years of age or
25 over, or if he or she is under 21 years of age that he
26 or she has never been convicted of a misdemeanor other

1 than a traffic offense or adjudged delinquent and is
2 an active duty member of the United States Armed
3 Forces or has the written consent of his or her parent
4 or legal guardian to possess and acquire firearms and
5 firearm ammunition, provided, however, that such
6 parent or legal guardian is not an individual
7 prohibited from having a Firearm Owner's
8 Identification Card and files an affidavit with the
9 Illinois State Police Department as prescribed by the
10 Illinois State Police Department stating that he or
11 she is not an individual prohibited from having a Card
12 or the active duty member of the United States Armed
13 Forces under 21 years of age annually submits proof to
14 the Illinois State Police, in a manner prescribed by
15 the Illinois State Police Department;

16 (ii) He or she has not been convicted of a felony
17 under the laws of this or any other jurisdiction;

18 (iii) He or she is not addicted to narcotics;

19 (iv) He or she has not been a patient in a mental
20 health facility within the past 5 years or, if he or
21 she has been a patient in a mental health facility more
22 than 5 years ago submit the certification required
23 under subsection (u) of Section 8 of this Act;

24 (v) He or she is not a person with an intellectual
25 disability;

26 (vi) He or she is not a noncitizen ~~an alien~~ who is

1 unlawfully present in the United States under the laws
2 of the United States;

3 (vii) He or she is not subject to an existing order
4 of protection prohibiting him or her from possessing a
5 firearm;

6 (viii) He or she has not been convicted within the
7 past 5 years of battery, assault, aggravated assault,
8 violation of an order of protection, or a
9 substantially similar offense in another jurisdiction,
10 in which a firearm was used or possessed;

11 (ix) He or she has not been convicted of domestic
12 battery, aggravated domestic battery, or a
13 substantially similar offense in another jurisdiction
14 committed before, on or after January 1, 2012 (the
15 effective date of Public Act 97-158). If the applicant
16 knowingly and intelligently waives the right to have
17 an offense described in this clause (ix) tried by a
18 jury, and by guilty plea or otherwise, results in a
19 conviction for an offense in which a domestic
20 relationship is not a required element of the offense
21 but in which a determination of the applicability of
22 18 U.S.C. 922(g) (9) is made under Section 112A-11.1 of
23 the Code of Criminal Procedure of 1963, an entry by the
24 court of a judgment of conviction for that offense
25 shall be grounds for denying the issuance of a Firearm
26 Owner's Identification Card under this Section;

1 (x) (Blank);

2 (xi) He or she is not a person ~~an alien~~ who has
3 been admitted to the United States under a
4 non-immigrant visa (as that term is defined in Section
5 101(a)(26) of the Immigration and Nationality Act (8
6 U.S.C. 1101(a)(26))), or that he or she is a
7 noncitizen ~~an alien~~ who has been lawfully admitted to
8 the United States under a non-immigrant visa if that
9 person ~~alien~~ is:

10 (1) admitted to the United States for lawful
11 hunting or sporting purposes;

12 (2) an official representative of a foreign
13 government who is:

14 (A) accredited to the United States
15 Government or the Government's mission to an
16 international organization having its
17 headquarters in the United States; or

18 (B) en route to or from another country to
19 which that noncitizen ~~alien~~ is accredited;

20 (3) an official of a foreign government or
21 distinguished foreign visitor who has been so
22 designated by the Department of State;

23 (4) a foreign law enforcement officer of a
24 friendly foreign government entering the United
25 States on official business; or

26 (5) one who has received a waiver from the

1 Attorney General of the United States pursuant to
2 18 U.S.C. 922(y)(3);

3 (xii) He or she is not a minor subject to a
4 petition filed under Section 5-520 of the Juvenile
5 Court Act of 1987 alleging that the minor is a
6 delinquent minor for the commission of an offense that
7 if committed by an adult would be a felony;

8 (xiii) He or she is not an adult who had been
9 adjudicated a delinquent minor under the Juvenile
10 Court Act of 1987 for the commission of an offense that
11 if committed by an adult would be a felony;

12 (xiv) He or she is a resident of the State of
13 Illinois;

14 (xv) He or she has not been adjudicated as a person
15 with a mental disability;

16 (xvi) He or she has not been involuntarily
17 admitted into a mental health facility; and

18 (xvii) He or she is not a person with a
19 developmental disability; and

20 (3) Upon request by the Illinois State Police, sign a
21 release on a form prescribed by the Illinois State Police
22 waiving any right to confidentiality and requesting the
23 disclosure to the Illinois State Police of limited mental
24 health institution admission information from another
25 state, the District of Columbia, any other territory of
26 the United States, or a foreign nation concerning the

1 applicant for the sole purpose of determining whether the
2 applicant is or was a patient in a mental health
3 institution and disqualified because of that status from
4 receiving a Firearm Owner's Identification Card. No mental
5 health care or treatment records may be requested. The
6 information received shall be destroyed within one year of
7 receipt.

8 (a-5) Each applicant for a Firearm Owner's Identification
9 Card who is over the age of 18 shall furnish to the Illinois
10 State Police either his or her Illinois driver's license
11 number or Illinois Identification Card number, except as
12 provided in subsection (a-10).

13 (a-10) Each applicant for a Firearm Owner's Identification
14 Card, who is employed as a law enforcement officer, an armed
15 security officer in Illinois, or by the United States Military
16 permanently assigned in Illinois and who is not an Illinois
17 resident, shall furnish to the Illinois State Police his or
18 her driver's license number or state identification card
19 number from his or her state of residence. The Illinois State
20 Police may adopt rules to enforce the provisions of this
21 subsection (a-10).

22 (a-15) If an applicant applying for a Firearm Owner's
23 Identification Card moves from the residence address named in
24 the application, he or she shall immediately notify in a form
25 and manner prescribed by the Illinois State Police of that
26 change of address.

1 (a-20) Each applicant for a Firearm Owner's Identification
2 Card shall furnish to the Illinois State Police his or her
3 photograph. An applicant who is 21 years of age or older
4 seeking a religious exemption to the photograph requirement
5 must furnish with the application an approved copy of United
6 States Department of the Treasury Internal Revenue Service
7 Form 4029. In lieu of a photograph, an applicant regardless of
8 age seeking a religious exemption to the photograph
9 requirement shall submit fingerprints on a form and manner
10 prescribed by the Illinois State Police ~~Department~~ with his or
11 her application.

12 (a-25) Beginning January 1, 2023, each applicant for the
13 issuance of a Firearm Owner's Identification Card may include
14 a full set of his or her fingerprints in electronic format to
15 the Illinois State Police, unless the applicant has previously
16 provided a full set of his or her fingerprints to the Illinois
17 State Police under this Act or the Firearm Concealed Carry
18 Act.

19 The fingerprints must be transmitted through a live scan
20 fingerprint vendor licensed by the Department of Financial and
21 Professional Regulation. The fingerprints shall be checked
22 against the fingerprint records now and hereafter filed in the
23 Illinois State Police and Federal Bureau of Investigation
24 criminal history records databases, including all available
25 State and local criminal history record information files.

26 The Illinois State Police shall charge applicants a

1 one-time fee for conducting the criminal history record check,
2 which shall be deposited into the State Police Services Fund
3 and shall not exceed the actual cost of the State and national
4 criminal history record check.

5 (a-26) The Illinois State Police shall research, explore,
6 and report to the General Assembly by January 1, 2022 on the
7 feasibility of permitting voluntarily submitted fingerprints
8 obtained for purposes other than Firearm Owner's
9 Identification Card enforcement that are contained in the
10 Illinois State Police database for purposes of this Act.

11 (b) Each application form shall include the following
12 statement printed in bold type: "Warning: Entering false
13 information on an application for a Firearm Owner's
14 Identification Card is punishable as a Class 2 felony in
15 accordance with subsection (d-5) of Section 14 of the Firearm
16 Owners Identification Card Act."

17 (c) Upon such written consent, pursuant to Section 4,
18 paragraph (a)(2)(i), the parent or legal guardian giving the
19 consent shall be liable for any damages resulting from the
20 applicant's use of firearms or firearm ammunition.

21 (Source: P.A. 101-80, eff. 7-12-19; 102-237, eff. 1-1-22;
22 102-538, eff. 8-20-21; revised 10-12-21.)

23 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

24 Sec. 8. Grounds for denial and revocation. The Illinois
25 State Police has authority to deny an application for or to

1 revoke and seize a Firearm Owner's Identification Card
2 previously issued under this Act only if the Illinois State
3 Police Department finds that the applicant or the person to
4 whom such card was issued is or was at the time of issuance:

5 (a) A person under 21 years of age who has been
6 convicted of a misdemeanor other than a traffic offense or
7 adjudged delinquent;

8 (b) This subsection (b) applies through the 180th day
9 following July 12, 2019 (the effective date of Public Act
10 101-80) ~~this amendatory Act of the 101st General Assembly.~~

11 A person under 21 years of age who does not have the
12 written consent of his parent or guardian to acquire and
13 possess firearms and firearm ammunition, or whose parent
14 or guardian has revoked such written consent, or where
15 such parent or guardian does not qualify to have a Firearm
16 Owner's Identification Card;

17 (b-5) This subsection (b-5) applies on and after the
18 181st day following July 12, 2019 (the effective date of
19 Public Act 101-80) ~~this amendatory Act of the 101st~~
20 ~~General Assembly.~~ A person under 21 years of age who is not
21 an active duty member of the United States Armed Forces
22 and does not have the written consent of his or her parent
23 or guardian to acquire and possess firearms and firearm
24 ammunition, or whose parent or guardian has revoked such
25 written consent, or where such parent or guardian does not
26 qualify to have a Firearm Owner's Identification Card;

1 (c) A person convicted of a felony under the laws of
2 this or any other jurisdiction;

3 (d) A person addicted to narcotics;

4 (e) A person who has been a patient of a mental health
5 facility within the past 5 years or a person who has been a
6 patient in a mental health facility more than 5 years ago
7 who has not received the certification required under
8 subsection (u) of this Section. An active law enforcement
9 officer employed by a unit of government or a Department
10 of Corrections employee authorized to possess firearms who
11 is denied, revoked, or has his or her Firearm Owner's
12 Identification Card seized under this subsection (e) may
13 obtain relief as described in subsection (c-5) of Section
14 10 of this Act if the officer or employee did not act in a
15 manner threatening to the officer or employee, another
16 person, or the public as determined by the treating
17 clinical psychologist or physician, and the officer or
18 employee seeks mental health treatment;

19 (f) A person whose mental condition is of such a
20 nature that it poses a clear and present danger to the
21 applicant, any other person or persons, or the community;

22 (g) A person who has an intellectual disability;

23 (h) A person who intentionally makes a false statement
24 in the Firearm Owner's Identification Card application;

25 (i) A noncitizen ~~An alien~~ who is unlawfully present in
26 the United States under the laws of the United States;

1 (i-5) A person ~~An alien~~ who has been admitted to the
2 United States under a non-immigrant visa (as that term is
3 defined in Section 101(a)(26) of the Immigration and
4 Nationality Act (8 U.S.C. 1101(a)(26))), except that this
5 subsection (i-5) does not apply to any noncitizen ~~alien~~
6 who has been lawfully admitted to the United States under
7 a non-immigrant visa if that person ~~alien~~ is:

8 (1) admitted to the United States for lawful
9 hunting or sporting purposes;

10 (2) an official representative of a foreign
11 government who is:

12 (A) accredited to the United States Government
13 or the Government's mission to an international
14 organization having its headquarters in the United
15 States; or

16 (B) en route to or from another country to
17 which that noncitizen ~~alien~~ is accredited;

18 (3) an official of a foreign government or
19 distinguished foreign visitor who has been so
20 designated by the Department of State;

21 (4) a foreign law enforcement officer of a
22 friendly foreign government entering the United States
23 on official business; or

24 (5) one who has received a waiver from the
25 Attorney General of the United States pursuant to 18
26 U.S.C. 922(y)(3);

1 (j) (Blank);

2 (k) A person who has been convicted within the past 5
3 years of battery, assault, aggravated assault, violation
4 of an order of protection, or a substantially similar
5 offense in another jurisdiction, in which a firearm was
6 used or possessed;

7 (l) A person who has been convicted of domestic
8 battery, aggravated domestic battery, or a substantially
9 similar offense in another jurisdiction committed before,
10 on or after January 1, 2012 (the effective date of Public
11 Act 97-158). If the applicant or person who has been
12 previously issued a Firearm Owner's Identification Card
13 under this Act knowingly and intelligently waives the
14 right to have an offense described in this paragraph (l)
15 tried by a jury, and by guilty plea or otherwise, results
16 in a conviction for an offense in which a domestic
17 relationship is not a required element of the offense but
18 in which a determination of the applicability of 18 U.S.C.
19 922(g)(9) is made under Section 112A-11.1 of the Code of
20 Criminal Procedure of 1963, an entry by the court of a
21 judgment of conviction for that offense shall be grounds
22 for denying an application for and for revoking and
23 seizing a Firearm Owner's Identification Card previously
24 issued to the person under this Act;

25 (m) (Blank);

26 (n) A person who is prohibited from acquiring or

1 possessing firearms or firearm ammunition by any Illinois
2 State statute or by federal law;

3 (o) A minor subject to a petition filed under Section
4 5-520 of the Juvenile Court Act of 1987 alleging that the
5 minor is a delinquent minor for the commission of an
6 offense that if committed by an adult would be a felony;

7 (p) An adult who had been adjudicated a delinquent
8 minor under the Juvenile Court Act of 1987 for the
9 commission of an offense that if committed by an adult
10 would be a felony;

11 (q) A person who is not a resident of the State of
12 Illinois, except as provided in subsection (a-10) of
13 Section 4;

14 (r) A person who has been adjudicated as a person with
15 a mental disability;

16 (s) A person who has been found to have a
17 developmental disability;

18 (t) A person involuntarily admitted into a mental
19 health facility; or

20 (u) A person who has had his or her Firearm Owner's
21 Identification Card revoked or denied under subsection (e)
22 of this Section or item (iv) of paragraph (2) of
23 subsection (a) of Section 4 of this Act because he or she
24 was a patient in a mental health facility as provided in
25 subsection (e) of this Section, shall not be permitted to
26 obtain a Firearm Owner's Identification Card, after the

1 5-year period has lapsed, unless he or she has received a
2 mental health evaluation by a physician, clinical
3 psychologist, or qualified examiner as those terms are
4 defined in the Mental Health and Developmental
5 Disabilities Code, and has received a certification that
6 he or she is not a clear and present danger to himself,
7 herself, or others. The physician, clinical psychologist,
8 or qualified examiner making the certification and his or
9 her employer shall not be held criminally, civilly, or
10 professionally liable for making or not making the
11 certification required under this subsection, except for
12 willful or wanton misconduct. This subsection does not
13 apply to a person whose firearm possession rights have
14 been restored through administrative or judicial action
15 under Section 10 or 11 of this Act.

16 Upon revocation of a person's Firearm Owner's
17 Identification Card, the Illinois State Police shall provide
18 notice to the person and the person shall comply with Section
19 9.5 of this Act.

20 (Source: P.A. 101-80, eff. 7-12-19; 102-538, eff. 8-20-21;
21 102-645, eff. 1-1-22; revised 10-14-21.)

22 Section 155. The Criminal Code of 2012 is amended by
23 changing Section 17-6.5 as follows:

24 (720 ILCS 5/17-6.5)

1 Sec. 17-6.5. Persons under deportation order;
2 ineligibility for benefits.

3 (a) An individual against whom a United States Immigration
4 Judge has issued an order of deportation which has been
5 affirmed by the Board of Immigration Review, as well as an
6 individual who appeals such an order pending appeal, under
7 paragraph 19 of Section 241(a) of the Immigration and
8 Nationality Act relating to persecution of others on account
9 of race, religion, national origin or political opinion under
10 the direction of or in association with the Nazi government of
11 Germany or its allies, shall be ineligible for the following
12 benefits authorized by State law:

13 (1) The homestead exemptions and homestead improvement
14 exemption under Sections 15-170, 15-175, 15-176, and
15 15-180 of the Property Tax Code.

16 (2) Grants under the Senior Citizens and Persons with
17 Disabilities Property Tax Relief Act.

18 (3) The double income tax exemption conferred upon
19 persons 65 years of age or older by Section 204 of the
20 Illinois Income Tax Act.

21 (4) Grants provided by the Department on Aging.

22 (5) Reductions in vehicle registration fees under
23 Section 3-806.3 of the Illinois Vehicle Code.

24 (6) Free fishing and reduced fishing license fees
25 under Sections 20-5 and 20-40 of the Fish and Aquatic Life
26 Code.

1 (7) Tuition free courses for senior citizens under the
2 Senior Citizen Courses Act.

3 (8) Any benefits under the Illinois Public Aid Code.

4 (b) If a person has been found by a court to have knowingly
5 received benefits in violation of subsection (a) and:

6 (1) the total monetary value of the benefits received
7 is less than \$150, the person is guilty of a Class A
8 misdemeanor; a second or subsequent violation is a Class 4
9 felony;

10 (2) the total monetary value of the benefits received
11 is \$150 or more but less than \$1,000, the person is guilty
12 of a Class 4 felony; a second or subsequent violation is a
13 Class 3 felony;

14 (3) the total monetary value of the benefits received
15 is \$1,000 or more but less than \$5,000, the person is
16 guilty of a Class 3 felony; a second or subsequent
17 violation is a Class 2 felony;

18 (4) the total monetary value of the benefits received
19 is \$5,000 or more but less than \$10,000, the person is
20 guilty of a Class 2 felony; a second or subsequent
21 violation is a Class 1 felony; or

22 (5) the total monetary value of the benefits received
23 is \$10,000 or more, the person is guilty of a Class 1
24 felony.

25 (c) For purposes of determining the classification of an
26 offense under this Section, all of the monetary value of the

1 benefits received as a result of the unlawful act, practice,
2 or course of conduct may be accumulated.

3 (d) Any grants awarded to persons described in subsection
4 (a) may be recovered by the State of Illinois in a civil action
5 commenced by the Attorney General in the circuit court of
6 Sangamon County or the State's Attorney of the county of
7 residence of the person described in subsection (a).

8 (e) An individual described in subsection (a) who has been
9 deported shall be restored to any benefits which that
10 individual has been denied under State law pursuant to
11 subsection (a) if (i) the Attorney General of the United
12 States has issued an order cancelling deportation and has
13 adjusted the status of the individual to that of a noncitizen
14 ~~an alien~~ lawfully admitted for permanent residence in the
15 United States or (ii) the country to which the individual has
16 been deported adjudicates or exonerates the individual in a
17 judicial or administrative proceeding as not being guilty of
18 the persecution of others on account of race, religion,
19 national origin, or political opinion under the direction of
20 or in association with the Nazi government of Germany or its
21 allies.

22 (Source: P.A. 99-143, eff. 7-27-15.)

23 Section 160. The Prevention of Cigarette and Electronic
24 Cigarette Sales to Persons under 21 Years of Age Act is amended
25 by changing Section 2 as follows:

1 (720 ILCS 678/2)

2 Sec. 2. Definitions. For the purpose of this Act:

3 "Cigarette", when used in this Act, means any roll for
4 smoking made wholly or in part of tobacco irrespective of size
5 or shape and whether or not the tobacco is flavored,
6 adulterated, or mixed with any other ingredient, and the
7 wrapper or cover of which is made of paper or any other
8 substance or material except whole leaf tobacco.

9 "Clear and conspicuous statement" means the statement is
10 of sufficient type size to be clearly readable by the
11 recipient of the communication.

12 "Consumer" means an individual who acquires or seeks to
13 acquire cigarettes or electronic cigarettes for personal use.

14 "Delivery sale" means any sale of cigarettes or electronic
15 cigarettes to a consumer if:

16 (a) the consumer submits the order for such sale by
17 means of a telephone or other method of voice
18 transmission, the mails, or the Internet or other online
19 service, or the seller is otherwise not in the physical
20 presence of the buyer when the request for purchase or
21 order is made; or

22 (b) the cigarettes or electronic cigarettes are
23 delivered by use of a common carrier, private delivery
24 service, or the mails, or the seller is not in the physical
25 presence of the buyer when the buyer obtains possession of

1 the cigarettes or electronic cigarettes.

2 "Delivery service" means any person (other than a person
3 that makes a delivery sale) who delivers to the consumer the
4 cigarettes or electronic cigarettes sold in a delivery sale.

5 "Department" means the Department of Revenue.

6 "Electronic cigarette" means:

7 (1) any device that employs a battery or other
8 mechanism to heat a solution or substance to produce a
9 vapor or aerosol intended for inhalation;

10 (2) any cartridge or container of a solution or
11 substance intended to be used with or in the device or to
12 refill the device; or

13 (3) any solution or substance, whether or not it
14 contains nicotine, intended for use in the device.

15 "Electronic cigarette" includes, but is not limited to,
16 any electronic nicotine delivery system, electronic cigar,
17 electronic cigarillo, electronic pipe, electronic hookah, vape
18 pen, or similar product or device, and any component, part, or
19 accessory of a device used during the operation of the device,
20 even if the part or accessory was sold separately. "Electronic
21 cigarette" does not include: cigarettes, as defined in Section
22 1 of the Cigarette Tax Act; any product approved by the United
23 States Food and Drug Administration for sale as a tobacco
24 cessation product, a tobacco dependence product, or for other
25 medical purposes that is marketed and sold solely for that
26 approved purpose; any asthma inhaler prescribed by a physician

1 for that condition that is marketed and sold solely for that
2 approved purpose; any device that meets the definition of
3 cannabis paraphernalia under Section 1-10 of the Cannabis
4 Regulation and Tax Act; or any cannabis product sold by a
5 dispensing organization pursuant to the Cannabis Regulation
6 and Tax Act or the Compassionate Use of Medical Cannabis
7 Program Act.

8 "Government-issued identification" means a State driver's
9 license, State identification card, passport, a military
10 identification or an official naturalization or immigration
11 document, such as a ~~an~~ alien registration recipient card
12 (commonly known as a "green card") or an immigrant visa.

13 "Mails" or "mailing" mean the shipment of cigarettes or
14 electronic cigarettes through the United States Postal
15 Service.

16 "Out-of-state sale" means a sale of cigarettes or
17 electronic cigarettes to a consumer located outside of this
18 State where the consumer submits the order for such sale by
19 means of a telephonic or other method of voice transmission,
20 the mails or any other delivery service, facsimile
21 transmission, or the Internet or other online service and
22 where the cigarettes or electronic cigarettes are delivered by
23 use of the mails or other delivery service.

24 "Person" means any individual, corporation, partnership,
25 limited liability company, association, or other organization
26 that engages in any for-profit or not-for-profit activities.

1 "Shipping package" means a container in which packs or
2 cartons of cigarettes or electronic cigarettes are shipped in
3 connection with a delivery sale.

4 "Shipping documents" means bills of lading, air bills, or
5 any other documents used to evidence the undertaking by a
6 delivery service to deliver letters, packages, or other
7 containers.

8 (Source: P.A. 102-575, eff. 1-1-22.)

9 Section 165. The Code of Criminal Procedure of 1963 is
10 amended by changing Section 113-8 as follows:

11 (725 ILCS 5/113-8)

12 Sec. 113-8. Advisement concerning status as a noncitizen
13 ~~an alien~~.

14 (a) Before the acceptance of a plea of guilty, guilty but
15 mentally ill, or nolo contendere to a misdemeanor or felony
16 offense, the court shall give the following advisement to the
17 defendant in open court:

18 "If you are not a citizen of the United States, you are
19 hereby advised that conviction of the offense for which you
20 have been charged may have the consequence of deportation,
21 exclusion from admission to the United States, or denial of
22 naturalization under the laws of the United States."

23 (b) If the defendant is arraigned on or after the
24 effective date of this amendatory Act of the 101st General

1 Assembly, and the court fails to advise the defendant as
2 required by subsection (a) of this Section, and the defendant
3 shows that conviction of the offense to which the defendant
4 pleaded guilty, guilty but mentally ill, or nolo contendere
5 may have the consequence for the defendant of deportation,
6 exclusion from admission to the United States, or denial of
7 naturalization under the laws of the United States, the court,
8 upon the defendant's motion, shall vacate the judgment and
9 permit the defendant to withdraw the plea of guilty, guilty
10 but mentally ill, or nolo contendere and enter a plea of not
11 guilty. The motion shall be filed within 2 years of the date of
12 the defendant's conviction.

13 (Source: P.A. 101-409, eff. 1-1-20.)

14 Section 170. The Unified Code of Corrections is amended by
15 changing Sections 3-2-2 and 5-5-3 as follows:

16 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

17 Sec. 3-2-2. Powers and duties of the Department.

18 (1) In addition to the powers, duties, and
19 responsibilities which are otherwise provided by law, the
20 Department shall have the following powers:

21 (a) To accept persons committed to it by the courts of
22 this State for care, custody, treatment, and
23 rehabilitation, and to accept federal prisoners and
24 noncitizens ~~aliens~~ over whom the Office of the Federal

1 Detention Trustee is authorized to exercise the federal
2 detention function for limited purposes and periods of
3 time.

4 (b) To develop and maintain reception and evaluation
5 units for purposes of analyzing the custody and
6 rehabilitation needs of persons committed to it and to
7 assign such persons to institutions and programs under its
8 control or transfer them to other appropriate agencies. In
9 consultation with the Department of Alcoholism and
10 Substance Abuse (now the Department of Human Services),
11 the Department of Corrections shall develop a master plan
12 for the screening and evaluation of persons committed to
13 its custody who have alcohol or drug abuse problems, and
14 for making appropriate treatment available to such
15 persons; the Department shall report to the General
16 Assembly on such plan not later than April 1, 1987. The
17 maintenance and implementation of such plan shall be
18 contingent upon the availability of funds.

19 (b-1) To create and implement, on January 1, 2002, a
20 pilot program to establish the effectiveness of
21 pupillometer technology (the measurement of the pupil's
22 reaction to light) as an alternative to a urine test for
23 purposes of screening and evaluating persons committed to
24 its custody who have alcohol or drug problems. The pilot
25 program shall require the pupillometer technology to be
26 used in at least one Department of Corrections facility.

1 The Director may expand the pilot program to include an
2 additional facility or facilities as he or she deems
3 appropriate. A minimum of 4,000 tests shall be included in
4 the pilot program. The Department must report to the
5 General Assembly on the effectiveness of the program by
6 January 1, 2003.

7 (b-5) To develop, in consultation with the Illinois
8 State Police, a program for tracking and evaluating each
9 inmate from commitment through release for recording his
10 or her gang affiliations, activities, or ranks.

11 (c) To maintain and administer all State correctional
12 institutions and facilities under its control and to
13 establish new ones as needed. Pursuant to its power to
14 establish new institutions and facilities, the Department
15 may, with the written approval of the Governor, authorize
16 the Department of Central Management Services to enter
17 into an agreement of the type described in subsection (d)
18 of Section 405-300 of the Department of Central Management
19 Services Law. The Department shall designate those
20 institutions which shall constitute the State Penitentiary
21 System. The Department of Juvenile Justice shall maintain
22 and administer all State youth centers pursuant to
23 subsection (d) of Section 3-2.5-20.

24 Pursuant to its power to establish new institutions
25 and facilities, the Department may authorize the
26 Department of Central Management Services to accept bids

1 from counties and municipalities for the construction,
2 remodeling, or conversion of a structure to be leased to
3 the Department of Corrections for the purposes of its
4 serving as a correctional institution or facility. Such
5 construction, remodeling, or conversion may be financed
6 with revenue bonds issued pursuant to the Industrial
7 Building Revenue Bond Act by the municipality or county.
8 The lease specified in a bid shall be for a term of not
9 less than the time needed to retire any revenue bonds used
10 to finance the project, but not to exceed 40 years. The
11 lease may grant to the State the option to purchase the
12 structure outright.

13 Upon receipt of the bids, the Department may certify
14 one or more of the bids and shall submit any such bids to
15 the General Assembly for approval. Upon approval of a bid
16 by a constitutional majority of both houses of the General
17 Assembly, pursuant to joint resolution, the Department of
18 Central Management Services may enter into an agreement
19 with the county or municipality pursuant to such bid.

20 (c-5) To build and maintain regional juvenile
21 detention centers and to charge a per diem to the counties
22 as established by the Department to defray the costs of
23 housing each minor in a center. In this subsection (c-5),
24 "juvenile detention center" means a facility to house
25 minors during pendency of trial who have been transferred
26 from proceedings under the Juvenile Court Act of 1987 to

1 prosecutions under the criminal laws of this State in
2 accordance with Section 5-805 of the Juvenile Court Act of
3 1987, whether the transfer was by operation of law or
4 permissive under that Section. The Department shall
5 designate the counties to be served by each regional
6 juvenile detention center.

7 (d) To develop and maintain programs of control,
8 rehabilitation, and employment of committed persons within
9 its institutions.

10 (d-5) To provide a pre-release job preparation program
11 for inmates at Illinois adult correctional centers.

12 (d-10) To provide educational and visitation
13 opportunities to committed persons within its institutions
14 through temporary access to content-controlled tablets
15 that may be provided as a privilege to committed persons
16 to induce or reward compliance.

17 (e) To establish a system of supervision and guidance
18 of committed persons in the community.

19 (f) To establish in cooperation with the Department of
20 Transportation to supply a sufficient number of prisoners
21 for use by the Department of Transportation to clean up
22 the trash and garbage along State, county, township, or
23 municipal highways as designated by the Department of
24 Transportation. The Department of Corrections, at the
25 request of the Department of Transportation, shall furnish
26 such prisoners at least annually for a period to be agreed

1 upon between the Director of Corrections and the Secretary
2 of Transportation. The prisoners used on this program
3 shall be selected by the Director of Corrections on
4 whatever basis he deems proper in consideration of their
5 term, behavior and earned eligibility to participate in
6 such program - where they will be outside of the prison
7 facility but still in the custody of the Department of
8 Corrections. Prisoners convicted of first degree murder,
9 or a Class X felony, or armed violence, or aggravated
10 kidnapping, or criminal sexual assault, aggravated
11 criminal sexual abuse or a subsequent conviction for
12 criminal sexual abuse, or forcible detention, or arson, or
13 a prisoner adjudged a Habitual Criminal shall not be
14 eligible for selection to participate in such program. The
15 prisoners shall remain as prisoners in the custody of the
16 Department of Corrections and such Department shall
17 furnish whatever security is necessary. The Department of
18 Transportation shall furnish trucks and equipment for the
19 highway cleanup program and personnel to supervise and
20 direct the program. Neither the Department of Corrections
21 nor the Department of Transportation shall replace any
22 regular employee with a prisoner.

23 (g) To maintain records of persons committed to it and
24 to establish programs of research, statistics, and
25 planning.

26 (h) To investigate the grievances of any person

1 committed to the Department and to inquire into any
2 alleged misconduct by employees or committed persons; and
3 for these purposes it may issue subpoenas and compel the
4 attendance of witnesses and the production of writings and
5 papers, and may examine under oath any witnesses who may
6 appear before it; to also investigate alleged violations
7 of a parolee's or releasee's conditions of parole or
8 release; and for this purpose it may issue subpoenas and
9 compel the attendance of witnesses and the production of
10 documents only if there is reason to believe that such
11 procedures would provide evidence that such violations
12 have occurred.

13 If any person fails to obey a subpoena issued under
14 this subsection, the Director may apply to any circuit
15 court to secure compliance with the subpoena. The failure
16 to comply with the order of the court issued in response
17 thereto shall be punishable as contempt of court.

18 (i) To appoint and remove the chief administrative
19 officers, and administer programs of training and
20 development of personnel of the Department. Personnel
21 assigned by the Department to be responsible for the
22 custody and control of committed persons or to investigate
23 the alleged misconduct of committed persons or employees
24 or alleged violations of a parolee's or releasee's
25 conditions of parole shall be conservators of the peace
26 for those purposes, and shall have the full power of peace

1 officers outside of the facilities of the Department in
2 the protection, arrest, retaking, and reconfining of
3 committed persons or where the exercise of such power is
4 necessary to the investigation of such misconduct or
5 violations. This subsection shall not apply to persons
6 committed to the Department of Juvenile Justice under the
7 Juvenile Court Act of 1987 on aftercare release.

8 (j) To cooperate with other departments and agencies
9 and with local communities for the development of
10 standards and programs for better correctional services in
11 this State.

12 (k) To administer all moneys and properties of the
13 Department.

14 (l) To report annually to the Governor on the
15 committed persons, institutions, and programs of the
16 Department.

17 (l-5) (Blank).

18 (m) To make all rules and regulations and exercise all
19 powers and duties vested by law in the Department.

20 (n) To establish rules and regulations for
21 administering a system of sentence credits, established in
22 accordance with Section 3-6-3, subject to review by the
23 Prisoner Review Board.

24 (o) To administer the distribution of funds from the
25 State Treasury to reimburse counties where State penal
26 institutions are located for the payment of assistant

1 state's attorneys' salaries under Section 4-2001 of the
2 Counties Code.

3 (p) To exchange information with the Department of
4 Human Services and the Department of Healthcare and Family
5 Services for the purpose of verifying living arrangements
6 and for other purposes directly connected with the
7 administration of this Code and the Illinois Public Aid
8 Code.

9 (q) To establish a diversion program.

10 The program shall provide a structured environment for
11 selected technical parole or mandatory supervised release
12 violators and committed persons who have violated the
13 rules governing their conduct while in work release. This
14 program shall not apply to those persons who have
15 committed a new offense while serving on parole or
16 mandatory supervised release or while committed to work
17 release.

18 Elements of the program shall include, but shall not
19 be limited to, the following:

20 (1) The staff of a diversion facility shall
21 provide supervision in accordance with required
22 objectives set by the facility.

23 (2) Participants shall be required to maintain
24 employment.

25 (3) Each participant shall pay for room and board
26 at the facility on a sliding-scale basis according to

1 the participant's income.

2 (4) Each participant shall:

3 (A) provide restitution to victims in
4 accordance with any court order;

5 (B) provide financial support to his
6 dependents; and

7 (C) make appropriate payments toward any other
8 court-ordered obligations.

9 (5) Each participant shall complete community
10 service in addition to employment.

11 (6) Participants shall take part in such
12 counseling, educational, and other programs as the
13 Department may deem appropriate.

14 (7) Participants shall submit to drug and alcohol
15 screening.

16 (8) The Department shall promulgate rules
17 governing the administration of the program.

18 (r) To enter into intergovernmental cooperation
19 agreements under which persons in the custody of the
20 Department may participate in a county impact
21 incarceration program established under Section 3-6038 or
22 3-15003.5 of the Counties Code.

23 (r-5) (Blank).

24 (r-10) To systematically and routinely identify with
25 respect to each streetgang active within the correctional
26 system: (1) each active gang; (2) every existing

1 inter-gang affiliation or alliance; and (3) the current
2 leaders in each gang. The Department shall promptly
3 segregate leaders from inmates who belong to their gangs
4 and allied gangs. "Segregate" means no physical contact
5 and, to the extent possible under the conditions and space
6 available at the correctional facility, prohibition of
7 visual and sound communication. For the purposes of this
8 paragraph (r-10), "leaders" means persons who:

9 (i) are members of a criminal streetgang;

10 (ii) with respect to other individuals within the
11 streetgang, occupy a position of organizer,
12 supervisor, or other position of management or
13 leadership; and

14 (iii) are actively and personally engaged in
15 directing, ordering, authorizing, or requesting
16 commission of criminal acts by others, which are
17 punishable as a felony, in furtherance of streetgang
18 related activity both within and outside of the
19 Department of Corrections.

20 "Streetgang", "gang", and "streetgang related" have the
21 meanings ascribed to them in Section 10 of the Illinois
22 Streetgang Terrorism Omnibus Prevention Act.

23 (s) To operate a super-maximum security institution,
24 in order to manage and supervise inmates who are
25 disruptive or dangerous and provide for the safety and
26 security of the staff and the other inmates.

1 (t) To monitor any unprivileged conversation or any
2 unprivileged communication, whether in person or by mail,
3 telephone, or other means, between an inmate who, before
4 commitment to the Department, was a member of an organized
5 gang and any other person without the need to show cause or
6 satisfy any other requirement of law before beginning the
7 monitoring, except as constitutionally required. The
8 monitoring may be by video, voice, or other method of
9 recording or by any other means. As used in this
10 subdivision (1)(t), "organized gang" has the meaning
11 ascribed to it in Section 10 of the Illinois Streetgang
12 Terrorism Omnibus Prevention Act.

13 As used in this subdivision (1)(t), "unprivileged
14 conversation" or "unprivileged communication" means a
15 conversation or communication that is not protected by any
16 privilege recognized by law or by decision, rule, or order
17 of the Illinois Supreme Court.

18 (u) To establish a Women's and Children's Pre-release
19 Community Supervision Program for the purpose of providing
20 housing and services to eligible female inmates, as
21 determined by the Department, and their newborn and young
22 children.

23 (u-5) To issue an order, whenever a person committed
24 to the Department absconds or absents himself or herself,
25 without authority to do so, from any facility or program
26 to which he or she is assigned. The order shall be

1 certified by the Director, the Supervisor of the
2 Apprehension Unit, or any person duly designated by the
3 Director, with the seal of the Department affixed. The
4 order shall be directed to all sheriffs, coroners, and
5 police officers, or to any particular person named in the
6 order. Any order issued pursuant to this subdivision
7 (1)(u-5) shall be sufficient warrant for the officer or
8 person named in the order to arrest and deliver the
9 committed person to the proper correctional officials and
10 shall be executed the same as criminal process.

11 (u-6) To appoint a point of contact person who shall
12 receive suggestions, complaints, or other requests to the
13 Department from visitors to Department institutions or
14 facilities and from other members of the public.

15 (v) To do all other acts necessary to carry out the
16 provisions of this Chapter.

17 (2) The Department of Corrections shall by January 1,
18 1998, consider building and operating a correctional facility
19 within 100 miles of a county of over 2,000,000 inhabitants,
20 especially a facility designed to house juvenile participants
21 in the impact incarceration program.

22 (3) When the Department lets bids for contracts for
23 medical services to be provided to persons committed to
24 Department facilities by a health maintenance organization,
25 medical service corporation, or other health care provider,
26 the bid may only be let to a health care provider that has

1 obtained an irrevocable letter of credit or performance bond
2 issued by a company whose bonds have an investment grade or
3 higher rating by a bond rating organization.

4 (4) When the Department lets bids for contracts for food
5 or commissary services to be provided to Department
6 facilities, the bid may only be let to a food or commissary
7 services provider that has obtained an irrevocable letter of
8 credit or performance bond issued by a company whose bonds
9 have an investment grade or higher rating by a bond rating
10 organization.

11 (5) On and after the date 6 months after August 16, 2013
12 (the effective date of Public Act 98-488), as provided in the
13 Executive Order 1 (2012) Implementation Act, all of the
14 powers, duties, rights, and responsibilities related to State
15 healthcare purchasing under this Code that were transferred
16 from the Department of Corrections to the Department of
17 Healthcare and Family Services by Executive Order 3 (2005) are
18 transferred back to the Department of Corrections; however,
19 powers, duties, rights, and responsibilities related to State
20 healthcare purchasing under this Code that were exercised by
21 the Department of Corrections before the effective date of
22 Executive Order 3 (2005) but that pertain to individuals
23 resident in facilities operated by the Department of Juvenile
24 Justice are transferred to the Department of Juvenile Justice.
25 (Source: P.A. 101-235, eff. 1-1-20; 102-350, eff. 8-13-21;
26 102-535, eff. 1-1-22; 102-538, eff. 8-20-21; revised

1 10-15-21.)

2 (730 ILCS 5/5-5-3)

3 Sec. 5-5-3. Disposition.

4 (a) (Blank).

5 (b) (Blank).

6 (c) (1) (Blank).

7 (2) A period of probation, a term of periodic imprisonment
8 or conditional discharge shall not be imposed for the
9 following offenses. The court shall sentence the offender to
10 not less than the minimum term of imprisonment set forth in
11 this Code for the following offenses, and may order a fine or
12 restitution or both in conjunction with such term of
13 imprisonment:

14 (A) First degree murder where the death penalty is not
15 imposed.

16 (B) Attempted first degree murder.

17 (C) A Class X felony.

18 (D) A violation of Section 401.1 or 407 of the
19 Illinois Controlled Substances Act, or a violation of
20 subdivision (c)(1.5) of Section 401 of that Act which
21 relates to more than 5 grams of a substance containing
22 fentanyl or an analog thereof.

23 (D-5) A violation of subdivision (c)(1) of Section 401
24 of the Illinois Controlled Substances Act which relates to
25 3 or more grams of a substance containing heroin or an

1 analog thereof.

2 (E) (Blank).

3 (F) A Class 1 or greater felony if the offender had
4 been convicted of a Class 1 or greater felony, including
5 any state or federal conviction for an offense that
6 contained, at the time it was committed, the same elements
7 as an offense now (the date of the offense committed after
8 the prior Class 1 or greater felony) classified as a Class
9 1 or greater felony, within 10 years of the date on which
10 the offender committed the offense for which he or she is
11 being sentenced, except as otherwise provided in Section
12 40-10 of the Substance Use Disorder Act.

13 (F-3) A Class 2 or greater felony sex offense or
14 felony firearm offense if the offender had been convicted
15 of a Class 2 or greater felony, including any state or
16 federal conviction for an offense that contained, at the
17 time it was committed, the same elements as an offense now
18 (the date of the offense committed after the prior Class 2
19 or greater felony) classified as a Class 2 or greater
20 felony, within 10 years of the date on which the offender
21 committed the offense for which he or she is being
22 sentenced, except as otherwise provided in Section 40-10
23 of the Substance Use Disorder Act.

24 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6
25 of the Criminal Code of 1961 or the Criminal Code of 2012
26 for which imprisonment is prescribed in those Sections.

1 (G) Residential burglary, except as otherwise provided
2 in Section 40-10 of the Substance Use Disorder Act.

3 (H) Criminal sexual assault.

4 (I) Aggravated battery of a senior citizen as
5 described in Section 12-4.6 or subdivision (a)(4) of
6 Section 12-3.05 of the Criminal Code of 1961 or the
7 Criminal Code of 2012.

8 (J) A forcible felony if the offense was related to
9 the activities of an organized gang.

10 Before July 1, 1994, for the purposes of this
11 paragraph, "organized gang" means an association of 5 or
12 more persons, with an established hierarchy, that
13 encourages members of the association to perpetrate crimes
14 or provides support to the members of the association who
15 do commit crimes.

16 Beginning July 1, 1994, for the purposes of this
17 paragraph, "organized gang" has the meaning ascribed to it
18 in Section 10 of the Illinois Streetgang Terrorism Omnibus
19 Prevention Act.

20 (K) Vehicular hijacking.

21 (L) A second or subsequent conviction for the offense
22 of hate crime when the underlying offense upon which the
23 hate crime is based is felony aggravated assault or felony
24 mob action.

25 (M) A second or subsequent conviction for the offense
26 of institutional vandalism if the damage to the property

1 exceeds \$300.

2 (N) A Class 3 felony violation of paragraph (1) of
3 subsection (a) of Section 2 of the Firearm Owners
4 Identification Card Act.

5 (O) A violation of Section 12-6.1 or 12-6.5 of the
6 Criminal Code of 1961 or the Criminal Code of 2012.

7 (P) A violation of paragraph (1), (2), (3), (4), (5),
8 or (7) of subsection (a) of Section 11-20.1 of the
9 Criminal Code of 1961 or the Criminal Code of 2012.

10 (P-5) A violation of paragraph (6) of subsection (a)
11 of Section 11-20.1 of the Criminal Code of 1961 or the
12 Criminal Code of 2012 if the victim is a household or
13 family member of the defendant.

14 (Q) A violation of subsection (b) or (b-5) of Section
15 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal
16 Code of 1961 or the Criminal Code of 2012.

17 (R) A violation of Section 24-3A of the Criminal Code
18 of 1961 or the Criminal Code of 2012.

19 (S) (Blank).

20 (T) (Blank).

21 (U) A second or subsequent violation of Section 6-303
22 of the Illinois Vehicle Code committed while his or her
23 driver's license, permit, or privilege was revoked because
24 of a violation of Section 9-3 of the Criminal Code of 1961
25 or the Criminal Code of 2012, relating to the offense of
26 reckless homicide, or a similar provision of a law of

1 another state.

2 (V) A violation of paragraph (4) of subsection (c) of
3 Section 11-20.1B or paragraph (4) of subsection (c) of
4 Section 11-20.3 of the Criminal Code of 1961, or paragraph
5 (6) of subsection (a) of Section 11-20.1 of the Criminal
6 Code of 2012 when the victim is under 13 years of age and
7 the defendant has previously been convicted under the laws
8 of this State or any other state of the offense of child
9 pornography, aggravated child pornography, aggravated
10 criminal sexual abuse, aggravated criminal sexual assault,
11 predatory criminal sexual assault of a child, or any of
12 the offenses formerly known as rape, deviate sexual
13 assault, indecent liberties with a child, or aggravated
14 indecent liberties with a child where the victim was under
15 the age of 18 years or an offense that is substantially
16 equivalent to those offenses.

17 (W) A violation of Section 24-3.5 of the Criminal Code
18 of 1961 or the Criminal Code of 2012.

19 (X) A violation of subsection (a) of Section 31-1a of
20 the Criminal Code of 1961 or the Criminal Code of 2012.

21 (Y) A conviction for unlawful possession of a firearm
22 by a street gang member when the firearm was loaded or
23 contained firearm ammunition.

24 (Z) A Class 1 felony committed while he or she was
25 serving a term of probation or conditional discharge for a
26 felony.

1 (AA) Theft of property exceeding \$500,000 and not
2 exceeding \$1,000,000 in value.

3 (BB) Laundering of criminally derived property of a
4 value exceeding \$500,000.

5 (CC) Knowingly selling, offering for sale, holding for
6 sale, or using 2,000 or more counterfeit items or
7 counterfeit items having a retail value in the aggregate
8 of \$500,000 or more.

9 (DD) A conviction for aggravated assault under
10 paragraph (6) of subsection (c) of Section 12-2 of the
11 Criminal Code of 1961 or the Criminal Code of 2012 if the
12 firearm is aimed toward the person against whom the
13 firearm is being used.

14 (EE) A conviction for a violation of paragraph (2) of
15 subsection (a) of Section 24-3B of the Criminal Code of
16 2012.

17 (3) (Blank).

18 (4) A minimum term of imprisonment of not less than 10
19 consecutive days or 30 days of community service shall be
20 imposed for a violation of paragraph (c) of Section 6-303 of
21 the Illinois Vehicle Code.

22 (4.1) (Blank).

23 (4.2) Except as provided in paragraphs (4.3) and (4.8) of
24 this subsection (c), a minimum of 100 hours of community
25 service shall be imposed for a second violation of Section
26 6-303 of the Illinois Vehicle Code.

1 (4.3) A minimum term of imprisonment of 30 days or 300
2 hours of community service, as determined by the court, shall
3 be imposed for a second violation of subsection (c) of Section
4 6-303 of the Illinois Vehicle Code.

5 (4.4) Except as provided in paragraphs (4.5), (4.6), and
6 (4.9) of this subsection (c), a minimum term of imprisonment
7 of 30 days or 300 hours of community service, as determined by
8 the court, shall be imposed for a third or subsequent
9 violation of Section 6-303 of the Illinois Vehicle Code. The
10 court may give credit toward the fulfillment of community
11 service hours for participation in activities and treatment as
12 determined by court services.

13 (4.5) A minimum term of imprisonment of 30 days shall be
14 imposed for a third violation of subsection (c) of Section
15 6-303 of the Illinois Vehicle Code.

16 (4.6) Except as provided in paragraph (4.10) of this
17 subsection (c), a minimum term of imprisonment of 180 days
18 shall be imposed for a fourth or subsequent violation of
19 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

20 (4.7) A minimum term of imprisonment of not less than 30
21 consecutive days, or 300 hours of community service, shall be
22 imposed for a violation of subsection (a-5) of Section 6-303
23 of the Illinois Vehicle Code, as provided in subsection (b-5)
24 of that Section.

25 (4.8) A mandatory prison sentence shall be imposed for a
26 second violation of subsection (a-5) of Section 6-303 of the

1 Illinois Vehicle Code, as provided in subsection (c-5) of that
2 Section. The person's driving privileges shall be revoked for
3 a period of not less than 5 years from the date of his or her
4 release from prison.

5 (4.9) A mandatory prison sentence of not less than 4 and
6 not more than 15 years shall be imposed for a third violation
7 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
8 Code, as provided in subsection (d-2.5) of that Section. The
9 person's driving privileges shall be revoked for the remainder
10 of his or her life.

11 (4.10) A mandatory prison sentence for a Class 1 felony
12 shall be imposed, and the person shall be eligible for an
13 extended term sentence, for a fourth or subsequent violation
14 of subsection (a-5) of Section 6-303 of the Illinois Vehicle
15 Code, as provided in subsection (d-3.5) of that Section. The
16 person's driving privileges shall be revoked for the remainder
17 of his or her life.

18 (5) The court may sentence a corporation or unincorporated
19 association convicted of any offense to:

20 (A) a period of conditional discharge;

21 (B) a fine;

22 (C) make restitution to the victim under Section 5-5-6
23 of this Code.

24 (5.1) In addition to any other penalties imposed, and
25 except as provided in paragraph (5.2) or (5.3), a person
26 convicted of violating subsection (c) of Section 11-907 of the

1 Illinois Vehicle Code shall have his or her driver's license,
2 permit, or privileges suspended for at least 90 days but not
3 more than one year, if the violation resulted in damage to the
4 property of another person.

5 (5.2) In addition to any other penalties imposed, and
6 except as provided in paragraph (5.3), a person convicted of
7 violating subsection (c) of Section 11-907 of the Illinois
8 Vehicle Code shall have his or her driver's license, permit,
9 or privileges suspended for at least 180 days but not more than
10 2 years, if the violation resulted in injury to another
11 person.

12 (5.3) In addition to any other penalties imposed, a person
13 convicted of violating subsection (c) of Section 11-907 of the
14 Illinois Vehicle Code shall have his or her driver's license,
15 permit, or privileges suspended for 2 years, if the violation
16 resulted in the death of another person.

17 (5.4) In addition to any other penalties imposed, a person
18 convicted of violating Section 3-707 of the Illinois Vehicle
19 Code shall have his or her driver's license, permit, or
20 privileges suspended for 3 months and until he or she has paid
21 a reinstatement fee of \$100.

22 (5.5) In addition to any other penalties imposed, a person
23 convicted of violating Section 3-707 of the Illinois Vehicle
24 Code during a period in which his or her driver's license,
25 permit, or privileges were suspended for a previous violation
26 of that Section shall have his or her driver's license,

1 permit, or privileges suspended for an additional 6 months
2 after the expiration of the original 3-month suspension and
3 until he or she has paid a reinstatement fee of \$100.

4 (6) (Blank).

5 (7) (Blank).

6 (8) (Blank).

7 (9) A defendant convicted of a second or subsequent
8 offense of ritualized abuse of a child may be sentenced to a
9 term of natural life imprisonment.

10 (10) (Blank).

11 (11) The court shall impose a minimum fine of \$1,000 for a
12 first offense and \$2,000 for a second or subsequent offense
13 upon a person convicted of or placed on supervision for
14 battery when the individual harmed was a sports official or
15 coach at any level of competition and the act causing harm to
16 the sports official or coach occurred within an athletic
17 facility or within the immediate vicinity of the athletic
18 facility at which the sports official or coach was an active
19 participant of the athletic contest held at the athletic
20 facility. For the purposes of this paragraph (11), "sports
21 official" means a person at an athletic contest who enforces
22 the rules of the contest, such as an umpire or referee;
23 "athletic facility" means an indoor or outdoor playing field
24 or recreational area where sports activities are conducted;
25 and "coach" means a person recognized as a coach by the
26 sanctioning authority that conducted the sporting event.

1 (12) A person may not receive a disposition of court
2 supervision for a violation of Section 5-16 of the Boat
3 Registration and Safety Act if that person has previously
4 received a disposition of court supervision for a violation of
5 that Section.

6 (13) A person convicted of or placed on court supervision
7 for an assault or aggravated assault when the victim and the
8 offender are family or household members as defined in Section
9 103 of the Illinois Domestic Violence Act of 1986 or convicted
10 of domestic battery or aggravated domestic battery may be
11 required to attend a Partner Abuse Intervention Program under
12 protocols set forth by the Illinois Department of Human
13 Services under such terms and conditions imposed by the court.
14 The costs of such classes shall be paid by the offender.

15 (d) In any case in which a sentence originally imposed is
16 vacated, the case shall be remanded to the trial court. The
17 trial court shall hold a hearing under Section 5-4-1 of this
18 Code which may include evidence of the defendant's life, moral
19 character and occupation during the time since the original
20 sentence was passed. The trial court shall then impose
21 sentence upon the defendant. The trial court may impose any
22 sentence which could have been imposed at the original trial
23 subject to Section 5-5-4 of this Code. If a sentence is vacated
24 on appeal or on collateral attack due to the failure of the
25 trier of fact at trial to determine beyond a reasonable doubt
26 the existence of a fact (other than a prior conviction)

1 necessary to increase the punishment for the offense beyond
2 the statutory maximum otherwise applicable, either the
3 defendant may be re-sentenced to a term within the range
4 otherwise provided or, if the State files notice of its
5 intention to again seek the extended sentence, the defendant
6 shall be afforded a new trial.

7 (e) In cases where prosecution for aggravated criminal
8 sexual abuse under Section 11-1.60 or 12-16 of the Criminal
9 Code of 1961 or the Criminal Code of 2012 results in conviction
10 of a defendant who was a family member of the victim at the
11 time of the commission of the offense, the court shall
12 consider the safety and welfare of the victim and may impose a
13 sentence of probation only where:

14 (1) the court finds (A) or (B) or both are
15 appropriate:

16 (A) the defendant is willing to undergo a court
17 approved counseling program for a minimum duration of
18 2 years; or

19 (B) the defendant is willing to participate in a
20 court approved plan, including, but not limited to,
21 the defendant's:

22 (i) removal from the household;

23 (ii) restricted contact with the victim;

24 (iii) continued financial support of the
25 family;

26 (iv) restitution for harm done to the victim;

1 and

2 (v) compliance with any other measures that
3 the court may deem appropriate; and

4 (2) the court orders the defendant to pay for the
5 victim's counseling services, to the extent that the court
6 finds, after considering the defendant's income and
7 assets, that the defendant is financially capable of
8 paying for such services, if the victim was under 18 years
9 of age at the time the offense was committed and requires
10 counseling as a result of the offense.

11 Probation may be revoked or modified pursuant to Section
12 5-6-4; except where the court determines at the hearing that
13 the defendant violated a condition of his or her probation
14 restricting contact with the victim or other family members or
15 commits another offense with the victim or other family
16 members, the court shall revoke the defendant's probation and
17 impose a term of imprisonment.

18 For the purposes of this Section, "family member" and
19 "victim" shall have the meanings ascribed to them in Section
20 11-0.1 of the Criminal Code of 2012.

21 (f) (Blank).

22 (g) Whenever a defendant is convicted of an offense under
23 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,
24 11-14.3, 11-14.4 except for an offense that involves keeping a
25 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,
26 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,

1 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, the defendant shall undergo medical
3 testing to determine whether the defendant has any sexually
4 transmissible disease, including a test for infection with
5 human immunodeficiency virus (HIV) or any other identified
6 causative agent of acquired immunodeficiency syndrome (AIDS).
7 Any such medical test shall be performed only by appropriately
8 licensed medical practitioners and may include an analysis of
9 any bodily fluids as well as an examination of the defendant's
10 person. Except as otherwise provided by law, the results of
11 such test shall be kept strictly confidential by all medical
12 personnel involved in the testing and must be personally
13 delivered in a sealed envelope to the judge of the court in
14 which the conviction was entered for the judge's inspection in
15 camera. Acting in accordance with the best interests of the
16 victim and the public, the judge shall have the discretion to
17 determine to whom, if anyone, the results of the testing may be
18 revealed. The court shall notify the defendant of the test
19 results. The court shall also notify the victim if requested
20 by the victim, and if the victim is under the age of 15 and if
21 requested by the victim's parents or legal guardian, the court
22 shall notify the victim's parents or legal guardian of the
23 test results. The court shall provide information on the
24 availability of HIV testing and counseling at Department of
25 Public Health facilities to all parties to whom the results of
26 the testing are revealed and shall direct the State's Attorney

1 to provide the information to the victim when possible. The
2 court shall order that the cost of any such test shall be paid
3 by the county and may be taxed as costs against the convicted
4 defendant.

5 (g-5) When an inmate is tested for an airborne
6 communicable disease, as determined by the Illinois Department
7 of Public Health, including, but not limited to, tuberculosis,
8 the results of the test shall be personally delivered by the
9 warden or his or her designee in a sealed envelope to the judge
10 of the court in which the inmate must appear for the judge's
11 inspection in camera if requested by the judge. Acting in
12 accordance with the best interests of those in the courtroom,
13 the judge shall have the discretion to determine what if any
14 precautions need to be taken to prevent transmission of the
15 disease in the courtroom.

16 (h) Whenever a defendant is convicted of an offense under
17 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
18 defendant shall undergo medical testing to determine whether
19 the defendant has been exposed to human immunodeficiency virus
20 (HIV) or any other identified causative agent of acquired
21 immunodeficiency syndrome (AIDS). Except as otherwise provided
22 by law, the results of such test shall be kept strictly
23 confidential by all medical personnel involved in the testing
24 and must be personally delivered in a sealed envelope to the
25 judge of the court in which the conviction was entered for the
26 judge's inspection in camera. Acting in accordance with the

1 best interests of the public, the judge shall have the
2 discretion to determine to whom, if anyone, the results of the
3 testing may be revealed. The court shall notify the defendant
4 of a positive test showing an infection with the human
5 immunodeficiency virus (HIV). The court shall provide
6 information on the availability of HIV testing and counseling
7 at Department of Public Health facilities to all parties to
8 whom the results of the testing are revealed and shall direct
9 the State's Attorney to provide the information to the victim
10 when possible. The court shall order that the cost of any such
11 test shall be paid by the county and may be taxed as costs
12 against the convicted defendant.

13 (i) All fines and penalties imposed under this Section for
14 any violation of Chapters 3, 4, 6, and 11 of the Illinois
15 Vehicle Code, or a similar provision of a local ordinance, and
16 any violation of the Child Passenger Protection Act, or a
17 similar provision of a local ordinance, shall be collected and
18 disbursed by the circuit clerk as provided under the Criminal
19 and Traffic Assessment Act.

20 (j) In cases when prosecution for any violation of Section
21 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,
22 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,
23 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
24 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,
25 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal
26 Code of 2012, any violation of the Illinois Controlled

1 Substances Act, any violation of the Cannabis Control Act, or
2 any violation of the Methamphetamine Control and Community
3 Protection Act results in conviction, a disposition of court
4 supervision, or an order of probation granted under Section 10
5 of the Cannabis Control Act, Section 410 of the Illinois
6 Controlled Substances Act, or Section 70 of the
7 Methamphetamine Control and Community Protection Act of a
8 defendant, the court shall determine whether the defendant is
9 employed by a facility or center as defined under the Child
10 Care Act of 1969, a public or private elementary or secondary
11 school, or otherwise works with children under 18 years of age
12 on a daily basis. When a defendant is so employed, the court
13 shall order the Clerk of the Court to send a copy of the
14 judgment of conviction or order of supervision or probation to
15 the defendant's employer by certified mail. If the employer of
16 the defendant is a school, the Clerk of the Court shall direct
17 the mailing of a copy of the judgment of conviction or order of
18 supervision or probation to the appropriate regional
19 superintendent of schools. The regional superintendent of
20 schools shall notify the State Board of Education of any
21 notification under this subsection.

22 (j-5) A defendant at least 17 years of age who is convicted
23 of a felony and who has not been previously convicted of a
24 misdemeanor or felony and who is sentenced to a term of
25 imprisonment in the Illinois Department of Corrections shall
26 as a condition of his or her sentence be required by the court

1 to attend educational courses designed to prepare the
2 defendant for a high school diploma and to work toward a high
3 school diploma or to work toward passing high school
4 equivalency testing or to work toward completing a vocational
5 training program offered by the Department of Corrections. If
6 a defendant fails to complete the educational training
7 required by his or her sentence during the term of
8 incarceration, the Prisoner Review Board shall, as a condition
9 of mandatory supervised release, require the defendant, at his
10 or her own expense, to pursue a course of study toward a high
11 school diploma or passage of high school equivalency testing.
12 The Prisoner Review Board shall revoke the mandatory
13 supervised release of a defendant who wilfully fails to comply
14 with this subsection (j-5) upon his or her release from
15 confinement in a penal institution while serving a mandatory
16 supervised release term; however, the inability of the
17 defendant after making a good faith effort to obtain financial
18 aid or pay for the educational training shall not be deemed a
19 wilful failure to comply. The Prisoner Review Board shall
20 recommit the defendant whose mandatory supervised release term
21 has been revoked under this subsection (j-5) as provided in
22 Section 3-3-9. This subsection (j-5) does not apply to a
23 defendant who has a high school diploma or has successfully
24 passed high school equivalency testing. This subsection (j-5)
25 does not apply to a defendant who is determined by the court to
26 be a person with a developmental disability or otherwise

1 mentally incapable of completing the educational or vocational
2 program.

3 (k) (Blank).

4 (l) (A) Except as provided in paragraph (C) of subsection
5 (l), whenever a defendant, who is not a citizen or national of
6 the United States ~~an alien as defined by the Immigration and~~
7 ~~Nationality Act~~, is convicted of any felony or misdemeanor
8 offense, the court after sentencing the defendant may, upon
9 motion of the State's Attorney, hold sentence in abeyance and
10 remand the defendant to the custody of the Attorney General of
11 the United States or his or her designated agent to be deported
12 when:

13 (1) a final order of deportation has been issued
14 against the defendant pursuant to proceedings under the
15 Immigration and Nationality Act, and

16 (2) the deportation of the defendant would not
17 deprecate the seriousness of the defendant's conduct and
18 would not be inconsistent with the ends of justice.

19 Otherwise, the defendant shall be sentenced as provided in
20 this Chapter V.

21 (B) If the defendant has already been sentenced for a
22 felony or misdemeanor offense, or has been placed on probation
23 under Section 10 of the Cannabis Control Act, Section 410 of
24 the Illinois Controlled Substances Act, or Section 70 of the
25 Methamphetamine Control and Community Protection Act, the
26 court may, upon motion of the State's Attorney to suspend the

1 sentence imposed, commit the defendant to the custody of the
2 Attorney General of the United States or his or her designated
3 agent when:

4 (1) a final order of deportation has been issued
5 against the defendant pursuant to proceedings under the
6 Immigration and Nationality Act, and

7 (2) the deportation of the defendant would not
8 deprecate the seriousness of the defendant's conduct and
9 would not be inconsistent with the ends of justice.

10 (C) This subsection (1) does not apply to offenders who
11 are subject to the provisions of paragraph (2) of subsection
12 (a) of Section 3-6-3.

13 (D) Upon motion of the State's Attorney, if a defendant
14 sentenced under this Section returns to the jurisdiction of
15 the United States, the defendant shall be recommitted to the
16 custody of the county from which he or she was sentenced.
17 Thereafter, the defendant shall be brought before the
18 sentencing court, which may impose any sentence that was
19 available under Section 5-5-3 at the time of initial
20 sentencing. In addition, the defendant shall not be eligible
21 for additional earned sentence credit as provided under
22 Section 3-6-3.

23 (m) A person convicted of criminal defacement of property
24 under Section 21-1.3 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, in which the property damage exceeds
26 \$300 and the property damaged is a school building, shall be

1 ordered to perform community service that may include cleanup,
2 removal, or painting over the defacement.

3 (n) The court may sentence a person convicted of a
4 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
5 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
6 of 1961 or the Criminal Code of 2012 (i) to an impact
7 incarceration program if the person is otherwise eligible for
8 that program under Section 5-8-1.1, (ii) to community service,
9 or (iii) if the person has a substance use disorder, as defined
10 in the Substance Use Disorder Act, to a treatment program
11 licensed under that Act.

12 (o) Whenever a person is convicted of a sex offense as
13 defined in Section 2 of the Sex Offender Registration Act, the
14 defendant's driver's license or permit shall be subject to
15 renewal on an annual basis in accordance with the provisions
16 of license renewal established by the Secretary of State.

17 (Source: P.A. 101-81, eff. 7-12-19; 102-168, eff. 7-27-21;
18 102-531, eff. 1-1-22; revised 10-12-21.)

19 Section 175. The Frauds Act is amended by changing Section
20 12 as follows:

21 (740 ILCS 80/12) (from Ch. 59, par. 12)

22 Sec. 12. When any lands, tenements or hereditaments, or
23 any rents or profits out of the same, shall descend to any
24 heir, or be devised to any devisee, and the personal estate of

1 the ancestor of such heir or devisor of such devisee shall be
2 insufficient to discharge the just demands against such
3 ancestor, or devisor's estate, such heir or devisee shall be
4 liable to the creditor of their ancestor or devisor to the full
5 amount of the lands, tenements or hereditaments, or rents and
6 profits out of the same, as may descend or be devised to the
7 said heir or devisee; and in all cases where any heir or
8 devisee shall be liable to pay the debts of his executor or
9 devisor, in regard of any lands, tenements or hereditaments,
10 or any rent or profit arising out of the same, descending or
11 being devised to him, and shall sell, transfer, ~~alien~~ or make
12 over the same before any action brought, or process sued out
13 against him, such heir at law or devisee shall be answerable
14 for such debts to the value of the said lands, tenements and
15 hereditaments, rents or profits so by him transferred ~~aliened~~
16 or made over; and executions may be taken out upon any judgment
17 so obtained against such heir or devisee, to the value of the
18 said lands, tenements and hereditaments, rents and profits,
19 out of the same, as if the same were his own proper debts,
20 saving and excepting that the lands and tenements, rents and
21 profits, by him bona fide transferred ~~aliened~~, before the
22 action brought, shall not be liable to such execution.

23 (Source: R.S. 1874, p. 540.)

24 Section 180. The Income Withholding for Support Act is
25 amended by changing Section 20 as follows:

1 (750 ILCS 28/20)

2 Sec. 20. Entry of order for support containing income
3 withholding provisions; income withholding notice.

4 (a) In addition to any content required under other laws,
5 every order for support entered on or after July 1, 1997,
6 shall:

7 (1) Require an income withholding notice to be
8 prepared and served immediately upon any payor of the
9 obligor by the obligee or public office, unless a written
10 agreement is reached between and signed by both parties
11 providing for an alternative arrangement, approved and
12 entered into the record by the court, which ensures
13 payment of support. In that case, the order for support
14 shall provide that an income withholding notice is to be
15 prepared and served only if the obligor becomes delinquent
16 in paying the order for support; and

17 (2) Contain a dollar amount to be paid until payment
18 in full of any delinquency that accrues after entry of the
19 order for support. The amount for payment of delinquency
20 shall not be less than 20% of the total of the current
21 support amount and the amount to be paid periodically for
22 payment of any arrearage stated in the order for support;
23 and

24 (3) Include the obligor's Social Security Number,
25 which the obligor shall disclose to the court. If the

1 obligor is not a United States citizen, the obligor shall
2 disclose to the court, and the court shall include in the
3 order for support, the obligor's ~~alien~~ registration number
4 as a noncitizen, passport number, and home country's
5 social security or national health number, if applicable.

6 (b) At the time the order for support is entered, the Clerk
7 of the Circuit Court shall provide a copy of the order to the
8 obligor and shall make copies available to the obligee and
9 public office.

10 (c) The income withholding notice shall:

11 (1) be in the standard format prescribed by the
12 federal Department of Health and Human Services; and

13 (1.1) state the date of entry of the order for support
14 upon which the income withholding notice is based; and

15 (2) direct any payor to withhold the dollar amount
16 required for current support under the order for support;
17 and

18 (3) direct any payor to withhold the dollar amount
19 required to be paid periodically under the order for
20 support for payment of the amount of any arrearage stated
21 in the order for support; and

22 (4) direct any payor or labor union or trade union to
23 enroll a child as a beneficiary of a health insurance plan
24 and withhold or cause to be withheld, if applicable, any
25 required premiums; and

26 (5) state the amount of the payor income withholding

1 fee specified under this Section; and

2 (6) state that the amount actually withheld from the
3 obligor's income for support and other purposes, including
4 the payor withholding fee specified under this Section,
5 may not be in excess of the maximum amount permitted under
6 the federal Consumer Credit Protection Act; and

7 (7) in bold face type, the size of which equals the
8 largest type on the notice, state the duties of the payor
9 and the fines and penalties for failure to withhold and
10 pay over income and for discharging, disciplining,
11 refusing to hire, or otherwise penalizing the obligor
12 because of the duty to withhold and pay over income under
13 this Section; and

14 (8) state the rights, remedies, and duties of the
15 obligor under this Section; and

16 (9) include the Social Security number of the obligor;
17 and

18 (10) (blank); and

19 (11) contain the signature of the obligee or the
20 printed name and telephone number of the authorized
21 representative of the public office, except that the
22 failure to contain the signature of the obligee or the
23 printed name and telephone number of the authorized
24 representative of the public office shall not affect the
25 validity of the income withholding notice; and

26 (12) direct any payor to pay over amounts withheld for

1 payment of support to the State Disbursement Unit.

2 (d) The accrual of a delinquency as a condition for
3 service of an income withholding notice, under the exception
4 to immediate withholding in subsection (a) of this Section,
5 shall apply only to the initial service of an income
6 withholding notice on a payor of the obligor.

7 (e) Notwithstanding the exception to immediate withholding
8 contained in subsection (a) of this Section, if the court
9 finds at the time of any hearing that an arrearage has accrued,
10 the court shall order immediate service of an income
11 withholding notice upon the payor.

12 (f) If the order for support, under the exception to
13 immediate withholding contained in subsection (a) of this
14 Section, provides that an income withholding notice is to be
15 prepared and served only if the obligor becomes delinquent in
16 paying the order for support, the obligor may execute a
17 written waiver of that condition and request immediate service
18 on the payor.

19 (g) The obligee or public office may serve the income
20 withholding notice on the payor or its superintendent,
21 manager, or other agent by ordinary mail or certified mail
22 return receipt requested, by facsimile transmission or other
23 electronic means, by personal delivery, or by any method
24 provided by law for service of a summons. At the time of
25 service on the payor and as notice that withholding has
26 commenced, the obligee or public office shall serve a copy of

1 the income withholding notice on the obligor by ordinary mail
2 addressed to his or her last known address. A copy of an income
3 withholding notice and proof of service shall be filed with
4 the Clerk of the Circuit Court only when necessary in
5 connection with a petition to contest, modify, suspend,
6 terminate, or correct an income withholding notice, an action
7 to enforce income withholding against a payor, or the
8 resolution of other disputes involving an income withholding
9 notice. The changes made to this subsection by this amendatory
10 Act of the 96th General Assembly apply on and after September
11 1, 2009.

12 (h) At any time after the initial service of an income
13 withholding notice, any other payor of the obligor may be
14 served with the same income withholding notice without further
15 notice to the obligor. A copy of the income withholding notice
16 together with a proof of service on the other payor shall be
17 filed with the Clerk of the Circuit Court.

18 (i) New service of an income withholding notice is not
19 required in order to resume withholding of income in the case
20 of an obligor with respect to whom an income withholding
21 notice was previously served on the payor if withholding of
22 income was terminated because of an interruption in the
23 obligor's employment of less than 180 days.

24 (Source: P.A. 97-994, eff. 8-17-12; 98-81, eff. 7-15-13.)

25 Section 185. The Property Owned By Aliens Act is amended

1 by changing the title of the Act and Sections 0.01, 7, and 8 as
2 follows:

3 (765 ILCS 60/Act title)

4 An Act concerning the right of noncitizens ~~aliens~~ to
5 acquire and hold real and personal property.

6 (765 ILCS 60/0.01) (from Ch. 6, par. 0.01)

7 Sec. 0.01. Short title. This Act may be cited as the
8 Property Owned By Noncitizens ~~Aliens~~ Act.

9 (Source: P.A. 86-1324.)

10 (765 ILCS 60/7) (from Ch. 6, par. 7)

11 Sec. 7. All noncitizens ~~aliens~~ may acquire, hold, and
12 dispose of real and personal property in the same manner and to
13 the same extent as natural born citizens of the United States,
14 and the personal estate of a noncitizen ~~an alien~~ dying
15 intestate shall be distributed in the same manner as the
16 estates of natural born citizens, and all persons interested
17 in such estate shall be entitled to proper distributive shares
18 thereof under the laws of this state, whether they are
19 noncitizens ~~aliens~~ or not.

20 This amendatory Act of 1992 does not apply to the
21 Agricultural Foreign Investment Disclosure Act.

22 (Source: P.A. 87-1101.)

1 (765 ILCS 60/8) (from Ch. 6, par. 8)

2 Sec. 8. An act in regard to noncitizens ~~aliens~~ and to
3 restrict their right to acquire and hold real and personal
4 estate and to provide for the disposition of the lands now
5 owned by non-resident noncitizens ~~aliens~~, approved June 16,
6 1887, and in force July 1, 1887, and all other acts and parts
7 of acts in conflict with this act, are hereby repealed.

8 (Source: Laws 1897, p. 5.)

9 Section 190. The Property Taxes of Alien Landlords Act is
10 amended by changing the title of the Act and Sections 0.01 and
11 1 as follows:

12 (765 ILCS 725/Act title)

13 An Act to prevent noncitizen ~~alien~~ landlords from
14 including the payment of taxes in the rent of farm lands as a
15 part of the rental thereof.

16 (765 ILCS 725/0.01) (from Ch. 6, par. 8.9)

17 Sec. 0.01. Short title. This Act may be cited as the
18 Property Taxes Of Noncitizen ~~Alien~~ Landlords Act.

19 (Source: P.A. 86-1324.)

20 (765 ILCS 725/1) (from Ch. 6, par. 9)

21 Sec. 1. No contract, agreement or lease in writing or by
22 parol, by which any lands or tenements therein are demised or

1 leased by any noncitizen ~~alien~~ or his agents for the purpose of
2 farming, cultivation or the raising of crops thereon, shall
3 contain any provision requiring the tenant or other person for
4 him, to pay taxes on said lands or tenements, or any part
5 thereof, and all such provisions, agreements and leases so
6 made are declared void as to the taxes aforesaid. If any
7 noncitizen ~~alien~~ landlord or his agents shall receive in
8 advance or at any other time any sum of money or article of
9 value from any tenant in lieu of such taxes, directly or
10 indirectly, the same may be recovered back by such tenant
11 before any court having jurisdiction of the amount thereof,
12 and all provisions or agreements in writing or otherwise to
13 pay such taxes shall be held in all courts of this state to be
14 void.

15 (Source: P.A. 81-1509.)

16 Section 195. The Illinois Human Rights Act is amended by
17 changing Section 2-101 as follows:

18 (775 ILCS 5/2-101)

19 Sec. 2-101. Definitions. The following definitions are
20 applicable strictly in the context of this Article.

21 (A) Employee.

22 (1) "Employee" includes:

23 (a) Any individual performing services for
24 remuneration within this State for an employer;

1 (b) An apprentice;

2 (c) An applicant for any apprenticeship.

3 For purposes of subsection (D) of Section 2-102 of
4 this Act, "employee" also includes an unpaid intern. An
5 unpaid intern is a person who performs work for an
6 employer under the following circumstances:

7 (i) the employer is not committed to hiring the
8 person performing the work at the conclusion of the
9 intern's tenure;

10 (ii) the employer and the person performing the
11 work agree that the person is not entitled to wages for
12 the work performed; and

13 (iii) the work performed:

14 (I) supplements training given in an
15 educational environment that may enhance the
16 employability of the intern;

17 (II) provides experience for the benefit of
18 the person performing the work;

19 (III) does not displace regular employees;

20 (IV) is performed under the close supervision
21 of existing staff; and

22 (V) provides no immediate advantage to the
23 employer providing the training and may
24 occasionally impede the operations of the
25 employer.

26 (2) "Employee" does not include:

1 (a) (Blank);

2 (b) Individuals employed by persons who are not
3 "employers" as defined by this Act;

4 (c) Elected public officials or the members of
5 their immediate personal staffs;

6 (d) Principal administrative officers of the State
7 or of any political subdivision, municipal corporation
8 or other governmental unit or agency;

9 (e) A person in a vocational rehabilitation
10 facility certified under federal law who has been
11 designated an evaluatee, trainee, or work activity
12 client.

13 (B) Employer.

14 (1) "Employer" includes:

15 (a) Any person employing one or more employees
16 within Illinois during 20 or more calendar weeks
17 within the calendar year of or preceding the alleged
18 violation;

19 (b) Any person employing one or more employees
20 when a complainant alleges civil rights violation due
21 to unlawful discrimination based upon his or her
22 physical or mental disability unrelated to ability,
23 pregnancy, or sexual harassment;

24 (c) The State and any political subdivision,
25 municipal corporation or other governmental unit or
26 agency, without regard to the number of employees;

1 (d) Any party to a public contract without regard
2 to the number of employees;

3 (e) A joint apprenticeship or training committee
4 without regard to the number of employees.

5 (2) "Employer" does not include any place of worship,
6 religious corporation, association, educational
7 institution, society, or non-profit nursing institution
8 conducted by and for those who rely upon treatment by
9 prayer through spiritual means in accordance with the
10 tenets of a recognized church or religious denomination
11 with respect to the employment of individuals of a
12 particular religion to perform work connected with the
13 carrying on by such place of worship, corporation,
14 association, educational institution, society or
15 non-profit nursing institution of its activities.

16 (C) Employment Agency. "Employment Agency" includes both
17 public and private employment agencies and any person, labor
18 organization, or labor union having a hiring hall or hiring
19 office regularly undertaking, with or without compensation, to
20 procure opportunities to work, or to procure, recruit, refer
21 or place employees.

22 (D) Labor Organization. "Labor Organization" includes any
23 organization, labor union, craft union, or any voluntary
24 unincorporated association designed to further the cause of
25 the rights of union labor which is constituted for the
26 purpose, in whole or in part, of collective bargaining or of

1 dealing with employers concerning grievances, terms or
2 conditions of employment, or apprenticeships or applications
3 for apprenticeships, or of other mutual aid or protection in
4 connection with employment, including apprenticeships or
5 applications for apprenticeships.

6 (E) Sexual Harassment. "Sexual harassment" means any
7 unwelcome sexual advances or requests for sexual favors or any
8 conduct of a sexual nature when (1) submission to such conduct
9 is made either explicitly or implicitly a term or condition of
10 an individual's employment, (2) submission to or rejection of
11 such conduct by an individual is used as the basis for
12 employment decisions affecting such individual, or (3) such
13 conduct has the purpose or effect of substantially interfering
14 with an individual's work performance or creating an
15 intimidating, hostile or offensive working environment.

16 For purposes of this definition, the phrase "working
17 environment" is not limited to a physical location an employee
18 is assigned to perform his or her duties.

19 (E-1) Harassment. "Harassment" means any unwelcome conduct
20 on the basis of an individual's actual or perceived race,
21 color, religion, national origin, ancestry, age, sex, marital
22 status, order of protection status, disability, military
23 status, sexual orientation, pregnancy, unfavorable discharge
24 from military service, citizenship status, or work
25 authorization status that has the purpose or effect of
26 substantially interfering with the individual's work

1 performance or creating an intimidating, hostile, or offensive
2 working environment. For purposes of this definition, the
3 phrase "working environment" is not limited to a physical
4 location an employee is assigned to perform his or her duties.

5 (F) Religion. "Religion" with respect to employers
6 includes all aspects of religious observance and practice, as
7 well as belief, unless an employer demonstrates that he is
8 unable to reasonably accommodate an employee's or prospective
9 employee's religious observance or practice without undue
10 hardship on the conduct of the employer's business.

11 (G) Public Employer. "Public employer" means the State, an
12 agency or department thereof, unit of local government, school
13 district, instrumentality or political subdivision.

14 (H) Public Employee. "Public employee" means an employee
15 of the State, agency or department thereof, unit of local
16 government, school district, instrumentality or political
17 subdivision. "Public employee" does not include public
18 officers or employees of the General Assembly or agencies
19 thereof.

20 (I) Public Officer. "Public officer" means a person who is
21 elected to office pursuant to the Constitution or a statute or
22 ordinance, or who is appointed to an office which is
23 established, and the qualifications and duties of which are
24 prescribed, by the Constitution or a statute or ordinance, to
25 discharge a public duty for the State, agency or department
26 thereof, unit of local government, school district,

1 instrumentality or political subdivision.

2 (J) Eligible Bidder. "Eligible bidder" means a person who,
3 prior to contract award or prior to bid opening for State
4 contracts for construction or construction-related services,
5 has filed with the Department a properly completed, sworn and
6 currently valid employer report form, pursuant to the
7 Department's regulations. The provisions of this Article
8 relating to eligible bidders apply only to bids on contracts
9 with the State and its departments, agencies, boards, and
10 commissions, and the provisions do not apply to bids on
11 contracts with units of local government or school districts.

12 (K) Citizenship Status. "Citizenship status" means the
13 status of being:

14 (1) a born U.S. citizen;

15 (2) a naturalized U.S. citizen;

16 (3) a U.S. national; or

17 (4) a person born outside the United States and not a
18 U.S. citizen who is not an unauthorized noncitizen ~~alien~~
19 and who is protected from discrimination under the
20 provisions of Section 1324b of Title 8 of the United
21 States Code, as now or hereafter amended.

22 (L) Work Authorization Status. "Work authorization status"
23 means the status of being a person born outside of the United
24 States, and not a U.S. citizen, who is authorized by the
25 federal government to work in the United States.

26 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;

1 102-233, eff. 8-2-21; 102-558, eff. 8-20-21.)

2 Section 200. The Resident Alien Course Act is amended by
3 changing the title of the Act and Sections 0.01, 1, 2, and 3 as
4 follows:

5 (815 ILCS 400/Act title)

6 An Act concerning fees charged for courses offered to
7 persons seeking permanent resident noncitizen ~~alien~~ status
8 under the Immigration Reform and Control Act of 1986.

9 (815 ILCS 400/0.01) (from Ch. 111, par. 8050)

10 Sec. 0.01. Short title. This Act may be cited as the
11 Resident Noncitizen ~~Alien~~ Course Act.

12 (Source: P.A. 86-1324.)

13 (815 ILCS 400/1) (from Ch. 111, par. 8051)

14 Sec. 1. No individual or agency, authorized by the U.S.
15 Immigration and Naturalization Service to offer a course
16 leading to a certificate of satisfactory pursuit for issuance
17 of permanent resident noncitizen ~~alien~~ status, may charge a
18 fee for such course in excess of \$5 per hour per individual up
19 to the first 60 hours of instruction or \$500 for up to 12
20 months of instruction from the date of registration. As used
21 in this Section, the term "fee" includes all costs associated
22 with the course, including the costs of instruction and

1 materials.

2 (Source: P.A. 86-831.)

3 (815 ILCS 400/2) (from Ch. 111, par. 8052)

4 Sec. 2. No individual or agency which offers any service
5 or course with the promise of preparing the recipient or
6 enrollee for the English and civics exam of the U.S.
7 Immigration and Naturalization Service for issuance of
8 permanent resident noncitizen ~~alien~~ status may charge a fee
9 for such service or course in excess of \$5 per hour per
10 individual up to the first 60 hours of instruction or \$500 for
11 up to 12 months of instruction from the date of registration.
12 As used in this Section, the term "fee" includes all costs
13 associated with the service or course, including the costs of
14 instruction and materials.

15 (Source: P.A. 86-831.)

16 (815 ILCS 400/3) (from Ch. 111, par. 8053)

17 Sec. 3. Any individual or agency offering a course or
18 service described in Section 2 shall include within any
19 literature or print or electronic advertisement for such
20 service or course a statement that such service or course is
21 designed to prepare the recipient or enrollee for the English
22 and civics exam of the U.S. Immigration and Naturalization
23 Service and that the individual or agency offering the service
24 or course does not issue the certificate of satisfactory

1 pursuit required by the U.S. Immigration and Naturalization
2 Service for issuance of permanent resident noncitizen ~~alien~~
3 status.

4 (Source: P.A. 86-831.)

5 Section 205. The Consumer Fraud and Deceptive Business
6 Practices Act is amended by changing Section 2AA as follows:

7 (815 ILCS 505/2AA)

8 Sec. 2AA. Immigration services.

9 (a) "Immigration matter" means any proceeding, filing, or
10 action affecting the nonimmigrant, immigrant or citizenship
11 status of any person that arises under immigration and
12 naturalization law, executive order or presidential
13 proclamation of the United States or any foreign country, or
14 that arises under action of the United States Citizenship and
15 Immigration Services, the United States Department of Labor,
16 or the United States Department of State.

17 "Immigration assistance service" means any information or
18 action provided or offered to customers or prospective
19 customers related to immigration matters, excluding legal
20 advice, recommending a specific course of legal action, or
21 providing any other assistance that requires legal analysis,
22 legal judgment, or interpretation of the law.

23 "Compensation" means money, property, services, promise of
24 payment, or anything else of value.

1 "Employed by" means that a person is on the payroll of the
2 employer and the employer deducts from the employee's paycheck
3 social security and withholding taxes, or receives
4 compensation from the employer on a commission basis or as an
5 independent contractor.

6 "Reasonable costs" means actual costs or, if actual costs
7 cannot be calculated, reasonably estimated costs of such
8 things as photocopying, telephone calls, document requests,
9 and filing fees for immigration forms, and other nominal costs
10 incidental to assistance in an immigration matter.

11 (a-1) The General Assembly finds and declares that private
12 individuals who assist persons with immigration matters have a
13 significant impact on the ability of their clients to reside
14 and work within the United States and to establish and
15 maintain stable families and business relationships. The
16 General Assembly further finds that that assistance and its
17 impact also have a significant effect on the cultural, social,
18 and economic life of the State of Illinois and thereby
19 substantially affect the public interest. It is the intent of
20 the General Assembly to establish rules of practice and
21 conduct for those individuals to promote honesty and fair
22 dealing with residents and to preserve public confidence.

23 (a-5) The following persons are exempt from this Section,
24 provided they prove the exemption by a preponderance of the
25 evidence:

26 (1) An attorney licensed to practice law in any state

1 or territory of the United States, or of any foreign
2 country when authorized by the Illinois Supreme Court, to
3 the extent the attorney renders immigration assistance
4 service in the course of his or her practice as an
5 attorney.

6 (2) A legal intern, as described by the rules of the
7 Illinois Supreme Court, employed by and under the direct
8 supervision of a licensed attorney and rendering
9 immigration assistance service in the course of the
10 intern's employment.

11 (3) A not-for-profit organization recognized by the
12 Board of Immigration Appeals under 8 CFR 292.2(a) and
13 employees of those organizations accredited under 8 CFR
14 292.2(d).

15 (4) Any organization employing or desiring to employ a
16 documented or undocumented immigrant or nonimmigrant
17 ~~alien~~, where the organization, its employees or its agents
18 provide advice or assistance in immigration matters to
19 documented or undocumented immigrant or nonimmigrant ~~alien~~
20 employees or potential employees without compensation from
21 the individuals to whom such advice or assistance is
22 provided.

23 Nothing in this Section shall regulate any business to the
24 extent that such regulation is prohibited or preempted by
25 State or federal law.

26 All other persons providing or offering to provide

1 immigration assistance service shall be subject to this
2 Section.

3 (b) Any person who provides or offers to provide
4 immigration assistance service may perform only the following
5 services:

6 (1) Completing a government agency form, requested by
7 the customer and appropriate to the customer's needs, only
8 if the completion of that form does not involve a legal
9 judgment for that particular matter.

10 (2) Transcribing responses to a government agency form
11 which is related to an immigration matter, but not
12 advising a customer as to his or her answers on those
13 forms.

14 (3) Translating information on forms to a customer and
15 translating the customer's answers to questions posed on
16 those forms.

17 (4) Securing for the customer supporting documents
18 currently in existence, such as birth and marriage
19 certificates, which may be needed to be submitted with
20 government agency forms.

21 (5) Translating documents from a foreign language into
22 English.

23 (6) Notarizing signatures on government agency forms,
24 if the person performing the service is a notary public of
25 the State of Illinois.

26 (7) Making referrals, without fee, to attorneys who

1 could undertake legal representation for a person in an
2 immigration matter.

3 (8) Preparing or arranging for the preparation of
4 photographs and fingerprints.

5 (9) Arranging for the performance of medical testing
6 (including X-rays and AIDS tests) and the obtaining of
7 reports of such test results.

8 (10) Conducting English language and civics courses.

9 (11) Other services that the Attorney General
10 determines by rule may be appropriately performed by such
11 persons in light of the purposes of this Section.

12 Fees for a notary public, agency, or any other person who
13 is not an attorney or an accredited representative filling out
14 immigration forms shall be limited to the maximum fees set
15 forth in subsections (a) and (b) of Section 3-104 of the
16 Illinois Notary Public Act (5 ILCS 312/3-104). The maximum fee
17 schedule set forth in subsections (a) and (b) of Section 3-104
18 of the Illinois Notary Public Act shall apply to any person
19 that provides or offers to provide immigration assistance
20 service performing the services described therein. The
21 Attorney General may promulgate rules establishing maximum
22 fees that may be charged for any services not described in that
23 subsection. The maximum fees must be reasonable in light of
24 the costs of providing those services and the degree of
25 professional skill required to provide the services.

26 No person subject to this Act shall charge fees directly

1 or indirectly for referring an individual to an attorney or
2 for any immigration matter not authorized by this Article,
3 provided that a person may charge a fee for notarizing
4 documents as permitted by the Illinois Notary Public Act.

5 (c) Any person performing such services shall register
6 with the Illinois Attorney General and submit verification of
7 malpractice insurance or of a surety bond.

8 (d) Except as provided otherwise in this subsection,
9 before providing any assistance in an immigration matter a
10 person shall provide the customer with a written contract that
11 includes the following:

12 (1) An explanation of the services to be performed.

13 (2) Identification of all compensation and costs to be
14 charged to the customer for the services to be performed.

15 (3) A statement that documents submitted in support of
16 an application for nonimmigrant, immigrant, or
17 naturalization status may not be retained by the person
18 for any purpose, including payment of compensation or
19 costs.

20 This subsection does not apply to a not-for-profit
21 organization that provides advice or assistance in immigration
22 matters to clients without charge beyond a reasonable fee to
23 reimburse the organization's or clinic's reasonable costs
24 relating to providing immigration services to that client.

25 (e) Any person who provides or offers immigration
26 assistance service and is not exempted from this Section,

1 shall post signs at his or her place of business, setting forth
2 information in English and in every other language in which
3 the person provides or offers to provide immigration
4 assistance service. Each language shall be on a separate sign.
5 Signs shall be posted in a location where the signs will be
6 visible to customers. Each sign shall be at least 11 inches by
7 17 inches, and shall contain the following:

8 (1) The statement "I AM NOT AN ATTORNEY LICENSED TO
9 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES
10 FOR LEGAL ADVICE."

11 (2) The statement "I AM NOT ACCREDITED TO REPRESENT
12 YOU BEFORE THE UNITED STATES IMMIGRATION AND
13 NATURALIZATION SERVICE AND THE IMMIGRATION BOARD OF
14 APPEALS."

15 (3) The fee schedule.

16 (4) The statement that "You may cancel any contract
17 within 3 working days and get your money back for services
18 not performed."

19 (5) Additional information the Attorney General may
20 require by rule.

21 Every person engaged in immigration assistance service who
22 is not an attorney who advertises immigration assistance
23 service in a language other than English, whether by radio,
24 television, signs, pamphlets, newspapers, or other written
25 communication, with the exception of a single desk plaque,
26 shall include in the document, advertisement, stationery,

1 letterhead, business card, or other comparable written
2 material the following notice in English and the language in
3 which the written communication appears. This notice shall be
4 of a conspicuous size, if in writing, and shall state: "I AM
5 NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS AND MAY
6 NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.". If
7 such advertisement is by radio or television, the statement
8 may be modified but must include substantially the same
9 message.

10 Any person who provides or offers immigration assistance
11 service and is not exempted from this Section shall not, in any
12 document, advertisement, stationery, letterhead, business
13 card, or other comparable written material, literally
14 translate from English into another language terms or titles
15 including, but not limited to, notary public, notary,
16 licensed, attorney, lawyer, or any other term that implies the
17 person is an attorney. To illustrate, the words "notario" and
18 "poder notarial" are prohibited under this provision.

19 If not subject to penalties under subsection (a) of
20 Section 3-103 of the Illinois Notary Public Act (5 ILCS
21 312/3-103), violations of this subsection shall result in a
22 fine of \$1,000. Violations shall not preempt or preclude
23 additional appropriate civil or criminal penalties.

24 (f) The written contract shall be in both English and in
25 the language of the customer.

26 (g) A copy of the contract shall be provided to the

1 customer upon the customer's execution of the contract.

2 (h) A customer has the right to rescind a contract within
3 72 hours after his or her signing of the contract.

4 (i) Any documents identified in paragraph (3) of
5 subsection (c) shall be returned upon demand of the customer.

6 (j) No person engaged in providing immigration services
7 who is not exempted under this Section shall do any of the
8 following:

9 (1) Make any statement that the person can or will
10 obtain special favors from or has special influence with
11 the United States Immigration and Naturalization Service
12 or any other government agency.

13 (2) Retain any compensation for service not performed.

14 (2.5) Accept payment in exchange for providing legal
15 advice or any other assistance that requires legal
16 analysis, legal judgment, or interpretation of the law.

17 (3) Refuse to return documents supplied by, prepared
18 on behalf of, or paid for by the customer upon the request
19 of the customer. These documents must be returned upon
20 request even if there is a fee dispute between the
21 immigration assistant and the customer.

22 (4) Represent or advertise, in connection with the
23 provision of assistance in immigration matters, other
24 titles of credentials, including but not limited to
25 "notary public" or "immigration consultant," that could
26 cause a customer to believe that the person possesses

1 special professional skills or is authorized to provide
2 advice on an immigration matter; provided that a notary
3 public appointed by the Illinois Secretary of State may
4 use the term "notary public" if the use is accompanied by
5 the statement that the person is not an attorney; the term
6 "notary public" may not be translated to another language;
7 for example "notario" is prohibited.

8 (5) Provide legal advice, recommend a specific course
9 of legal action, or provide any other assistance that
10 requires legal analysis, legal judgment, or interpretation
11 of the law.

12 (6) Make any misrepresentation of false statement,
13 directly or indirectly, to influence, persuade, or induce
14 patronage.

15 (k) (Blank).

16 (l) (Blank).

17 (m) Any person who violates any provision of this Section,
18 or the rules and regulations issued under this Section, shall
19 be guilty of a Class A misdemeanor for a first offense and a
20 Class 3 felony for a second or subsequent offense committed
21 within 5 years of a previous conviction for the same offense.

22 Upon his own information or upon the complaint of any
23 person, the Attorney General or any State's Attorney, or a
24 municipality with a population of more than 1,000,000, may
25 maintain an action for injunctive relief and also seek a civil
26 penalty not exceeding \$50,000 in the circuit court against any

1 person who violates any provision of this Section. These
2 remedies are in addition to, and not in substitution for,
3 other available remedies.

4 If the Attorney General or any State's Attorney or a
5 municipality with a population of more than 1,000,000 fails to
6 bring an action as provided under this Section any person may
7 file a civil action to enforce the provisions of this Article
8 and maintain an action for injunctive relief, for compensatory
9 damages to recover prohibited fees, or for such additional
10 relief as may be appropriate to deter, prevent, or compensate
11 for the violation. In order to deter violations of this
12 Section, courts shall not require a showing of the traditional
13 elements for equitable relief. A prevailing plaintiff may be
14 awarded 3 times the prohibited fees or a minimum of \$1,000 in
15 punitive damages, attorney's fees, and costs of bringing an
16 action under this Section. It is the express intention of the
17 General Assembly that remedies for violation of this Section
18 be cumulative.

19 (n) No unit of local government, including any home rule
20 unit, shall have the authority to regulate immigration
21 assistance services unless such regulations are at least as
22 stringent as those contained in Public Act 87-1211. It is
23 declared to be the law of this State, pursuant to paragraph (i)
24 of Section 6 of Article VII of the Illinois Constitution of
25 1970, that Public Act 87-1211 is a limitation on the authority
26 of a home rule unit to exercise powers concurrently with the

1 State. The limitations of this Section do not apply to a home
2 rule unit that has, prior to January 1, 1993 (the effective
3 date of Public Act 87-1211), adopted an ordinance regulating
4 immigration assistance services.

5 (o) This Section is severable under Section 1.31 of the
6 Statute on Statutes.

7 (p) The Attorney General shall issue rules not
8 inconsistent with this Section for the implementation,
9 administration, and enforcement of this Section. The rules may
10 provide for the following:

11 (1) The content, print size, and print style of the
12 signs required under subsection (e). Print sizes and
13 styles may vary from language to language.

14 (2) Standard forms for use in the administration of
15 this Section.

16 (3) Any additional requirements deemed necessary.

17 (Source: P.A. 99-679, eff. 1-1-17; 100-863, eff. 8-14-18.)

18 Section 210. The Workers' Compensation Act is amended by
19 changing Sections 1 and 7 as follows:

20 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

21 Sec. 1. This Act may be cited as the Workers' Compensation
22 Act.

23 (a) The term "employer" as used in this Act means:

24 1. The State and each county, city, town, township,

1 incorporated village, school district, body politic, or
2 municipal corporation therein.

3 2. Every person, firm, public or private corporation,
4 including hospitals, public service, eleemosynary, religious
5 or charitable corporations or associations who has any person
6 in service or under any contract for hire, express or implied,
7 oral or written, and who is engaged in any of the enterprises
8 or businesses enumerated in Section 3 of this Act, or who at or
9 prior to the time of the accident to the employee for which
10 compensation under this Act may be claimed, has in the manner
11 provided in this Act elected to become subject to the
12 provisions of this Act, and who has not, prior to such
13 accident, effected a withdrawal of such election in the manner
14 provided in this Act.

15 3. Any one engaging in any business or enterprise referred
16 to in subsections 1 and 2 of Section 3 of this Act who
17 undertakes to do any work enumerated therein, is liable to pay
18 compensation to his own immediate employees in accordance with
19 the provisions of this Act, and in addition thereto if he
20 directly or indirectly engages any contractor whether
21 principal or sub-contractor to do any such work, he is liable
22 to pay compensation to the employees of any such contractor or
23 sub-contractor unless such contractor or sub-contractor has
24 insured, in any company or association authorized under the
25 laws of this State to insure the liability to pay compensation
26 under this Act, or guaranteed his liability to pay such

1 compensation. With respect to any time limitation on the
2 filing of claims provided by this Act, the timely filing of a
3 claim against a contractor or subcontractor, as the case may
4 be, shall be deemed to be a timely filing with respect to all
5 persons upon whom liability is imposed by this paragraph.

6 In the event any such person pays compensation under this
7 subsection he may recover the amount thereof from the
8 contractor or sub-contractor, if any, and in the event the
9 contractor pays compensation under this subsection he may
10 recover the amount thereof from the sub-contractor, if any.

11 This subsection does not apply in any case where the
12 accident occurs elsewhere than on, in or about the immediate
13 premises on which the principal has contracted that the work
14 be done.

15 4. Where an employer operating under and subject to the
16 provisions of this Act loans an employee to another such
17 employer and such loaned employee sustains a compensable
18 accidental injury in the employment of such borrowing employer
19 and where such borrowing employer does not provide or pay the
20 benefits or payments due such injured employee, such loaning
21 employer is liable to provide or pay all benefits or payments
22 due such employee under this Act and as to such employee the
23 liability of such loaning and borrowing employers is joint and
24 several, provided that such loaning employer is in the absence
25 of agreement to the contrary entitled to receive from such
26 borrowing employer full reimbursement for all sums paid or

1 incurred pursuant to this paragraph together with reasonable
2 attorneys' fees and expenses in any hearings before the
3 Illinois Workers' Compensation Commission or in any action to
4 secure such reimbursement. Where any benefit is provided or
5 paid by such loaning employer the employee has the duty of
6 rendering reasonable cooperation in any hearings, trials or
7 proceedings in the case, including such proceedings for
8 reimbursement.

9 Where an employee files an Application for Adjustment of
10 Claim with the Illinois Workers' Compensation Commission
11 alleging that his claim is covered by the provisions of the
12 preceding paragraph, and joining both the alleged loaning and
13 borrowing employers, they and each of them, upon written
14 demand by the employee and within 7 days after receipt of such
15 demand, shall have the duty of filing with the Illinois
16 Workers' Compensation Commission a written admission or denial
17 of the allegation that the claim is covered by the provisions
18 of the preceding paragraph and in default of such filing or if
19 any such denial be ultimately determined not to have been bona
20 fide then the provisions of Paragraph K of Section 19 of this
21 Act shall apply.

22 An employer whose business or enterprise or a substantial
23 part thereof consists of hiring, procuring or furnishing
24 employees to or for other employers operating under and
25 subject to the provisions of this Act for the performance of
26 the work of such other employers and who pays such employees

1 their salary or wages notwithstanding that they are doing the
2 work of such other employers shall be deemed a loaning
3 employer within the meaning and provisions of this Section.

4 (b) The term "employee" as used in this Act means:

5 1. Every person in the service of the State, including
6 members of the General Assembly, members of the Commerce
7 Commission, members of the Illinois Workers' Compensation
8 Commission, and all persons in the service of the University
9 of Illinois, county, including deputy sheriffs and assistant
10 state's attorneys, city, town, township, incorporated village
11 or school district, body politic, or municipal corporation
12 therein, whether by election, under appointment or contract of
13 hire, express or implied, oral or written, including all
14 members of the Illinois National Guard while on active duty in
15 the service of the State, and all probation personnel of the
16 Juvenile Court appointed pursuant to Article VI of the
17 Juvenile Court Act of 1987, and including any official of the
18 State, any county, city, town, township, incorporated village,
19 school district, body politic or municipal corporation therein
20 except any duly appointed member of a police department in any
21 city whose population exceeds 500,000 according to the last
22 Federal or State census, and except any member of a fire
23 insurance patrol maintained by a board of underwriters in this
24 State. A duly appointed member of a fire department in any
25 city, the population of which exceeds 500,000 according to the
26 last federal or State census, is an employee under this Act

1 only with respect to claims brought under paragraph (c) of
2 Section 8.

3 One employed by a contractor who has contracted with the
4 State, or a county, city, town, township, incorporated
5 village, school district, body politic or municipal
6 corporation therein, through its representatives, is not
7 considered as an employee of the State, county, city, town,
8 township, incorporated village, school district, body politic
9 or municipal corporation which made the contract.

10 2. Every person in the service of another under any
11 contract of hire, express or implied, oral or written,
12 including persons whose employment is outside of the State of
13 Illinois where the contract of hire is made within the State of
14 Illinois, persons whose employment results in fatal or
15 non-fatal injuries within the State of Illinois where the
16 contract of hire is made outside of the State of Illinois, and
17 persons whose employment is principally localized within the
18 State of Illinois, regardless of the place of the accident or
19 the place where the contract of hire was made, and including
20 noncitizens ~~aliens~~, and minors who, for the purpose of this
21 Act are considered the same and have the same power to
22 contract, receive payments and give quittances therefor, as
23 adult employees.

24 3. Every sole proprietor and every partner of a business
25 may elect to be covered by this Act.

26 An employee or his dependents under this Act who shall

1 have a cause of action by reason of any injury, disablement or
2 death arising out of and in the course of his employment may
3 elect to pursue his remedy in the State where injured or
4 disabled, or in the State where the contract of hire is made,
5 or in the State where the employment is principally localized.

6 However, any employer may elect to provide and pay
7 compensation to any employee other than those engaged in the
8 usual course of the trade, business, profession or occupation
9 of the employer by complying with Sections 2 and 4 of this Act.
10 Employees are not included within the provisions of this Act
11 when excluded by the laws of the United States relating to
12 liability of employers to their employees for personal
13 injuries where such laws are held to be exclusive.

14 The term "employee" does not include persons performing
15 services as real estate broker, broker-salesman, or salesman
16 when such persons are paid by commission only.

17 (c) "Commission" means the Industrial Commission created
18 by Section 5 of "The Civil Administrative Code of Illinois",
19 approved March 7, 1917, as amended, or the Illinois Workers'
20 Compensation Commission created by Section 13 of this Act.

21 (d) To obtain compensation under this Act, an employee
22 bears the burden of showing, by a preponderance of the
23 evidence, that he or she has sustained accidental injuries
24 arising out of and in the course of the employment.

25 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11;
26 97-813, eff. 7-13-12.)

1 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

2 Sec. 7. The amount of compensation which shall be paid for
3 an accidental injury to the employee resulting in death is:

4 (a) If the employee leaves surviving a widow, widower,
5 child or children, the applicable weekly compensation rate
6 computed in accordance with subparagraph 2 of paragraph (b) of
7 Section 8, shall be payable during the life of the widow or
8 widower and if any surviving child or children shall not be
9 physically or mentally incapacitated then until the death of
10 the widow or widower or until the youngest child shall reach
11 the age of 18, whichever shall come later; provided that if
12 such child or children shall be enrolled as a full time student
13 in any accredited educational institution, the payments shall
14 continue until such child has attained the age of 25. In the
15 event any surviving child or children shall be physically or
16 mentally incapacitated, the payments shall continue for the
17 duration of such incapacity.

18 The term "child" means a child whom the deceased employee
19 left surviving, including a posthumous child, a child legally
20 adopted, a child whom the deceased employee was legally
21 obligated to support or a child to whom the deceased employee
22 stood in loco parentis. The term "children" means the plural
23 of "child".

24 The term "physically or mentally incapacitated child or
25 children" means a child or children incapable of engaging in

1 regular and substantial gainful employment.

2 In the event of the remarriage of a widow or widower, where
3 the decedent did not leave surviving any child or children
4 who, at the time of such remarriage, are entitled to
5 compensation benefits under this Act, the surviving spouse
6 shall be paid a lump sum equal to 2 years compensation benefits
7 and all further rights of such widow or widower shall be
8 extinguished.

9 If the employee leaves surviving any child or children
10 under 18 years of age who at the time of death shall be
11 entitled to compensation under this paragraph (a) of this
12 Section, the weekly compensation payments herein provided for
13 such child or children shall in any event continue for a period
14 of not less than 6 years.

15 Any beneficiary entitled to compensation under this
16 paragraph (a) of this Section shall receive from the special
17 fund provided in paragraph (f) of this Section, in addition to
18 the compensation herein provided, supplemental benefits in
19 accordance with paragraph (g) of Section 8.

20 (b) If no compensation is payable under paragraph (a) of
21 this Section and the employee leaves surviving a parent or
22 parents who at the time of the accident were totally dependent
23 upon the earnings of the employee then weekly payments equal
24 to the compensation rate payable in the case where the
25 employee leaves surviving a widow or widower, shall be paid to
26 such parent or parents for the duration of their lives, and in

1 the event of the death of either, for the life of the survivor.

2 (c) If no compensation is payable under paragraphs (a) or
3 (b) of this Section and the employee leaves surviving any
4 child or children who are not entitled to compensation under
5 the foregoing paragraph (a) but who at the time of the accident
6 were nevertheless in any manner dependent upon the earnings of
7 the employee, or leaves surviving a parent or parents who at
8 the time of the accident were partially dependent upon the
9 earnings of the employee, then there shall be paid to such
10 dependent or dependents for a period of 8 years weekly
11 compensation payments at such proportion of the applicable
12 rate if the employee had left surviving a widow or widower as
13 such dependency bears to total dependency. In the event of the
14 death of any such beneficiary the share of such beneficiary
15 shall be divided equally among the surviving beneficiaries and
16 in the event of the death of the last such beneficiary all the
17 rights under this paragraph shall be extinguished.

18 (d) If no compensation is payable under paragraphs (a),
19 (b) or (c) of this Section and the employee leaves surviving
20 any grandparent, grandparents, grandchild or grandchildren or
21 collateral heirs dependent upon the employee's earnings to the
22 extent of 50% or more of total dependency, then there shall be
23 paid to such dependent or dependents for a period of 5 years
24 weekly compensation payments at such proportion of the
25 applicable rate if the employee had left surviving a widow or
26 widower as such dependency bears to total dependency. In the

1 event of the death of any such beneficiary the share of such
2 beneficiary shall be divided equally among the surviving
3 beneficiaries and in the event of the death of the last such
4 beneficiary all rights hereunder shall be extinguished.

5 (e) The compensation to be paid for accidental injury
6 which results in death, as provided in this Section, shall be
7 paid to the persons who form the basis for determining the
8 amount of compensation to be paid by the employer, the
9 respective shares to be in the proportion of their respective
10 dependency at the time of the accident on the earnings of the
11 deceased. The Commission or an Arbitrator thereof may, in its
12 or his discretion, order or award the payment to the parent or
13 grandparent of a child for the latter's support the amount of
14 compensation which but for such order or award would have been
15 paid to such child as its share of the compensation payable,
16 which order or award may be modified from time to time by the
17 Commission in its discretion with respect to the person to
18 whom shall be paid the amount of the order or award remaining
19 unpaid at the time of the modification.

20 The payments of compensation by the employer in accordance
21 with the order or award of the Commission discharges such
22 employer from all further obligation as to such compensation.

23 (f) The sum of \$8,000 for burial expenses shall be paid by
24 the employer to the widow or widower, other dependent, next of
25 kin or to the person or persons incurring the expense of
26 burial.

1 In the event the employer failed to provide necessary
2 first aid, medical, surgical or hospital service, he shall pay
3 the cost thereof to the person or persons entitled to
4 compensation under paragraphs (a), (b), (c) or (d) of this
5 Section, or to the person or persons incurring the obligation
6 therefore, or providing the same.

7 On January 15 and July 15, 1981, and on January 15 and July
8 15 of each year thereafter the employer shall within 60 days
9 pay a sum equal to 1/8 of 1% of all compensation payments made
10 by him after July 1, 1980, either under this Act or the
11 Workers' Occupational Diseases Act, whether by lump sum
12 settlement or weekly compensation payments, but not including
13 hospital, surgical or rehabilitation payments, made during the
14 first 6 months and during the second 6 months respectively of
15 the fiscal year next preceding the date of the payments, into a
16 special fund which shall be designated the "Second Injury
17 Fund", of which the State Treasurer is ex-officio custodian,
18 such special fund to be held and disbursed for the purposes
19 hereinafter stated in paragraphs (f) and (g) of Section 8,
20 either upon the order of the Commission or of a competent
21 court. Said special fund shall be deposited the same as are
22 State funds and any interest accruing thereon shall be added
23 thereto every 6 months. It is subject to audit the same as
24 State funds and accounts and is protected by the General bond
25 given by the State Treasurer. It is considered always
26 appropriated for the purposes of disbursements as provided in

1 Section 8, paragraph (f), of this Act, and shall be paid out
2 and disbursed as therein provided and shall not at any time be
3 appropriated or diverted to any other use or purpose.

4 On January 15, 1991, the employer shall further pay a sum
5 equal to one half of 1% of all compensation payments made by
6 him from January 1, 1990 through June 30, 1990 either under
7 this Act or under the Workers' Occupational Diseases Act,
8 whether by lump sum settlement or weekly compensation
9 payments, but not including hospital, surgical or
10 rehabilitation payments, into an additional Special Fund which
11 shall be designated as the "Rate Adjustment Fund". On March
12 15, 1991, the employer shall pay into the Rate Adjustment Fund
13 a sum equal to one half of 1% of all such compensation payments
14 made from July 1, 1990 through December 31, 1990. Within 60
15 days after July 15, 1991, the employer shall pay into the Rate
16 Adjustment Fund a sum equal to one half of 1% of all such
17 compensation payments made from January 1, 1991 through June
18 30, 1991. Within 60 days after January 15 of 1992 and each
19 subsequent year through 1996, the employer shall pay into the
20 Rate Adjustment Fund a sum equal to one half of 1% of all such
21 compensation payments made in the last 6 months of the
22 preceding calendar year. Within 60 days after July 15 of 1992
23 and each subsequent year through 1995, the employer shall pay
24 into the Rate Adjustment Fund a sum equal to one half of 1% of
25 all such compensation payments made in the first 6 months of
26 the same calendar year. Within 60 days after January 15 of 1997

1 and each subsequent year through 2005, the employer shall pay
2 into the Rate Adjustment Fund a sum equal to three-fourths of
3 1% of all such compensation payments made in the last 6 months
4 of the preceding calendar year. Within 60 days after July 15 of
5 1996 and each subsequent year through 2004, the employer shall
6 pay into the Rate Adjustment Fund a sum equal to three-fourths
7 of 1% of all such compensation payments made in the first 6
8 months of the same calendar year. Within 60 days after July 15
9 of 2005, the employer shall pay into the Rate Adjustment Fund a
10 sum equal to 1% of such compensation payments made in the first
11 6 months of the same calendar year. Within 60 days after
12 January 15 of 2006 and each subsequent year, the employer
13 shall pay into the Rate Adjustment Fund a sum equal to 1.25% of
14 such compensation payments made in the last 6 months of the
15 preceding calendar year. Within 60 days after July 15 of 2006
16 and each subsequent year, the employer shall pay into the Rate
17 Adjustment Fund a sum equal to 1.25% of such compensation
18 payments made in the first 6 months of the same calendar year.
19 The administrative costs of collecting assessments from
20 employers for the Rate Adjustment Fund shall be paid from the
21 Rate Adjustment Fund. The cost of an actuarial audit of the
22 Fund shall be paid from the Rate Adjustment Fund. The State
23 Treasurer is ex officio custodian of such Special Fund and the
24 same shall be held and disbursed for the purposes hereinafter
25 stated in paragraphs (f) and (g) of Section 8 upon the order of
26 the Commission or of a competent court. The Rate Adjustment

1 Fund shall be deposited the same as are State funds and any
2 interest accruing thereon shall be added thereto every 6
3 months. It shall be subject to audit the same as State funds
4 and accounts and shall be protected by the general bond given
5 by the State Treasurer. It is considered always appropriated
6 for the purposes of disbursements as provided in paragraphs
7 (f) and (g) of Section 8 of this Act and shall be paid out and
8 disbursed as therein provided and shall not at any time be
9 appropriated or diverted to any other use or purpose. Within 5
10 days after the effective date of this amendatory Act of 1990,
11 the Comptroller and the State Treasurer shall transfer
12 \$1,000,000 from the General Revenue Fund to the Rate
13 Adjustment Fund. By February 15, 1991, the Comptroller and the
14 State Treasurer shall transfer \$1,000,000 from the Rate
15 Adjustment Fund to the General Revenue Fund. The Comptroller
16 and Treasurer are authorized to make transfers at the request
17 of the Chairman up to a total of \$19,000,000 from the Second
18 Injury Fund, the General Revenue Fund, and the Workers'
19 Compensation Benefit Trust Fund to the Rate Adjustment Fund to
20 the extent that there is insufficient money in the Rate
21 Adjustment Fund to pay claims and obligations. Amounts may be
22 transferred from the General Revenue Fund only if the funds in
23 the Second Injury Fund or the Workers' Compensation Benefit
24 Trust Fund are insufficient to pay claims and obligations of
25 the Rate Adjustment Fund. All amounts transferred from the
26 Second Injury Fund, the General Revenue Fund, and the Workers'

1 Compensation Benefit Trust Fund shall be repaid from the Rate
2 Adjustment Fund within 270 days of a transfer, together with
3 interest at the rate earned by moneys on deposit in the Fund or
4 Funds from which the moneys were transferred.

5 Upon a finding by the Commission, after reasonable notice
6 and hearing, that any employer has willfully and knowingly
7 failed to pay the proper amounts into the Second Injury Fund or
8 the Rate Adjustment Fund required by this Section or if such
9 payments are not made within the time periods prescribed by
10 this Section, the employer shall, in addition to such
11 payments, pay a penalty of 20% of the amount required to be
12 paid or \$2,500, whichever is greater, for each year or part
13 thereof of such failure to pay. This penalty shall only apply
14 to obligations of an employer to the Second Injury Fund or the
15 Rate Adjustment Fund accruing after the effective date of this
16 amendatory Act of 1989. All or part of such a penalty may be
17 waived by the Commission for good cause shown.

18 Any obligations of an employer to the Second Injury Fund
19 and Rate Adjustment Fund accruing prior to the effective date
20 of this amendatory Act of 1989 shall be paid in full by such
21 employer within 5 years of the effective date of this
22 amendatory Act of 1989, with at least one-fifth of such
23 obligation to be paid during each year following the effective
24 date of this amendatory Act of 1989. If the Commission finds,
25 following reasonable notice and hearing, that an employer has
26 failed to make timely payment of any obligation accruing under

1 the preceding sentence, the employer shall, in addition to all
2 other payments required by this Section, be liable for a
3 penalty equal to 20% of the overdue obligation or \$2,500,
4 whichever is greater, for each year or part thereof that
5 obligation is overdue. All or part of such a penalty may be
6 waived by the Commission for good cause shown.

7 The Chairman of the Illinois Workers' Compensation
8 Commission shall, annually, furnish to the Director of the
9 Department of Insurance a list of the amounts paid into the
10 Second Injury Fund and the Rate Adjustment Fund by each
11 insurance company on behalf of their insured employers. The
12 Director shall verify to the Chairman that the amounts paid by
13 each insurance company are accurate as best as the Director
14 can determine from the records available to the Director. The
15 Chairman shall verify that the amounts paid by each
16 self-insurer are accurate as best as the Chairman can
17 determine from records available to the Chairman. The Chairman
18 may require each self-insurer to provide information
19 concerning the total compensation payments made upon which
20 contributions to the Second Injury Fund and the Rate
21 Adjustment Fund are predicated and any additional information
22 establishing that such payments have been made into these
23 funds. Any deficiencies in payments noted by the Director or
24 Chairman shall be subject to the penalty provisions of this
25 Act.

26 The State Treasurer, or his duly authorized

1 representative, shall be named as a party to all proceedings
2 in all cases involving claim for the loss of, or the permanent
3 and complete loss of the use of one eye, one foot, one leg, one
4 arm or one hand.

5 The State Treasurer or his duly authorized agent shall
6 have the same rights as any other party to the proceeding,
7 including the right to petition for review of any award. The
8 reasonable expenses of litigation, such as medical
9 examinations, testimony, and transcript of evidence, incurred
10 by the State Treasurer or his duly authorized representative,
11 shall be borne by the Second Injury Fund.

12 If the award is not paid within 30 days after the date the
13 award has become final, the Commission shall proceed to take
14 judgment thereon in its own name as is provided for other
15 awards by paragraph (g) of Section 19 of this Act and take the
16 necessary steps to collect the award.

17 Any person, corporation or organization who has paid or
18 become liable for the payment of burial expenses of the
19 deceased employee may in his or its own name institute
20 proceedings before the Commission for the collection thereof.

21 For the purpose of administration, receipts and
22 disbursements, the Special Fund provided for in paragraph (f)
23 of this Section shall be administered jointly with the Special
24 Fund provided for in Section 7, paragraph (f) of the Workers'
25 Occupational Diseases Act.

26 (g) All compensation, except for burial expenses provided

1 in this Section to be paid in case accident results in death,
2 shall be paid in installments equal to the percentage of the
3 average earnings as provided for in Section 8, paragraph (b)
4 of this Act, at the same intervals at which the wages or
5 earnings of the employees were paid. If this is not feasible,
6 then the installments shall be paid weekly. Such compensation
7 may be paid in a lump sum upon petition as provided in Section
8 9 of this Act. However, in addition to the benefits provided by
9 Section 9 of this Act where compensation for death is payable
10 to the deceased's widow, widower or to the deceased's widow,
11 widower and one or more children, and where a partial lump sum
12 is applied for by such beneficiary or beneficiaries within 18
13 months after the deceased's death, the Commission may, in its
14 discretion, grant a partial lump sum of not to exceed 100 weeks
15 of the compensation capitalized at their present value upon
16 the basis of interest calculated at 3% per annum with annual
17 rests, upon a showing that such partial lump sum is for the
18 best interest of such beneficiary or beneficiaries.

19 (h) In case the injured employee is under 16 years of age
20 at the time of the accident and is illegally employed, the
21 amount of compensation payable under paragraphs (a), (b), (c),
22 (d) and (f) of this Section shall be increased 50%.

23 Nothing herein contained repeals or amends the provisions
24 of the Child Labor Law relating to the employment of minors
25 under the age of 16 years.

26 However, where an employer has on file an employment

1 certificate issued pursuant to the Child Labor Law or work
2 permit issued pursuant to the Federal Fair Labor Standards
3 Act, as amended, or a birth certificate properly and duly
4 issued, such certificate, permit or birth certificate is
5 conclusive evidence as to the age of the injured minor
6 employee for the purposes of this Section only.

7 (i) Whenever the dependents of a deceased employee are
8 noncitizens ~~aliens~~ not residing in the United States, Mexico
9 or Canada, the amount of compensation payable is limited to
10 the beneficiaries described in paragraphs (a), (b) and (c) of
11 this Section and is 50% of the compensation provided in
12 paragraphs (a), (b) and (c) of this Section, except as
13 otherwise provided by treaty.

14 In a case where any of the persons who would be entitled to
15 compensation is living at any place outside of the United
16 States, then payment shall be made to the personal
17 representative of the deceased employee. The distribution by
18 such personal representative to the persons entitled shall be
19 made to such persons and in such manner as the Commission
20 orders.

21 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
22 94-695, eff. 11-16-05.)

23 Section 215. The Workers' Occupational Diseases Act is
24 amended by changing Section 1 as follows:

1 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

2 Sec. 1. This Act shall be known and may be cited as the
3 "Workers' Occupational Diseases Act".

4 (a) The term "employer" as used in this Act shall be
5 construed to be:

6 1. The State and each county, city, town, township,
7 incorporated village, school district, body politic, or
8 municipal corporation therein.

9 2. Every person, firm, public or private corporation,
10 including hospitals, public service, eleemosynary,
11 religious or charitable corporations or associations, who
12 has any person in service or under any contract for hire,
13 express or implied, oral or written.

14 3. Where an employer operating under and subject to
15 the provisions of this Act loans an employee to another
16 such employer and such loaned employee sustains a
17 compensable occupational disease in the employment of such
18 borrowing employer and where such borrowing employer does
19 not provide or pay the benefits or payments due such
20 employee, such loaning employer shall be liable to provide
21 or pay all benefits or payments due such employee under
22 this Act and as to such employee the liability of such
23 loaning and borrowing employers shall be joint and
24 several, provided that such loaning employer shall in the
25 absence of agreement to the contrary be entitled to
26 receive from such borrowing employer full reimbursement

1 for all sums paid or incurred pursuant to this paragraph
2 together with reasonable attorneys' fees and expenses in
3 any hearings before the Illinois Workers' Compensation
4 Commission or in any action to secure such reimbursement.
5 Where any benefit is provided or paid by such loaning
6 employer, the employee shall have the duty of rendering
7 reasonable co-operation in any hearings, trials or
8 proceedings in the case, including such proceedings for
9 reimbursement.

10 Where an employee files an Application for Adjustment
11 of Claim with the Illinois Workers' Compensation
12 Commission alleging that his or her claim is covered by
13 the provisions of the preceding paragraph, and joining
14 both the alleged loaning and borrowing employers, they and
15 each of them, upon written demand by the employee and
16 within 7 days after receipt of such demand, shall have the
17 duty of filing with the Illinois Workers' Compensation
18 Commission a written admission or denial of the allegation
19 that the claim is covered by the provisions of the
20 preceding paragraph and in default of such filing or if
21 any such denial be ultimately determined not to have been
22 bona fide then the provisions of Paragraph K of Section 19
23 of this Act shall apply.

24 An employer whose business or enterprise or a
25 substantial part thereof consists of hiring, procuring or
26 furnishing employees to or for other employers operating

1 under and subject to the provisions of this Act for the
2 performance of the work of such other employers and who
3 pays such employees their salary or wage notwithstanding
4 that they are doing the work of such other employers shall
5 be deemed a loaning employer within the meaning and
6 provisions of this Section.

7 (b) The term "employee" as used in this Act, shall be
8 construed to mean:

9 1. Every person in the service of the State, county,
10 city, town, township, incorporated village or school
11 district, body politic or municipal corporation therein,
12 whether by election, appointment or contract of hire,
13 express or implied, oral or written, including any
14 official of the State, or of any county, city, town,
15 township, incorporated village, school district, body
16 politic or municipal corporation therein and except any
17 duly appointed member of the fire department in any city
18 whose population exceeds 500,000 according to the last
19 Federal or State census, and except any member of a fire
20 insurance patrol maintained by a board of underwriters in
21 this State. One employed by a contractor who has
22 contracted with the State, or a county, city, town,
23 township, incorporated village, school district, body
24 politic or municipal corporation therein, through its
25 representatives, shall not be considered as an employee of
26 the State, county, city, town, township, incorporated

1 village, school district, body politic or municipal
2 corporation which made the contract.

3 2. Every person in the service of another under any
4 contract of hire, express or implied, oral or written, who
5 contracts an occupational disease while working in the
6 State of Illinois, or who contracts an occupational
7 disease while working outside of the State of Illinois but
8 where the contract of hire is made within the State of
9 Illinois, and any person whose employment is principally
10 localized within the State of Illinois, regardless of the
11 place where the disease was contracted or place where the
12 contract of hire was made, including noncitizens ~~aliens~~,
13 and minors who, for the purpose of this Act, except
14 Section 3 hereof, shall be considered the same and have
15 the same power to contract, receive payments and give
16 quittances therefor, as adult employees. An employee or
17 his or her dependents under this Act who shall have a cause
18 of action by reason of an occupational disease,
19 disablement or death arising out of and in the course of
20 his or her employment may elect or pursue his or her remedy
21 in the State where the disease was contracted, or in the
22 State where the contract of hire is made, or in the State
23 where the employment is principally localized.

24 (c) "Commission" means the Illinois Workers' Compensation
25 Commission created by the Workers' Compensation Act, approved
26 July 9, 1951, as amended.

1 (d) In this Act the term "Occupational Disease" means a
2 disease arising out of and in the course of the employment or
3 which has become aggravated and rendered disabling as a result
4 of the exposure of the employment. Such aggravation shall
5 arise out of a risk peculiar to or increased by the employment
6 and not common to the general public.

7 A disease shall be deemed to arise out of the employment if
8 there is apparent to the rational mind, upon consideration of
9 all the circumstances, a causal connection between the
10 conditions under which the work is performed and the
11 occupational disease. The disease need not to have been
12 foreseen or expected but after its contraction it must appear
13 to have had its origin or aggravation in a risk connected with
14 the employment and to have flowed from that source as a
15 rational consequence.

16 An employee shall be conclusively deemed to have been
17 exposed to the hazards of an occupational disease when, for
18 any length of time however short, he or she is employed in an
19 occupation or process in which the hazard of the disease
20 exists; provided however, that in a claim of exposure to
21 atomic radiation, the fact of such exposure must be verified
22 by the records of the central registry of radiation exposure
23 maintained by the Department of Public Health or by some other
24 recognized governmental agency maintaining records of such
25 exposures whenever and to the extent that the records are on
26 file with the Department of Public Health or the agency.

1 Any injury to or disease or death of an employee arising
2 from the administration of a vaccine, including without
3 limitation smallpox vaccine, to prepare for, or as a response
4 to, a threatened or potential bioterrorist incident to the
5 employee as part of a voluntary inoculation program in
6 connection with the person's employment or in connection with
7 any governmental program or recommendation for the inoculation
8 of workers in the employee's occupation, geographical area, or
9 other category that includes the employee is deemed to arise
10 out of and in the course of the employment for all purposes
11 under this Act. This paragraph added by Public Act 93-829 is
12 declarative of existing law and is not a new enactment.

13 The employer liable for the compensation in this Act
14 provided shall be the employer in whose employment the
15 employee was last exposed to the hazard of the occupational
16 disease claimed upon regardless of the length of time of such
17 last exposure, except, in cases of silicosis or asbestosis,
18 the only employer liable shall be the last employer in whose
19 employment the employee was last exposed during a period of 60
20 days or more after the effective date of this Act, to the
21 hazard of such occupational disease, and, in such cases, an
22 exposure during a period of less than 60 days, after the
23 effective date of this Act, shall not be deemed a last
24 exposure. If a miner who is suffering or suffered from
25 pneumoconiosis was employed for 10 years or more in one or more
26 coal mines there shall, effective July 1, 1973 be a rebuttable

1 presumption that his or her pneumoconiosis arose out of such
2 employment.

3 If a deceased miner was employed for 10 years or more in
4 one or more coal mines and died from a respirable disease there
5 shall, effective July 1, 1973, be a rebuttable presumption
6 that his or her death was due to pneumoconiosis.

7 Any condition or impairment of health of an employee
8 employed as a firefighter, emergency medical technician (EMT),
9 emergency medical technician-intermediate (EMT-I), advanced
10 emergency medical technician (A-EMT), or paramedic which
11 results directly or indirectly from any bloodborne pathogen,
12 lung or respiratory disease or condition, heart or vascular
13 disease or condition, hypertension, tuberculosis, or cancer
14 resulting in any disability (temporary, permanent, total, or
15 partial) to the employee shall be rebuttably presumed to arise
16 out of and in the course of the employee's firefighting, EMT,
17 EMT-I, A-EMT, or paramedic employment and, further, shall be
18 rebuttably presumed to be causally connected to the hazards or
19 exposures of the employment. This presumption shall also apply
20 to any hernia or hearing loss suffered by an employee employed
21 as a firefighter, EMT, EMT-I, A-EMT, or paramedic. However,
22 this presumption shall not apply to any employee who has been
23 employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for
24 less than 5 years at the time he or she files an Application
25 for Adjustment of Claim concerning this condition or
26 impairment with the Illinois Workers' Compensation Commission.

1 The rebuttable presumption established under this subsection,
2 however, does not apply to an emergency medical technician
3 (EMT), emergency medical technician-intermediate (EMT-I),
4 advanced emergency medical technician (A-EMT), or paramedic
5 employed by a private employer if the employee spends the
6 preponderance of his or her work time for that employer
7 engaged in medical transfers between medical care facilities
8 or non-emergency medical transfers to or from medical care
9 facilities. The changes made to this subsection by this
10 amendatory Act of the 98th General Assembly shall be narrowly
11 construed. The Finding and Decision of the Illinois Workers'
12 Compensation Commission under only the rebuttable presumption
13 provision of this paragraph shall not be admissible or be
14 deemed res judicata in any disability claim under the Illinois
15 Pension Code arising out of the same medical condition;
16 however, this sentence makes no change to the law set forth in
17 *Krohe v. City of Bloomington*, 204 Ill.2d 392.

18 The insurance carrier liable shall be the carrier whose
19 policy was in effect covering the employer liable on the last
20 day of the exposure rendering such employer liable in
21 accordance with the provisions of this Act.

22 (e) "Disablement" means an impairment or partial
23 impairment, temporary or permanent, in the function of the
24 body or any of the members of the body, or the event of
25 becoming disabled from earning full wages at the work in which
26 the employee was engaged when last exposed to the hazards of

1 the occupational disease by the employer from whom he or she
2 claims compensation, or equal wages in other suitable
3 employment; and "disability" means the state of being so
4 incapacitated.

5 (f) No compensation shall be payable for or on account of
6 any occupational disease unless disablement, as herein
7 defined, occurs within two years after the last day of the last
8 exposure to the hazards of the disease, except in cases of
9 occupational disease caused by berylliosis or by the
10 inhalation of silica dust or asbestos dust and, in such cases,
11 within 3 years after the last day of the last exposure to the
12 hazards of such disease and except in the case of occupational
13 disease caused by exposure to radiological materials or
14 equipment, and in such case, within 25 years after the last day
15 of last exposure to the hazards of such disease.

16 (g) (1) In any proceeding before the Commission in which
17 the employee is a COVID-19 first responder or front-line
18 worker as defined in this subsection, if the employee's injury
19 or occupational disease resulted from exposure to and
20 contraction of COVID-19, the exposure and contraction shall be
21 rebuttably presumed to have arisen out of and in the course of
22 the employee's first responder or front-line worker employment
23 and the injury or occupational disease shall be rebuttably
24 presumed to be causally connected to the hazards or exposures
25 of the employee's first responder or front-line worker
26 employment.

1 (2) The term "COVID-19 first responder or front-line
2 worker" means: all individuals employed as police, fire
3 personnel, emergency medical technicians, or paramedics; all
4 individuals employed and considered as first responders; all
5 workers for health care providers, including nursing homes and
6 rehabilitation facilities and home care workers; corrections
7 officers; and any individuals employed by essential businesses
8 and operations as defined in Executive Order 2020-10 dated
9 March 20, 2020, as long as individuals employed by essential
10 businesses and operations are required by their employment to
11 encounter members of the general public or to work in
12 employment locations of more than 15 employees. For purposes
13 of this subsection only, an employee's home or place of
14 residence is not a place of employment, except for home care
15 workers.

16 (3) The presumption created in this subsection may be
17 rebutted by evidence, including, but not limited to, the
18 following:

19 (A) the employee was working from his or her home, on
20 leave from his or her employment, or some combination
21 thereof, for a period of 14 or more consecutive days
22 immediately prior to the employee's injury, occupational
23 disease, or period of incapacity resulted from exposure to
24 COVID-19; or

25 (B) the employer was engaging in and applying to the
26 fullest extent possible or enforcing to the best of its

1 ability industry-specific workplace sanitation, social
2 distancing, and health and safety practices based on
3 updated guidance issued by the Centers for Disease Control
4 and Prevention or Illinois Department of Public Health or
5 was using a combination of administrative controls,
6 engineering controls, or personal protective equipment to
7 reduce the transmission of COVID-19 to all employees for
8 at least 14 consecutive days prior to the employee's
9 injury, occupational disease, or period of incapacity
10 resulting from exposure to COVID-19. For purposes of this
11 subsection, "updated" means the guidance in effect at
12 least 14 days prior to the COVID-19 diagnosis. For
13 purposes of this subsection, "personal protective
14 equipment" means industry-specific equipment worn to
15 minimize exposure to hazards that cause illnesses or
16 serious injuries, which may result from contact with
17 biological, chemical, radiological, physical, electrical,
18 mechanical, or other workplace hazards. "Personal
19 protective equipment" includes, but is not limited to,
20 items such as face coverings, gloves, safety glasses,
21 safety face shields, barriers, shoes, earplugs or muffs,
22 hard hats, respirators, coveralls, vests, and full body
23 suits; or

24 (C) the employee was exposed to COVID-19 by an
25 alternate source.

26 (4) The rebuttable presumption created in this subsection

1 applies to all cases tried after June 5, 2020 (the effective
2 date of Public Act 101-633) and in which the diagnosis of
3 COVID-19 was made on or after March 9, 2020 and on or before
4 June 30, 2021 (including the period between December 31, 2020
5 and the effective date of this amendatory Act of the 101st
6 General Assembly).

7 (5) Under no circumstances shall any COVID-19 case
8 increase or affect any employer's workers' compensation
9 insurance experience rating or modification, but COVID-19
10 costs may be included in determining overall State loss costs.

11 (6) In order for the presumption created in this
12 subsection to apply at trial, for COVID-19 diagnoses occurring
13 on or before June 15, 2020, an employee must provide a
14 confirmed medical diagnosis by a licensed medical practitioner
15 or a positive laboratory test for COVID-19 or for COVID-19
16 antibodies; for COVID-19 diagnoses occurring after June 15,
17 2020, an employee must provide a positive laboratory test for
18 COVID-19 or for COVID-19 antibodies.

19 (7) The presumption created in this subsection does not
20 apply if the employee's place of employment was solely the
21 employee's home or residence for a period of 14 or more
22 consecutive days immediately prior to the employee's injury,
23 occupational disease, or period of incapacity resulted from
24 exposure to COVID-19.

25 (8) The date of injury or the beginning of the employee's
26 occupational disease or period of disability is either the

1 date that the employee was unable to work due to contraction of
2 COVID-19 or was unable to work due to symptoms that were later
3 diagnosed as COVID-19, whichever came first.

4 (9) An employee who contracts COVID-19, but fails to
5 establish the rebuttable presumption is not precluded from
6 filing for compensation under this Act or under the Workers'
7 Compensation Act.

8 (10) To qualify for temporary total disability benefits
9 under the presumption created in this subsection, the employee
10 must be certified for or recertified for temporary disability.

11 (11) An employer is entitled to a credit against any
12 liability for temporary total disability due to an employee as
13 a result of the employee contracting COVID-19 for (A) any sick
14 leave benefits or extended salary benefits paid to the
15 employee by the employer under Emergency Family Medical Leave
16 Expansion Act, Emergency Paid Sick Leave Act of the Families
17 First Coronavirus Response Act, or any other federal law, or
18 (B) any other credit to which an employer is entitled under the
19 Workers' Compensation Act.

20 (Source: P.A. 101-633, eff. 6-5-20; 101-653, eff. 2-28-21.)

21 Section 220. The Unemployment Insurance Act is amended by
22 changing Sections 211.4 and 614 as follows:

23 (820 ILCS 405/211.4) (from Ch. 48, par. 321.4)

24 Sec. 211.4. A. Notwithstanding any other provision of this

1 Act, the term "employment" shall include service performed
2 after December 31, 1977, by an individual in agricultural
3 labor as defined in Section 214 when:

4 1. Such service is performed for an employing unit
5 which (a) paid cash wages of \$20,000 or more during any
6 calendar quarter in either the current or preceding
7 calendar year to an individual or individuals employed in
8 agricultural labor (not taking into account service in
9 agricultural labor performed before January 1, 1980, by a
10 noncitizen ~~an alien~~ referred to in paragraph 2); or (b)
11 employed in agricultural labor (not taking into account
12 service in agricultural labor performed before January 1,
13 1980, by a noncitizen ~~an alien~~ referred to in paragraph 2)
14 10 or more individuals within each of 20 or more calendar
15 weeks (but not necessarily simultaneously and irrespective
16 of whether the same individuals are or were employed in
17 each such week), whether or not such weeks are or were
18 consecutive, within either the current or preceding
19 calendar year.

20 2. Such service is not performed in agricultural labor
21 if performed before January 1, 1980 or on or after the
22 effective date of this amendatory Act of the 96th General
23 Assembly, by an individual who is a noncitizen ~~an alien~~
24 admitted to the United States to perform service in
25 agricultural labor pursuant to Sections 214(c) and
26 101(a) (15) (H) of the Immigration and Nationality Act.

1 B. For the purposes of this Section, any individual who is
2 a member of a crew furnished by a crew leader to perform
3 service in agricultural labor for any other employing unit
4 shall be treated as performing service in the employ of such
5 crew leader if (1) the leader holds a valid certificate of
6 registration under the Farm Labor Contractor Registration Act
7 of 1963, or substantially all the members of such crew operate
8 or maintain tractors, mechanized harvesting or crop dusting
9 equipment, or any other mechanized equipment, which is
10 provided by the crew leader; and (2) the service of such
11 individual is not in employment for such other employing unit
12 within the meaning of subsections A and C of Section 212, and
13 of Section 213.

14 C. For the purposes of this Section, any individual who is
15 furnished by a crew leader to perform service in agricultural
16 labor for any other employing unit, and who is not treated as
17 performing service in the employ of such crew leader under
18 subsection B, shall be treated as performing service in the
19 employ of such other employing unit, and such employing unit
20 shall be treated as having paid cash wages to such individual
21 in an amount equal to the amount of cash wages paid to the
22 individual by the crew leader (either on his own behalf or on
23 behalf of such other employing unit) for the service in
24 agricultural labor performed for such other employing unit.

25 D. For the purposes of this Section, the term "crew
26 leader" means an individual who (1) furnishes individuals to

1 perform service in agricultural labor for any other employing
2 unit; (2) pays (either on his own behalf or on behalf of such
3 other employing unit) the individuals so furnished by him for
4 the service in agricultural labor performed by them; and (3)
5 has not entered into a written agreement with such other
6 employing unit under which an individual so furnished by him
7 is designated as performing services in the employ of such
8 other employing unit.

9 (Source: P.A. 96-1208, eff. 1-1-11.)

10 (820 ILCS 405/614) (from Ch. 48, par. 444)

11 Sec. 614. Non-resident noncitizens ~~aliens~~ - ineligibility.
12 A noncitizen ~~An alien~~ shall be ineligible for benefits for any
13 week which begins after December 31, 1977, on the basis of
14 wages for services performed by such noncitizen ~~alien~~, unless
15 the noncitizen ~~alien~~ was an individual who was lawfully
16 admitted for permanent residence at the time such services
17 were performed or otherwise was permanently residing in the
18 United States under color of law at the time such services were
19 performed (including a person ~~an alien~~ who was lawfully
20 present in the United States as a result of the application of
21 the provisions of Section 212(d) (5) of the Immigration and
22 Nationality Act); provided, that any modifications of the
23 provisions of Section 3304(a) (14) of the Federal Unemployment
24 Tax Act which

25 A. Specify other conditions or another effective date

1 than stated herein for ineligibility for benefits based on
2 wages for services performed by noncitizens ~~aliens~~, and

3 B. Are required to be implemented under this Act as a
4 condition for the Federal approval of this Act requisite
5 to the full tax credit against the tax imposed by the
6 Federal Act for contributions paid by employers pursuant
7 to this Act, shall be applicable under the provisions of
8 this Section.

9 Any data or information required of individuals who claim
10 benefits for the purpose of determining whether benefits are
11 not payable to them pursuant to this Section shall be
12 uniformly required of all individuals who claim benefits.

13 If an individual would otherwise be eligible for benefits,
14 no determination shall be made that such individual is
15 ineligible for benefits pursuant to this Section because of
16 the individual's noncitizen ~~alien~~ status, except upon a
17 preponderance of the evidence.

18 (Source: P.A. 86-3; 87-122.)

19 Section 995. No acceleration or delay. Where this Act
20 makes changes in a statute that is represented in this Act by
21 text that is not yet or no longer in effect (for example, a
22 Section represented by multiple versions), the use of that
23 text does not accelerate or delay the taking effect of (i) the
24 changes made by this Act or (ii) provisions derived from any
25 other Public Act.

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.

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6	20 ILCS 1510/25	
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