



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1782

Introduced 2/20/2015, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/537.4
215 ILCS 5/546

from Ch. 73, par. 1065.87-4
from Ch. 73, par. 1065.96

Amends the Illinois Insurance Code. Provides that if the Illinois Insurance Guaranty Fund pays a covered claim without the exhaustion of other coverage, the Fund shall have an independent right of recovery against each insurer whose coverage was not exhausted. Provides that the extent of the Fund's subrogation rights and any other rights of reimbursement with respect to its covered claims payments shall be determined independently by taking into account the Fund's independent rights of recovery. Effective immediately.

LRB099 07860 MLM 27996 b

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 Insurance Code is amended by
5 changing Sections 537.4 and 546 as follows:

6 (215 ILCS 5/537.4) (from Ch. 73, par. 1065.87-4)

7 Sec. 537.4. Fund assumes obligations of insolvent
8 companies. The Fund shall be deemed the insolvent company to
9 the extent of the Fund's obligation for covered claims and to
10 such extent shall have all rights, duties, and obligations of
11 the insolvent company, subject to the limitations provided in
12 this Article, as if the company had not become insolvent, with
13 the exception that the liquidator shall retain the sole right
14 to recover any reinsurance proceeds. The Fund's rights under
15 this Section include, but are not limited to, the right to
16 pursue and retain salvage and subrogation recoveries on paid
17 covered claim obligations to the extent paid by the Fund. The
18 extent of the Fund's subrogation rights and any other rights of
19 reimbursement with respect to its covered claims payments shall
20 not be limited as if the Fund were the insolvent company, but
21 shall be determined independently by taking into account the
22 Fund's rights under Section 546 of this Article.

23 (Source: P.A. 89-97, eff. 7-7-95.)

1 (215 ILCS 5/546) (from Ch. 73, par. 1065.96)

2 Sec. 546. Other insurance.

3 (a) An insured or claimant shall be required first to
4 exhaust all coverage provided by any other insurance policy,
5 regardless of whether or not such other insurance policy was
6 written by a member company, if the claim under such other
7 policy arises from the same facts, injury, or loss that gave
8 rise to the covered claim against the Fund. The Fund's
9 obligation under Section 537.2 shall be reduced by the amount
10 recovered or recoverable, whichever is greater, under such
11 other insurance policy. Where such other insurance policy
12 provides uninsured or underinsured motorist coverage, the
13 amount recoverable shall be deemed to be the full applicable
14 limits of such coverage. To the extent that the Fund's
15 obligation under Section 537.2 is reduced by application of
16 this Section, the liability of the person insured by the
17 insolvent insurer's policy for the claim shall be reduced in
18 the same amount. If the Fund pays a covered claim without the
19 exhaustion of all other coverage that could have been exhausted
20 under this Section, the Fund shall have an independent right of
21 recovery against each insurer whose coverage was not exhausted
22 in the amount the Fund would not have had to pay if that
23 insurer's coverage had been exhausted first.

24 (b) Any insured or claimant having a claim which may be
25 recovered under more than one insurance guaranty fund or its

1 equivalent shall seek recovery first from the Fund of the place
2 of residence of the insured except that if it is a first party
3 claim for damage to property with a permanent location, he
4 shall first seek recovery from the Fund of the location of the
5 property; if it is a workers' compensation claim, he shall
6 first seek recovery from the Fund of the residence of the
7 claimant. Any recovery under this Article shall be reduced by
8 the amount of the recovery from any other insurance guaranty
9 fund or its equivalent.

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

11 Section 98. Applicability. This amendatory Act applies to
12 pending actions as well as actions commenced on or after the
13 effective date of this amendatory Act of the 99th General
14 Assembly.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.