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LRB093 06218 SAS 47507 a

1 AMENDMENT TO HOUSE BILL 0393

2 AMENDMENT NO. _____. Amend House Bill 0393 by replacing
3 the title with the following:

4 "AN ACT concerning insurance."; and

5 by replacing everything after the enacting clause with the
6 following:

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

9 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

10 Sec. 205. Exempt organizations.

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

20 (b) Partnerships. A partnership as such shall not be
21 subject to the tax imposed by subsection 201 (a) and (b) of
22 this Act, but shall be subject to the replacement tax imposed
23 by subsection 201 (c) and (d) of this Act and shall compute its

1 base income as described in subsection (d) of Section 203 of
2 this Act. A partnership shall file such returns and other
3 information at such time and in such manner as may be required
4 under Article 5 of this Act. The partners in a partnership
5 shall be liable for the replacement tax imposed by subsection
6 201 (c) and (d) of this Act on such partnership, to the extent
7 such tax is not paid by the partnership, as provided under the
8 laws of Illinois governing the liability of partners for the
9 obligations of a partnership. Persons carrying on business as
10 partners shall be liable for the tax imposed by subsection 201
11 (a) and (b) of this Act only in their separate or individual
12 capacities.

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

19 (d) Combat zone death. An individual relieved from the
20 federal income tax for any taxable year by reason of section
21 692 of the Internal Revenue Code shall not be subject to the
22 tax imposed by this Act for such taxable year.

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

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

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

34 (2) activities of the person's employees or agents

1 located solely at the premises of a printer and related to
2 quality control, distribution, or printing services
3 performed by a printer in the State with which the person
4 has contracted for printing.

5 (g) A nonprofit risk organization that holds a certificate
6 of authority under Article VIID of the Illinois Insurance Code
7 is exempt from the tax imposed under this Act with respect to
8 its activities or operations in furtherance of the powers
9 conferred upon it under that Article VIID of the Illinois
10 Insurance Code.

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

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

14 (215 ILCS 5/Art. VIID heading new)

15 ARTICLE VIID. NONPROFIT RISK ORGANIZATIONS

16 (215 ILCS 5/123D-1 new)

17 Sec. 123D-1. Purpose; construction. The purpose of this
18 Article is to provide for the organization of and issuance of a
19 certificate of authority to nonprofit risk organizations that
20 insure nonprofit organizations and that will qualify, and
21 continue to qualify, as a qualified charitable risk pool, as
22 defined in subsection (n) of Section 501 of the Internal
23 Revenue Code.

24 (215 ILCS 5/123D-5 new)

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

26 "Member" means a nonprofit organization that participates
27 as an insured in a nonprofit risk organization.

28 "Nonmember charitable organization" has the meaning set
29 forth in subsection (n) of Section 501 of the Internal Revenue
30 Code.

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

4 "Nonprofit risk organization" means a nonprofit company
5 organized to do business solely with nonprofit organizations as
6 a qualified charitable risk pool under subsection (n) of
7 Section 501 of the Internal Revenue Code that is organized in
8 accordance with this Article.

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

11 (215 ILCS 5/123D-10 new)

12 Sec. 123D-10. Organization of nonprofit risk
13 organizations.

14 (a) A company organized pursuant to Articles III or IV,
15 including such companies organized as a risk retention group in
16 this State pursuant to Article VIIB of this Code, that
17 satisfies the requirements of this Article may be organized as
18 a nonprofit risk organization.

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

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

27 (215 ILCS 5/123D-15 new)

28 Sec. 123D-15. Conduct of insurance business by nonprofit
29 risk organizations.

30 (a) The Director may, pursuant to this Article, issue a
31 certificate of authority to a nonprofit risk organization that
32 is a company organized pursuant to Articles III or IV,

1 including such companies organized as a risk retention group in
2 this State pursuant to Article VIIB, if such organization:

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

6 (2) has an initial paid-up capital and surplus at least
7 equal to the amount of applicable paid-up capital and
8 surplus required by Articles III or IV for a newly
9 organized company doing the same kind or kinds of insurance
10 business.

11 Thereafter, every such nonprofit risk organization shall
12 maintain capital and surplus at least equal to the amount of
13 applicable capital and surplus required to be maintained by
14 companies under Articles III or IV doing the same kind or kinds
15 of insurance business.

16 (b) Every certificate of authority to engage in an
17 insurance business issued by the Director to any nonprofit risk
18 organization pursuant to the provisions of this Article shall
19 specify the company's name, the location of its principal
20 office, the name and principal address of its attorney-in-fact,
21 if any, and the kind or kinds of insurance business that it is
22 authorized to engage in this State.

23 (215 ILCS 5/123D-20 new)

24 Sec. 123D-20. Relevant criteria.

25 (a) A nonprofit risk organization must meet all of the
26 following criteria:

27 (1) Be organized and operated solely to insure risks of
28 its members.

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

31 (3) Be comprised solely of members.

32 (4) Be organized under this Article.

33 (5) Be exempt from Illinois income taxes with respect

1 to its activities or operations in furtherance of the
2 powers conferred upon it by this Article.

3 (6) Obtain at least \$1,000,000 in startup capital from
4 nonmember charitable organizations. The startup capital
5 may take the form of advancements or borrowings in the form
6 permitted by Section 56 or 76 of this Code, as applicable.
7 Startup capital may be used to satisfy the financial
8 requirements contained in this Article applicable to a
9 nonprofit risk organization only to the extent the Director
10 determines that it complies with those requirements.

11 (7) Be controlled by a board of directors elected by
12 its members.

13 (8) Require in its organizational documents that:

14 (A) each member of the nonprofit risk organization
15 shall at all times be an organization described in
16 paragraph (3) of subsection (c) of Section 501 of the
17 Internal Revenue Code and exempt from tax under
18 subsection (a) of Section 501 of the Internal Revenue
19 Code;

20 (B) any member that receives a final determination
21 that it no longer qualifies as an organization
22 described in paragraph (3) of subsection (c) of Section
23 501 of the Internal Revenue Code shall immediately
24 notify the nonprofit risk organization of the
25 determination and the effective date of the
26 determination; and

27 (C) each policy of insurance issued by the
28 nonprofit risk organization shall provide that the
29 policy does not cover the insured with respect to
30 events occurring after the date the final
31 determination was issued to the insured.

32 (b) An organization shall not cease to qualify as a
33 nonprofit risk organization solely by reason of the failure
34 of any of its members to continue to be an organization

1 described in paragraph (3) of subsection (c) of Section 501
2 of the Internal Revenue Code if, within a reasonable period
3 of time after the nonprofit risk organization is notified
4 as required under subparagraph (8)(B) of subsection (a) of
5 this Section, the nonprofit risk organization takes such
6 action as may be reasonably necessary to remove the member
7 from the nonprofit risk organization.

8 (215 ILCS 5/123D-25 new)

9 Sec. 123D-25. Applicability of other provisions of this
10 Code. Except as otherwise provided in this Article, where
11 inconsistent with this Article, or where the context otherwise
12 requires, all of the provisions of this Code and the rules of
13 the Director relating to all insurers and those relating to a
14 company organized pursuant to Articles III or IV or a risk
15 retention group organized in this State pursuant to Article
16 VIIB transacting the same kind or kinds of insurance shall be
17 applicable to a nonprofit risk organization organized and
18 issued a certificate of authority pursuant to this Article.
19 Where any of such provisions of law refer to a corporation,
20 company, or insurer, those references, when read in connection
21 with and applicable to this Article, shall mean such a
22 nonprofit risk organization.

23 (215 ILCS 5/123D-30 new)

24 Sec. 123D-30. Residual market participation exemption;
25 security funds. A nonprofit risk organization shall not be
26 permitted or required to join or contribute financially to any
27 plan, pool, association, or guaranty or insolvency fund in this
28 State, nor shall any nonprofit risk organization, nor its
29 insureds nor any claimants against the insureds, nor its parent
30 nor any affiliated company, nor any member organization of its
31 association, receive any benefit from any such plan, pool
32 association, or guaranty or insolvency fund for claims arising

1 out of the operations of the nonprofit risk organization. Each
2 nonprofit risk organization must inform each insured, in both
3 the application for insurance and in the policy issued to the
4 insured, that (i) the nonprofit risk organization is not
5 subject to all of the insurance laws and rules of this State,
6 and (ii) State insurance insolvency guaranty funds are not
7 available to the insured for claims arising out of the
8 operations of the nonprofit risk organization.

9 (215 ILCS 5/123D-35 new)

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