



## 100TH GENERAL ASSEMBLY

### State of Illinois

### 2017 and 2018

### HB5582

by Rep. Norine K. Hammond

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/131.22	from Ch. 73, par. 743.22
215 ILCS 5/353a	from Ch. 73, par. 965a
215 ILCS 5/404	from Ch. 73, par. 1016
215 ILCS 5/141.2 rep.	
215 ILCS 5/155.25 rep.	
215 ILCS 5/233 rep.	
215 ILCS 5/Art. XIX rep.	
215 ILCS 125/1-2	from Ch. 111 1/2, par. 1402

Amends the Illinois Insurance Code. In provisions concerning confidential treatment, provides that specified information shall remain confidential and privileged with the exception of information submitted pursuant to provisions concerning acquisition of control or merger with domestic companies that is not personal financial information. In provisions concerning accident and health reserves, removes language requiring the Director of Insurance from time to time to adopt rules requiring the use of appropriate tables of morbidity, mortality, interest rates, and valuation methods for such reserves. Provides that the Director may enter into written agreements to share confidential insurer records or information with the International Association of Insurance Supervisors. Repeals provisions concerning grounds for disapproval of a management contract or service agreement, reports by certain property and casualty insurers, participating and non-participating policies, and burial societies. Amends the Health Maintenance Organization Act. Changes the definition of "organization" to mean any domestic insurance company (rather than any insurance company). Effective immediately.

LRB100 18102 SMS 33295 b

1 AN ACT concerning regulation.

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 131.22, 125.1a, 125.2a, 353a, and 404 as  
6 follows:

7 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

8 Sec. 131.22. Confidential treatment.

9 (a) Documents, materials, or other information in the  
10 possession or control of the Department that are obtained by or  
11 disclosed to the Director or any other person in the course of  
12 an examination or investigation made pursuant to this Article  
13 and all information reported pursuant to this Article, with the  
14 exception of information submitted pursuant to Sections 131.5  
15 through 131.10 that is not personal financial information,  
16 shall be confidential by law and privileged, shall not be  
17 subject to the Illinois Freedom of Information Act, shall not  
18 be subject to subpoena, and shall not be subject to discovery  
19 or admissible in evidence in any private civil action. However,  
20 the Director is authorized to use the documents, materials, or  
21 other information in the furtherance of any regulatory or legal  
22 action brought as a part of the Director's official duties. The  
23 Director shall not otherwise make the documents, materials, or

1 other information public without the prior written consent of  
2 the company to which it pertains unless the Director, after  
3 giving the company and its affiliates who would be affected  
4 thereby prior written notice and an opportunity to be heard,  
5 determines that the interest of policyholders, shareholders,  
6 or the public shall be served by the publication thereof, in  
7 which event the Director may publish all or any part in such  
8 manner as may be deemed appropriate.

9 (b) Neither the Director nor any person who received  
10 documents, materials, or other information while acting under  
11 the authority of the Director or with whom such documents,  
12 materials, or other information are shared pursuant to this  
13 Article shall be permitted or required to testify in any  
14 private civil action concerning any confidential documents,  
15 materials, or information subject to subsection (a) of this  
16 Section.

17 (c) In order to assist in the performance of the Director's  
18 duties, the Director:

19 (1) may share documents, materials, or other  
20 information, including the confidential and privileged  
21 documents, materials, or information subject to subsection  
22 (a) of this Section, with other state, federal, and  
23 international regulatory agencies, with the NAIC and its  
24 affiliates and subsidiaries, and with state, federal, and  
25 international law enforcement authorities, including  
26 members of any supervisory college allowed by this Article,

1 provided that the recipient agrees in writing to maintain  
2 the confidentiality and privileged status of the document,  
3 material, or other information, and has verified in writing  
4 the legal authority to maintain confidentiality;

5 (1.5) notwithstanding paragraph (1) of this subsection  
6 (c), may only share confidential and privileged documents,  
7 material, or information reported pursuant to Section  
8 131.14b with commissioners of states having statutes or  
9 regulations substantially similar to subsection (a) of  
10 this Section and who have agreed in writing not to disclose  
11 such information;

12 (2) may receive documents, materials, or information,  
13 including otherwise confidential and privileged documents,  
14 materials, or information from the NAIC and its affiliates  
15 and subsidiaries and from regulatory and law enforcement  
16 officials of other foreign or domestic jurisdictions, and  
17 shall maintain as confidential or privileged any document,  
18 material, or information received with notice or the  
19 understanding that it is confidential or privileged under  
20 the laws of the jurisdiction that is the source of the  
21 document, material, or information; any such documents,  
22 materials, or information, while in the Director's  
23 possession, shall not be subject to the Illinois Freedom of  
24 Information Act and shall not be subject to subpoena; and

25 (3) shall enter into written agreements with the NAIC  
26 governing sharing and use of information provided pursuant

1 to this Article consistent with this subsection (c) that  
2 shall (i) specify procedures and protocols regarding the  
3 confidentiality and security of information shared with  
4 the NAIC and its affiliates and subsidiaries pursuant to  
5 this Article, including procedures and protocols for  
6 sharing by the NAIC with other state, federal, or  
7 international regulators; (ii) specify that ownership of  
8 information shared with the NAIC and its affiliates and  
9 subsidiaries pursuant to this Article remains with the  
10 Director and the NAIC's use of the information is subject  
11 to the direction of the Director; (iii) require prompt  
12 notice to be given to a company whose confidential  
13 information in the possession of the NAIC pursuant to this  
14 Article is subject to a request or subpoena to the NAIC for  
15 disclosure or production; and (iv) require the NAIC and its  
16 affiliates and subsidiaries to consent to intervention by a  
17 company in any judicial or administrative action in which  
18 the NAIC and its affiliates and subsidiaries may be  
19 required to disclose confidential information about the  
20 company shared with the NAIC and its affiliates and  
21 subsidiaries pursuant to this Article.

22 (d) The sharing of documents, materials, or information by  
23 the Director pursuant to this Article shall not constitute a  
24 delegation of regulatory authority or rulemaking, and the  
25 Director is solely responsible for the administration,  
26 execution, and enforcement of the provisions of this Article.

1 (e) No waiver of any applicable privilege or claim of  
2 confidentiality in the documents, materials, or information  
3 shall occur as a result of disclosure to the Director under  
4 this Section or as a result of sharing as authorized in  
5 subsection (c) of this Section.

6 (f) Documents, materials, or other information in the  
7 possession or control of the NAIC pursuant to this Article  
8 shall be confidential by law and privileged, shall not be  
9 subject to the Illinois Freedom of Information Act, shall not  
10 be subject to subpoena, and shall not be subject to discovery  
11 or admissible in evidence in any private civil action.

12 (Source: P.A. 98-609, eff. 1-1-14.)

13 (215 ILCS 5/353a) (from Ch. 73, par. 965a)

14 Sec. 353a. Accident and health reserves. The reserves for  
15 all accident and health policies issued after the operative  
16 date of this section shall be computed and maintained on a  
17 basis which shall place an actuarially sound value on the  
18 liabilities under such policies. ~~To provide a basis for the~~  
19 ~~determination of such actuarially sound value, the Director~~  
20 ~~from time to time shall adopt rules requiring the use of~~  
21 ~~appropriate tables of morbidity, mortality, interest rates and~~  
22 ~~valuation methods for such reserves.~~ In no event shall such  
23 reserves be less than the pro rata gross unearned premium  
24 reserve for such policies.

25 The company shall give the notice required in section 234

1 on all non-cancellable accident and health policies.

2 After this section becomes effective, any company may file  
3 with the Director written notice of its election to comply with  
4 the provisions of this section after a specified date before  
5 January 1, 1967. After the filing of such notice, then upon  
6 such specified date (which shall be the operative date of this  
7 section for such company), this section shall become operative  
8 with respect to the accident and health policies thereafter  
9 issued by such company. If a company makes no such election,  
10 the operative date of this section for such company shall be  
11 January 1, 1967.

12 After this section becomes effective, any company may file  
13 with the Director written notice of its election to establish  
14 and maintain reserves upon its accident and health policies  
15 issued prior to the operative date of this section in  
16 accordance with the standards for reserves established by this  
17 section, and thereafter the reserve standards prescribed  
18 pursuant to this section shall be effective with respect to  
19 said accident and health policies issued prior to the operative  
20 date of this section.

21 (Source: Laws 1965, p. 740.)

22 (215 ILCS 5/404) (from Ch. 73, par. 1016)

23 Sec. 404. Office of Director; a public office; destruction  
24 or disposal of records, papers, documents, and memoranda.

25 (1) (a) The office of the Director shall be a public office

1 and the records, books, and papers thereof on file therein,  
2 except those records or documents containing or disclosing any  
3 analysis, opinion, calculation, ratio, recommendation, advice,  
4 viewpoint, or estimation by any Department staff regarding the  
5 financial or market condition of an insurer not otherwise made  
6 part of the public record by the Director, shall be accessible  
7 to the inspection of the public, except as the Director, for  
8 good reason, may decide otherwise, or except as may be  
9 otherwise provided in this Code or as otherwise provided in  
10 Section 7 of the Freedom of Information Act.

11 (b) Except where another provision of this Code expressly  
12 prohibits a disclosure of confidential information to the  
13 specific officials or organizations described in this  
14 subsection, the Director may disclose or share any confidential  
15 records or information in his custody and control with any  
16 insurance regulatory officials of any state or country, with  
17 the law enforcement officials of this State, any other state,  
18 or the federal government, or with the National Association of  
19 Insurance Commissioners, upon the written agreement of the  
20 official or organization receiving the information to hold the  
21 information or records confidential and in a manner consistent  
22 with this Code.

23 (c) The Director shall maintain as confidential any records  
24 or information received from the National Association of  
25 Insurance Commissioners or insurance regulatory officials of  
26 other states which is confidential in that other jurisdiction.



1           (2) Upon the filing of the examination to which they  
2 relate, the Director is authorized to destroy or otherwise  
3 dispose of all working papers relative to any company which has  
4 been examined at any time prior to that last examination by the  
5 Department, so that in such circumstances only current working  
6 papers of that last examination may be retained by the  
7 Department.

8           (3) Five years after the conclusion of the transactions to  
9 which they relate, the Director is authorized to destroy or  
10 otherwise dispose of all books, records, papers, memoranda and  
11 correspondence directly related to consumer complaints or  
12 inquiries.

13           (4) Two years after the conclusion of the transactions to  
14 which they relate, the Director is authorized to destroy or  
15 otherwise dispose of all books, records, papers, memoranda, and  
16 correspondence directly related to all void, obsolete, or  
17 superseded rate filings and schedules required to be filed by  
18 statute; and all individual company rating experience data and  
19 all records, papers, documents and memoranda in the possession  
20 of the Director relating thereto.

21           (5) Five years after the conclusion of the transactions to  
22 which they relate, the Director is authorized to destroy or  
23 otherwise dispose of all examination reports of companies made  
24 by the insurance supervisory officials of states other than  
25 Illinois; applications, requisitions, and requests for  
26 licenses; all records of hearings; and all similar records,

1 papers, documents, and memoranda in the possession of the  
2 Director.

3 (6) Ten years after the conclusion of the transactions to  
4 which they relate, the Director is authorized to destroy or  
5 otherwise dispose of all official correspondence of foreign and  
6 alien companies, all foreign companies' and alien companies'  
7 annual statements, valuation reports, tax reports, and all  
8 similar records, papers, documents and memoranda in the  
9 possession of the Director.

10 (7) Whenever any records, papers, documents or memoranda  
11 are destroyed or otherwise disposed of pursuant to the  
12 provisions of this section, the Director shall execute and file  
13 in a separate, permanent office file a certificate listing and  
14 setting forth by summary description the records, papers,  
15 documents or memoranda so destroyed or otherwise disposed of,  
16 and the Director may, in his discretion, preserve copies of any  
17 such records, papers, documents or memoranda by means of  
18 microfilming or photographing the same.

19 (8) This Section shall apply to records, papers, documents,  
20 and memoranda presently in the possession of the Director as  
21 well as to records, papers, documents, and memoranda hereafter  
22 coming into his possession.

23 (9) The Director may enter into written agreements to share  
24 confidential insurer records or information with the  
25 International Association of Insurance Supervisors.

26 (Source: P.A. 97-1004, eff. 8-17-12.)

1 (215 ILCS 5/141.2 rep.)

2 (215 ILCS 5/155.25 rep.)

3 (215 ILCS 5/233 rep.)

4 (215 ILCS 5/Art. XIX rep.)

5 Section 10. The Illinois Insurance Code is amended by  
6 repealing Sections 141.2, 155.25, and 233 and Article XIX.

7 Section 15. The Health Maintenance Organization Act is  
8 amended by changing Section 1-2 as follows:

9 (215 ILCS 125/1-2) (from Ch. 111 1/2, par. 1402)

10 Sec. 1-2. Definitions. As used in this Act, unless the  
11 context otherwise requires, the following terms shall have the  
12 meanings ascribed to them:

13 (1) "Advertisement" means any printed or published  
14 material, audiovisual material and descriptive literature of  
15 the health care plan used in direct mail, newspapers,  
16 magazines, radio scripts, television scripts, billboards and  
17 similar displays; and any descriptive literature or sales aids  
18 of all kinds disseminated by a representative of the health  
19 care plan for presentation to the public including, but not  
20 limited to, circulars, leaflets, booklets, depictions,  
21 illustrations, form letters and prepared sales presentations.

22 (2) "Director" means the Director of Insurance.

23 (3) "Basic health care services" means emergency care, and

1 inpatient hospital and physician care, outpatient medical  
2 services, mental health services and care for alcohol and drug  
3 abuse, including any reasonable deductibles and co-payments,  
4 all of which are subject to the limitations described in  
5 Section 4-20 of this Act and as determined by the Director  
6 pursuant to rule.

7 (4) "Enrollee" means an individual who has been enrolled in  
8 a health care plan.

9 (5) "Evidence of coverage" means any certificate,  
10 agreement, or contract issued to an enrollee setting out the  
11 coverage to which he is entitled in exchange for a per capita  
12 prepaid sum.

13 (6) "Group contract" means a contract for health care  
14 services which by its terms limits eligibility to members of a  
15 specified group.

16 (7) "Health care plan" means any arrangement whereby any  
17 organization undertakes to provide or arrange for and pay for  
18 or reimburse the cost of basic health care services, excluding  
19 any reasonable deductibles and copayments, from providers  
20 selected by the Health Maintenance Organization and such  
21 arrangement consists of arranging for or the provision of such  
22 health care services, as distinguished from mere  
23 indemnification against the cost of such services, except as  
24 otherwise authorized by Section 2-3 of this Act, on a per  
25 capita prepaid basis, through insurance or otherwise. A "health  
26 care plan" also includes any arrangement whereby an

1 organization undertakes to provide or arrange for or pay for or  
2 reimburse the cost of any health care service for persons who  
3 are enrolled under Article V of the Illinois Public Aid Code or  
4 under the Children's Health Insurance Program Act through  
5 providers selected by the organization and the arrangement  
6 consists of making provision for the delivery of health care  
7 services, as distinguished from mere indemnification. A  
8 "health care plan" also includes any arrangement pursuant to  
9 Section 4-17. Nothing in this definition, however, affects the  
10 total medical services available to persons eligible for  
11 medical assistance under the Illinois Public Aid Code.

12 (8) "Health care services" means any services included in  
13 the furnishing to any individual of medical or dental care, or  
14 the hospitalization or incident to the furnishing of such care  
15 or hospitalization as well as the furnishing to any person of  
16 any and all other services for the purpose of preventing,  
17 alleviating, curing or healing human illness or injury.

18 (9) "Health Maintenance Organization" means any  
19 organization formed under the laws of this or another state to  
20 provide or arrange for one or more health care plans under a  
21 system which causes any part of the risk of health care  
22 delivery to be borne by the organization or its providers.

23 (10) "Net worth" means admitted assets, as defined in  
24 Section 1-3 of this Act, minus liabilities.

25 (11) "Organization" means any domestic insurance company,  
26 a nonprofit corporation authorized under the Dental Service

1 Plan Act or the Voluntary Health Services Plans Act, or a  
2 corporation organized under the laws of this or another state  
3 for the purpose of operating one or more health care plans and  
4 doing no business other than that of a Health Maintenance  
5 Organization or an insurance company. "Organization" shall  
6 also mean the University of Illinois Hospital as defined in the  
7 University of Illinois Hospital Act or a unit of local  
8 government health system operating within a county with a  
9 population of 3,000,000 or more.

10 (12) "Provider" means any physician, hospital facility,  
11 facility licensed under the Nursing Home Care Act, or facility  
12 or long-term care facility as those terms are defined in the  
13 Nursing Home Care Act or other person which is licensed or  
14 otherwise authorized to furnish health care services and also  
15 includes any other entity that arranges for the delivery or  
16 furnishing of health care service.

17 (13) "Producer" means a person directly or indirectly  
18 associated with a health care plan who engages in solicitation  
19 or enrollment.

20 (14) "Per capita prepaid" means a basis of prepayment by  
21 which a fixed amount of money is prepaid per individual or any  
22 other enrollment unit to the Health Maintenance Organization or  
23 for health care services which are provided during a definite  
24 time period regardless of the frequency or extent of the  
25 services rendered by the Health Maintenance Organization,  
26 except for copayments and deductibles and except as provided in

1 subsection (f) of Section 5-3 of this Act.

2 (15) "Subscriber" means a person who has entered into a  
3 contractual relationship with the Health Maintenance  
4 Organization for the provision of or arrangement of at least  
5 basic health care services to the beneficiaries of such  
6 contract.

7 (Source: P.A. 98-651, eff. 6-16-14; 98-841, eff. 8-1-14; 99-78,  
8 eff. 7-20-15.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.