

1 AN ACT concerning insurance.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 205 as follows:

6 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

7 Sec. 205. Exempt organizations.

8 (a) Charitable, etc. organizations. The base income of an
9 organization which is exempt from the federal income tax by
10 reason of Section 501(a) of the Internal Revenue Code shall not
11 be determined under section 203 of this Act, but shall be its
12 unrelated business taxable income as determined under section
13 512 of the Internal Revenue Code, without any deduction for the
14 tax imposed by this Act. The standard exemption provided by
15 section 204 of this Act shall not be allowed in determining the
16 net income of an organization to which this subsection applies.

17 (b) Partnerships. A partnership as such shall not be
18 subject to the tax imposed by subsection 201 (a) and (b) of
19 this Act, but shall be subject to the replacement tax imposed
20 by subsection 201 (c) and (d) of this Act and shall compute its
21 base income as described in subsection (d) of Section 203 of
22 this Act. A partnership shall file such returns and other
23 information at such time and in such manner as may be required
24 under Article 5 of this Act. The partners in a partnership
25 shall be liable for the replacement tax imposed by subsection
26 201 (c) and (d) of this Act on such partnership, to the extent
27 such tax is not paid by the partnership, as provided under the
28 laws of Illinois governing the liability of partners for the
29 obligations of a partnership. Persons carrying on business as
30 partners shall be liable for the tax imposed by subsection 201
31 (a) and (b) of this Act only in their separate or individual
32 capacities.

1 (c) Subchapter S corporations. A Subchapter S corporation
2 shall not be subject to the tax imposed by subsection 201 (a)
3 and (b) of this Act but shall be subject to the replacement tax
4 imposed by subsection 201 (c) and (d) of this Act and shall
5 file such returns and other information at such time and in
6 such manner as may be required under Article 5 of this Act.

7 (d) Combat zone death. An individual relieved from the
8 federal income tax for any taxable year by reason of section
9 692 of the Internal Revenue Code shall not be subject to the
10 tax imposed by this Act for such taxable year.

11 (e) Certain trusts. A common trust fund described in
12 Section 584 of the Internal Revenue Code, and any other trust
13 to the extent that the grantor is treated as the owner thereof
14 under sections 671 through 678 of the Internal Revenue Code
15 shall not be subject to the tax imposed by this Act.

16 (f) Certain business activities. A person not otherwise
17 subject to the tax imposed by this Act shall not become subject
18 to the tax imposed by this Act by reason of:

19 (1) that person's ownership of tangible personal
20 property located at the premises of a printer in this State
21 with which the person has contracted for printing, or

22 (2) activities of the person's employees or agents
23 located solely at the premises of a printer and related to
24 quality control, distribution, or printing services
25 performed by a printer in the State with which the person
26 has contracted for printing.

27 (g) A nonprofit risk organization that holds a certificate
28 of authority under Article VIID of the Illinois Insurance Code
29 is exempt from the tax imposed under this Act with respect to
30 its activities or operations in furtherance of the powers
31 conferred upon it under that Article VIID of the Illinois
32 Insurance Code.

33 (Source: P.A. 88-361.)

34 Section 10. The Illinois Insurance Code is amended by
35 adding Article VIID as follows:

1 (215 ILCS 5/Art. VIID heading new)

2 ARTICLE VIID. NONPROFIT RISK ORGANIZATIONS

3 (215 ILCS 5/123D-1 new)

4 Sec. 123D-1. Purpose; construction. The purpose of this
5 Article is to provide for the organization of and issuance of a
6 certificate of authority to nonprofit risk organizations that
7 insure nonprofit organizations and that will qualify, and
8 continue to qualify, as a qualified charitable risk pool, as
9 defined in subsection (n) of Section 501 of the Internal
10 Revenue Code.

11 (215 ILCS 5/123D-5 new)

12 Sec. 123D-5. Definitions. As used in this Article:

13 "Member" means a nonprofit organization that participates
14 as an insured in a nonprofit risk organization.

15 "Nonmember charitable organization" has the meaning set
16 forth in subsection (n) of Section 501 of the Internal Revenue
17 Code.

18 "Nonprofit organizations" means organizations described in
19 paragraph (3) of subsection (c), and exempt from taxation under
20 subsection (a), of Section 501 of the Internal Revenue Code.

21 "Nonprofit risk organization" means a nonprofit company
22 organized to do business solely with nonprofit organizations as
23 a qualified charitable risk pool under subsection (n) of
24 Section 501 of the Internal Revenue Code that is organized in
25 accordance with this Article.

26 "Startup capital" has the meaning set forth in subsection
27 (n) of Section 501 of the Internal Revenue Code.

28 (215 ILCS 5/123D-10 new)

29 Sec. 123D-10. Organization of nonprofit risk
30 organizations.

31 (a) A company organized pursuant to Articles III or IV,
32 including such companies organized as a risk retention group in

1 this State pursuant to Article VIIB of this Code, that
2 satisfies the requirements of this Article may be organized as
3 a nonprofit risk organization.

4 (b) Notwithstanding any contrary provision in subsection A
5 of Section 123B-3 of this Code, a nonprofit risk organization
6 may be organized as a reciprocal insurance company and qualify
7 for organization under Article VIIB as a risk retention group.

8 (c) No nonprofit risk organization issued a certificate of
9 authority pursuant to this Article shall be converted into a
10 corporation or other entity organized for pecuniary profit or
11 into a for-profit organization of any kind.

12 (215 ILCS 5/123D-15 new)

13 Sec. 123D-15. Conduct of insurance business by nonprofit
14 risk organizations.

15 (a) The Director may, pursuant to this Article, issue a
16 certificate of authority to a nonprofit risk organization that
17 is a company organized pursuant to Articles III or IV,
18 including such companies organized as a risk retention group in
19 this State pursuant to Article VIIB, if such organization:

20 (1) complies with the applicable requirements of
21 Articles III or IV and VIIB, if organized as a risk
22 retention group; and

23 (2) has an initial paid-up capital and surplus at least
24 equal to the amount of applicable paid-up capital and
25 surplus required by Articles III or IV for a newly
26 organized company doing the same kind or kinds of insurance
27 business.

28 Thereafter, every such nonprofit risk organization shall
29 maintain capital and surplus at least equal to the amount of
30 applicable capital and surplus required to be maintained by
31 companies under Articles III or IV doing the same kind or kinds
32 of insurance business.

33 (b) Every certificate of authority to engage in an
34 insurance business issued by the Director to any nonprofit risk
35 organization pursuant to the provisions of this Article shall

1 specify the company's name, the location of its principal
2 office, the name and principal address of its attorney-in-fact,
3 if any, and the kind or kinds of insurance business that it is
4 authorized to engage in this State.

5 (215 ILCS 5/123D-20 new)

6 Sec. 123D-20. Relevant criteria.

7 (a) A nonprofit risk organization must meet all of the
8 following criteria:

9 (1) Be organized and operated solely to insure risks of
10 its members.

11 (2) Directly provide information to its members with
12 respect to loss control and risk management.

13 (3) Be comprised solely of members.

14 (4) Be organized under this Article.

15 (5) Be exempt from Illinois income taxes with respect
16 to its activities or operations in furtherance of the
17 powers conferred upon it by this Article.

18 (6) Obtain at least \$1,000,000 in startup capital from
19 nonmember charitable organizations. The startup capital
20 may take the form of advancements or borrowings in the form
21 permitted by Section 56 or 76 of this Code, as applicable.
22 Startup capital may be used to satisfy the financial
23 requirements contained in this Article applicable to a
24 nonprofit risk organization only to the extent the Director
25 determines that it complies with those requirements.

26 (7) Be controlled by a board of directors elected by
27 its members.

28 (8) Require in its organizational documents that:

29 (A) each member of the nonprofit risk organization
30 shall at all times be an organization described in
31 paragraph (3) of subsection (c) of Section 501 of the
32 Internal Revenue Code and exempt from tax under
33 subsection (a) of Section 501 of the Internal Revenue
34 Code;

35 (B) any member that receives a final determination

1 that it no longer qualifies as an organization
2 described in paragraph (3) of subsection (c) of Section
3 501 of the Internal Revenue Code shall immediately
4 notify the nonprofit risk organization of the
5 determination and the effective date of the
6 determination; and

7 (C) each policy of insurance issued by the
8 nonprofit risk organization shall provide that the
9 policy does not cover the insured with respect to
10 events occurring after the date the final
11 determination was issued to the insured.

12 (b) An organization shall not cease to qualify as a
13 nonprofit risk organization solely by reason of the failure
14 of any of its members to continue to be an organization
15 described in paragraph (3) of subsection (c) of Section 501
16 of the Internal Revenue Code if, within a reasonable period
17 of time after the nonprofit risk organization is notified
18 as required under subparagraph (8)(B) of subsection (a) of
19 this Section, the nonprofit risk organization takes such
20 action as may be reasonably necessary to remove the member
21 from the nonprofit risk organization.

22 (215 ILCS 5/123D-25 new)

23 Sec. 123D-25. Applicability of other provisions of this
24 Code. Except as otherwise provided in this Article, where
25 inconsistent with this Article, or where the context otherwise
26 requires, all of the provisions of this Code and the rules of
27 the Director relating to all insurers and those relating to a
28 company organized pursuant to Articles III or IV or a risk
29 retention group organized in this State pursuant to Article
30 VIIB transacting the same kind or kinds of insurance shall be
31 applicable to a nonprofit risk organization organized and
32 issued a certificate of authority pursuant to this Article.
33 Where any of such provisions of law refer to a corporation,
34 company, or insurer, those references, when read in connection
35 with and applicable to this Article, shall mean such a

1 nonprofit risk organization.

2 (215 ILCS 5/123D-30 new)

3 Sec. 123D-30. Residual market participation exemption;
4 security funds. A nonprofit risk organization shall not be
5 permitted or required to join or contribute financially to any
6 plan, pool, association, or guaranty or insolvency fund in this
7 State, nor shall any nonprofit risk organization, nor its
8 insureds nor any claimants against the insureds, nor its parent
9 nor any affiliated company, nor any member organization of its
10 association, receive any benefit from any such plan, pool
11 association, or guaranty or insolvency fund for claims arising
12 out of the operations of the nonprofit risk organization. Each
13 nonprofit risk organization must inform each insured, in both
14 the application for insurance and in the policy issued to the
15 insured, that (i) the nonprofit risk organization is not
16 subject to all of the insurance laws and rules of this State,
17 and (ii) State insurance insolvency guaranty funds are not
18 available to the insured for claims arising out of the
19 operations of the nonprofit risk organization.

20 (215 ILCS 5/123D-35 new)

21 Sec. 123D-35. Rules. The Director shall adopt such rules
22 as may be necessary for the implementation of this Article.