



Sen. Linda Holmes

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LRB100 04579 SMS 26934 a

1 AMENDMENT TO HOUSE BILL 1954

2 AMENDMENT NO. _____. Amend House Bill 1954, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Insurance Code is amended by
6 changing Sections 132.5, 143.14, 143.15, 143.16, 143.17, and
7 143.17a as follows:

8 (215 ILCS 5/132.5) (from Ch. 73, par. 744.5)

9 Sec. 132.5. Examination reports.

10 (a) General description. All examination reports shall be
11 comprised of only facts appearing upon the books, records, or
12 other documents of the company, its agents, or other persons
13 examined or as ascertained from the testimony of its officers,
14 agents, or other persons examined concerning its affairs and
15 the conclusions and recommendations as the examiners find
16 reasonably warranted from those facts.

1 (b) Filing of examination report. No later than 60 days
2 following completion of the examination, the examiner in charge
3 shall file with the Department a verified written report of
4 examination under oath. Upon receipt of the verified report,
5 the Department shall transmit the report to the company
6 examined, together with a notice that affords the company
7 examined a reasonable opportunity of not more than 30 days to
8 make a written submission or rebuttal with respect to any
9 matters contained in the examination report.

10 (c) Adoption of the report on examination. Within 30 days
11 of the end of the period allowed for the receipt of written
12 submissions or rebuttals, the Director shall fully consider and
13 review the report, together with any written submissions or
14 rebuttals and any relevant portions of the examiners work
15 papers and enter an order:

16 (1) Adopting the examination report as filed or with
17 modification or corrections. If the examination report
18 reveals that the company is operating in violation of any
19 law, regulation, or prior order of the Director, the
20 Director may order the company to take any action the
21 Director considers necessary and appropriate to cure the
22 violation.

23 (2) Rejecting the examination report with directions
24 to the examiners to reopen the examination for purposes of
25 obtaining additional data, documentation, or information
26 and refiling under subsection (b).

1 (3) Calling for an investigatory hearing with no less
2 than 20 days notice to the company for purposes of
3 obtaining additional documentation, data, information, and
4 testimony.

5 (d) Order and procedures. All orders entered under
6 paragraph (1) of subsection (c) shall be accompanied by
7 findings and conclusions resulting from the Director's
8 consideration and review of the examination report, relevant
9 examiner work papers, and any written submissions or rebuttals.
10 The order shall be considered a final administrative decision
11 and may be appealed in accordance with the Administrative
12 Review Law. The order shall be served upon the company by
13 certified mail, together with a copy of the adopted examination
14 report. Within 30 days of the issuance of the adopted report,
15 the company shall file affidavits executed by each of its
16 directors stating under oath that they have received a copy of
17 the adopted report and related orders.

18 Any hearing conducted under paragraph (3) of subsection (c)
19 by the Director or an authorized representative shall be
20 conducted as a nonadversarial confidential investigatory
21 proceeding as necessary for the resolution of any
22 inconsistencies, discrepancies, or disputed issues apparent
23 upon the face of the filed examination report or raised by or
24 as a result of the Director's review of relevant work papers or
25 by the written submission or rebuttal of the company. Within 20
26 days of the conclusion of any hearing, the Director shall enter

1 an order under paragraph (1) of subsection (c).

2 The Director shall not appoint an examiner as an authorized
3 representative to conduct the hearing. The hearing shall
4 proceed expeditiously with discovery by the company limited to
5 the examiner's work papers that tend to substantiate any
6 assertions set forth in any written submission or rebuttal. The
7 Director or his representative may issue subpoenas for the
8 attendance of any witnesses or the production of any documents
9 deemed relevant to the investigation, whether under the control
10 of the Department, the company, or other persons. The documents
11 produced shall be included in the record, and testimony taken
12 by the Director or his representative shall be under oath and
13 preserved for the record. Nothing contained in this Section
14 shall require the Department to disclose any information or
15 records that would indicate or show the existence or content of
16 any investigation or activity of a criminal justice agency.

17 The hearing shall proceed with the Director or his
18 representative posing questions to the persons subpoenaed.
19 Thereafter the company and the Department may present testimony
20 relevant to the investigation. Cross-examination shall be
21 conducted only by the Director or his representative. The
22 company and the Department shall be permitted to make closing
23 statements and may be represented by counsel of their choice.

24 (e) Publication and use. Upon the adoption of the
25 examination report under paragraph (1) of subsection (c), the
26 Director shall continue to hold the content of the examination

1 report as private and confidential information for a period of
2 35 days, except to the extent provided in subsection (b).
3 Thereafter, the Director may open the report for public
4 inspection so long as no court of competent jurisdiction has
5 stayed its publication.

6 Nothing contained in this Code shall prevent or be
7 construed as prohibiting the Director from disclosing the
8 content of an examination report, preliminary examination
9 report or results, or any matter relating thereto, to the
10 insurance department of any other state or country or to law
11 enforcement officials of this or any other state or agency of
12 the federal government at any time, so long as the agency or
13 office receiving the report or matters relating thereto agrees
14 in writing to hold it confidential and in a manner consistent
15 with this Code.

16 In the event the Director determines that regulatory action
17 is appropriate as a result of any examination, he may initiate
18 any proceedings or actions as provided by law.

19 (f) Confidentiality of ancillary information. All working
20 papers, recorded information, documents, and copies thereof
21 produced by, obtained by, or disclosed to the Director or any
22 other person in the course of any examination must be given
23 confidential treatment, are not subject to subpoena, and may
24 not be made public by the Director or any other persons, except
25 to the extent provided in subsection (e). Access may also be
26 granted to the National Association of Insurance

1 Commissioners. Those parties must agree in writing before
2 receiving the information to provide to it the same
3 confidential treatment as required by this Section, unless the
4 prior written consent of the company to which it pertains has
5 been obtained.

6 This subsection (f) applies to market conduct examinations
7 described in Section 132 of this Code.

8 (Source: P.A. 87-108.)

9 (215 ILCS 5/143.14) (from Ch. 73, par. 755.14)

10 Sec. 143.14. Notice of cancellation.

11 (a) No notice of cancellation of any policy of insurance,
12 to which Section 143.11 applies, shall be effective unless
13 mailed by the company to the named insured ~~and the mortgage or~~
14 ~~lien holder,~~ at the last mailing address known by the company.
15 The company shall maintain proof of mailing of such notice on a
16 recognized U.S. Post Office form or a form acceptable to the U.
17 S. Post Office or other commercial mail delivery service.
18 Notification ~~A copy of all such notices~~ shall also be sent to
19 the insured's broker if known, or the agent of record, if
20 known, and to the mortgagee or lien holder listed on the policy
21 ~~at the last mailing address known to the company.~~ For purposes
22 of this Section, the mortgage or lien holder, insured's broker,
23 if known, or the agent of record may opt to accept notification
24 electronically.

25 (b) Whenever a financed insurance contract is cancelled,

1 the insurer shall return whatever gross unearned premiums are
2 due under the insurance contract or contracts not to exceed the
3 unpaid balance due the premium finance company directly to the
4 premium finance company effecting the cancellation for the
5 account of the named insured. The return premium must be mailed
6 to the premium finance company within 60 days. The request for
7 the unearned premium by the premium finance company shall be in
8 the manner of a monthly account, current accounting by
9 producer, policy number, unpaid balance and name of insured for
10 each cancelled amount. In the event the insurance contract or
11 contracts are subject to audit, the insurer shall retain the
12 right to withhold the return of the portion of premium that can
13 be identified to the contract or contracts until the audit is
14 completed. Within 30 days of the completion of the audit, if a
15 premium retained by the insurer after crediting the earned
16 premium would result in a surplus, the insurer shall return the
17 surplus directly to the premium finance company. If the audit
18 should result in an additional premium due the insurer, the
19 obligation for the collection of this premium shall fall upon
20 the insurer and not affect any other contract or contracts
21 currently being financed by the premium finance company for the
22 named insured.

23 (c) Whenever a premium finance agreement contains a power
24 of attorney enabling the premium finance company to cancel any
25 insurance contract or contracts in the agreement, the insurer
26 shall honor the date of cancellation as set forth in the

1 request from the premium finance company without requiring the
2 return of the insurance contract or contracts. The insurer may
3 mail to the named insured an acknowledgment of the notice of
4 cancellation from the premium finance company but the named
5 insured shall not incur any additional premium charge for any
6 extension of coverage. The insurer need not maintain proof of
7 mailing of this notice.

8 (d) All statutory regulatory and contractual restrictions
9 providing that the insurance contract may not be cancelled
10 unless the required notice is mailed to a governmental agency,
11 mortgagee, lienholder, or other third party shall apply where
12 cancellation is effected under a power of attorney under a
13 premium finance agreement. The insurer shall have the right for
14 a premium charge for this extension of coverage.

15 (Source: P.A. 93-713, eff. 1-1-05.)

16 (215 ILCS 5/143.15) (from Ch. 73, par. 755.15)

17 Sec. 143.15. Mailing of cancellation notice. All notices of
18 cancellation of insurance as defined in subsections (a), (b)
19 and (c) of Section 143.13 must be mailed at least 30 days prior
20 to the effective date of cancellation to the named insured;
21 however, if cancellation is for nonpayment of premium, the
22 notice of cancellation must be mailed at least 10 days before
23 the effective date of the cancellation to ~~and mortgagee or lien~~
24 holder, if known, at the last mailing address known to the
25 company. All notices of cancellation to the named insured shall

1 include a specific explanation of the reason or reasons for
2 cancellation. ~~However, where cancellation is for nonpayment of~~
3 ~~premium, the notice of cancellation must be mailed at least 10~~
4 ~~days before the effective date of the cancellation.~~ For
5 purposes of this Section, the mortgagee or lien holder, if
6 known, may opt to accept notification electronically.

7 (Source: P.A. 93-713, eff. 1-1-05.)

8 (215 ILCS 5/143.16) (from Ch. 73, par. 755.16)

9 Sec. 143.16. Mailing of cancellation notice. All notices of
10 cancellation of insurance to which Section 143.11 applies,
11 except for those defined in subsections (a), (b) and (c) of
12 Section 143.13 must be mailed at least 30 days prior to the
13 effective date of cancellation during the first 60 days of
14 coverage. After the coverage has been effective for 61 days or
15 more, all notices must be mailed at least 60 days prior to the
16 effective date of cancellation. However, where cancellation is
17 for nonpayment of premium, the notice of cancellation must be
18 mailed at least 10 days before the effective date of the
19 cancellation. All such notices shall include a specific
20 explanation of the reason or reasons for cancellation and shall
21 be mailed to the named insured ~~and mortgagee or lien holder, if~~
22 ~~known,~~ at the last mailing address known to the company.
23 ~~However, where cancellation is for nonpayment of premium, the~~
24 ~~notice of cancellation must be mailed at least 10 days before~~
25 ~~the effective date of the cancellation.~~ For purposes of this

1 Section, the mortgagee or lien holder, if known, may opt to
2 accept notification electronically.

3 (Source: P.A. 93-713, eff. 1-1-05.)

4 (215 ILCS 5/143.17) (from Ch. 73, par. 755.17)

5 Sec. 143.17. Notice of intention not to renew.

6 a. No company shall fail to renew any policy of insurance,
7 as defined in subsections (a), (b), (c), and (h) of Section
8 143.13, to which Section 143.11 applies, unless it shall send
9 by mail to the named insured at least 30 days advance notice of
10 its intention not to renew. The company shall maintain proof of
11 mailing of such notice on a recognized U.S. Post Office form or
12 a form acceptable to the U. S. Post Office or other commercial
13 mail delivery service. The nonrenewal shall not become
14 effective until at least 30 days from the proof of mailing date
15 of the notice to the name insured. Notification ~~An exact and~~
16 ~~unaltered copy of such notice~~ shall also be sent to the
17 insured's broker, if known, or the agent of record, if known,
18 and to the last known mortgagee or lien holder ~~at the last~~
19 ~~mailing address known by the company.~~ For purposes of this
20 Section, the mortgagee or lien holder, insured's broker, or the
21 agent of record may opt to accept notification electronically.
22 However, where cancellation is for nonpayment of premium, the
23 notice of cancellation must be mailed at least 10 days before
24 the effective date of the cancellation.

25 b. This Section does not apply if the company has

1 manifested its willingness to renew directly to the named
2 insured. Such written notice shall specify the premium amount
3 payable, including any premium payment plan available, and the
4 name of any person or persons, if any, authorized to receive
5 payment on behalf of the company. If no person is so
6 authorized, the premium notice shall so state. ~~The notice of~~
7 ~~nonrenewal and the proof of mailing shall be effected on the~~
8 ~~same date.~~

9 b-5. This Section does not apply if the company manifested
10 its willingness to renew directly to the named insured.
11 However, no company may impose changes in deductibles or
12 coverage for any policy forms applicable to an entire line of
13 business enumerated in subsections (a), (b), (c), and (h) of
14 Section 143.13 to which Section 143.11 applies unless the
15 company mails to the named insured written notice of the change
16 in deductible or coverage at least 60 days prior to the renewal
17 or anniversary date. Notice ~~An exact and unaltered copy of the~~
18 ~~notice~~ shall also be sent to the insured's broker, if known, or
19 the agent of record.

20 c. Should a company fail to comply with (a) or (b) of this
21 Section, the policy shall terminate only on the effective date
22 of any similar insurance procured by the insured with respect
23 to the same subject or location designated in both policies.

24 d. Renewal of a policy does not constitute a waiver or
25 estoppel with respect to grounds for cancellation which existed
26 before the effective date of such renewal.

1 e. In all notices of intention not to renew any policy of
2 insurance, as defined in Section 143.11 the company shall
3 provide the named insured a specific explanation of the reasons
4 for nonrenewal.

5 f. For purposes of this Section, the insured's broker, if
6 known, or the agent of record and the mortgagee or lien holder
7 may opt to accept notification electronically.

8 (Source: P.A. 93-713, eff. 1-1-05.)

9 (215 ILCS 5/143.17a) (from Ch. 73, par. 755.17a)

10 Sec. 143.17a. Notice of intention not to renew.

11 (a) A company intending to nonrenew any policy of insurance
12 to which Section 143.11 applies, except for those defined in
13 subsections (a), (b), (c), and (h) of Section 143.13, must mail
14 written notice to the named insured at least 60 days prior to
15 the expiration date of the current policy. The notice to the
16 named insured shall provide a specific explanation of the
17 reasons for nonrenewal. ~~In all notices of intention not to~~
18 ~~renew any policy of insurance, as defined in Section 143.11,~~
19 ~~the company shall provide a specific explanation of the reasons~~
20 ~~for nonrenewal.~~ A company may not extend the current policy
21 period for purposes of providing notice of its intention not to
22 renew required under this subsection (a).

23 (b) A company intending to renew any policy of insurance to
24 which Section 143.11 applies, except for those defined in
25 subsections (a), (b), (c), and (h) of Section 143.13, with an

1 increase in premium of 30% or more or with changes in
2 deductibles or coverage that materially alter the policy must
3 mail or deliver to the named insured written notice of such
4 increase or change in deductible or coverage at least 60 days
5 prior to the renewal or anniversary date. If a company has
6 failed to provide notice of intention to renew required under
7 this subsection (b) at least 60 days prior to the renewal or
8 anniversary date, but does so no less than 31 days prior to the
9 renewal or anniversary date, the company may extend the current
10 policy at the current terms and conditions for the period of
11 time needed to equal the 60 day time period required to provide
12 notice of intention to renew by this subsection (b). The
13 increase in premium shall be the renewal premium based on the
14 known exposure as of the date of the quotation compared to the
15 premium as of the last day of coverage for the current year's
16 policy, annualized. The premium on the renewal policy may be
17 subsequently amended to reflect any change in exposure or
18 reinsurance costs not considered in the quotation.

19 (c) A company that has failed to provide notice of
20 intention to nonrenew under subsection (a) of this Section and
21 has failed to provide notice of intention to renew as
22 prescribed under subsection (b) of this Section must renew the
23 expiring policy under the same terms and conditions for an
24 additional year or until the effective date of any similar
25 insurance is procured by the insured, whichever is earlier. The
26 company may increase the renewal premium. However, such

1 increase must be less than 30% of the expiring term's premium
2 and notice of such increase must be delivered to the named
3 insured on or before the date of expiration of the current
4 policy period.

5 (d) Under subsection (a), the company shall maintain proof
6 of mailing of the notice of intention not to renew to the named
7 insured on one of the following forms: a recognized U.S. Post
8 Office form or a form acceptable to the U.S. Post Office or
9 other commercial mail delivery service. Under subsections (b)
10 and (c), proof of mailing or proof of receipt of the notice of
11 intention to renew to the named insured may be proven by a
12 sworn affidavit by the company as to the usual and customary
13 business practices of mailing notice pursuant to this Section
14 or may be proven consistent with Illinois Supreme Court Rule
15 236. For all notice requirements under this Section, ~~an exact~~
16 ~~and unaltered copy of the notice to the named insured~~ shall
17 also be sent to the named insured's producer, if known, or the
18 producer of record. Notification ~~For notices of intention to~~
19 ~~not renew, an exact and unaltered copy of the notice to the~~
20 ~~named insured~~ shall also be sent to the mortgagee or lien
21 holder listed on the policy ~~at the last mailing address known~~
22 ~~by the company.~~

23 (e) Renewal of a policy does not constitute a waiver or
24 estoppel with respect to grounds for cancellation that existed
25 before the effective date of such renewal.

26 (f) For purposes of this Section, the named insured's

1 producer, if known, or the producer of record and the mortgagee
2 or lien holder may opt to accept notification electronically.
3 (Source: P.A. 95-533, eff. 6-1-08.)

4 Section 99. Effective date. This Act takes effect January
5 1, 2018.".