



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1723

Introduced 2/9/2017, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Insurance Industry Innovation Act. Creates the Innovation Division within the Department of Insurance to promote insurance product innovations. Provides that the Innovation Division shall be under the direction of the Deputy Director of the Innovation Division. Sets forth duties of the Deputy Director. Provides that an individual may petition the Department to waive or modify certain requirements in State statutes or Department rules related to an insurance innovation the individual offers or intends to offer. Provides that the petition shall demonstrate that the insurance innovation would serve the public interest, improve access to insurance products or services, and does not present systematic risk to the State and promotes consumer protection. Provides the process by which a petition is submitted to the Department and the process by which the Department may approve or reject the petition. Provides that, if the Department approves a petition, the person may enter into an enforceable compliance agreement with the Department, which includes the terms under which the insurance innovation may be offered. Provides that one year after the effective date, and annually thereafter, the Department shall report to the General Assembly on the aggregate impact of the enforceable compliance agreements. Provides that the Act is repealed on December 31, 2022. Effective January 1, 2018.

LRB100 09238 SMS 19394 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the  
5 Insurance Industry Innovation Act.

6 Section 5. Definitions. In this Act:

7 "Covered person" means a person that offers or intends to  
8 offer an insurance innovation by submitting a petition to the  
9 Department of Insurance.

10 "Department" means the Department of Insurance.

11 "Deputy Director" means the Deputy Director of the  
12 Innovation Division of the Department of Insurance.

13 "Director" means the Director of Insurance.

14 "Enforceable compliance agreement" means a contractual  
15 agreement described in subsection (a) of Section 20.

16 "Insurance innovation" means an innovative service or  
17 product that is or may be subject to regulation by the  
18 Department of Insurance.

19 "Innovation Division" means the Innovation Division in the  
20 Department of Insurance.

21 Section 10. Department identification of regulatory ideas.  
22 No later than 60 days after the effective date of this Act, and

1 annually thereafter, the Department shall publish on its  
2 website an exclusive list that identifies areas of existing  
3 regulation:

4 (1) that apply or may apply to an insurance innovation;  
5 and

6 (2) that the Department would consider modifying or  
7 waiving if the Department were to receive a petition under  
8 Section 20 relating to that regulation.

9 Section 15. Innovation Division.

10 (a) The Department shall establish an Innovation Division  
11 to promote insurance product innovations and to assist a  
12 covered person whose petition has been approved under Section  
13 25.

14 (b) The Director shall appoint an individual to serve as  
15 the Deputy Director of the Innovation Division.

16 (c) The duties of the Deputy Director shall include:

17 (1) supporting the Department in the development of  
18 insurance innovations; and

19 (2) establishing procedures to reduce the time and cost  
20 of offering an insurance innovation to the public and  
21 enable greater access to insurance innovations.

22 (d) With respect to a covered person whose petition has  
23 been approved under Section 25, the Insurance Division shall:

24 (1) work with the covered person to address issues of  
25 how existing regulatory frameworks apply to the insurance

1 innovation that is the subject of the petition;

2 (2) assist the covered person in complying with the  
3 requirements of State statutes of the insurance  
4 innovation; and

5 (3) assist the covered person in responding to any  
6 challenges to a modification or a waiver granted under  
7 subsection (e).

8 (e) With respect to a covered person whose petition has  
9 been approved under Section 20, if the Department has a  
10 rational basis for doing so and if the Department determines  
11 that a provision of a State statute under which the Department  
12 has rulemaking authority or a Department rule is burdensome to  
13 the covered person, the Department shall, acting through the  
14 Innovation Division, modify or waive the application of the  
15 State statute or the Department regulation.

16 (f) Not later than 90 days after the effective date of this  
17 Act, the Department shall modify any offices or programs at the  
18 Department that promote insurance innovations or assist  
19 covered persons in developing insurance innovations to operate  
20 within the Innovation Division. Any legal action or proceeding  
21 commenced by or against such office or program of the  
22 Department, including no-action letters and staff advisory  
23 opinions, shall be transferred to the Innovation Division.

24 (g) Not later than 6 months after the effective date of  
25 this Act, and annually thereafter, the Department shall submit  
26 a report to the General Assembly, and shall present testimony

1 to the General Assembly, on the activities of the Innovation  
2 Division, including a description of the petitions considered,  
3 the rationale for acceptance or rejection of petitions, and the  
4 efforts of the Innovation Division to encourage insurance  
5 innovations.

6 Section 20. Petition to the Department.

7 (a) A covered person may submit a petition to the  
8 Department, through the Innovation Division, in such form and  
9 in such manner as the Innovation Division may require, to  
10 request to enter into an enforceable compliance agreement  
11 containing a modification or waiver of a rule of the Department  
12 or State statutory requirement under which the Department has  
13 rulemaking authority with respect to the covered person or an  
14 insurance innovation the covered person offers or intends to  
15 offer.

16 (b) A petition submitted under this Section, shall:

17 (1) include an alternative compliance strategy that  
18 proposes a method to comply with the Department rule or  
19 State statutory requirement; and

20 (2) demonstrate that under the alternative compliance  
21 strategy, the insurance innovation:

22 (A) would serve the public interest;

23 (B) improves access to insurance products or  
24 services; and

25 (C) does not present systemic risk to the State and

1 promotes consumer protection.

2 (c) One or more covered persons that offers or intends to  
3 offer similar financial innovations may jointly submit a  
4 petition under this Section.

5 (d) During the period after a covered person submits a  
6 petition under this Section and before the Department makes a  
7 determination on the petition pursuant to Section 25, the  
8 Department may not take an enforcement action against a covered  
9 person relating to the insurance innovation that was the  
10 subject of the petition.

11 If the Department determines that an insurance innovation  
12 that a covered person has submitted presents an immediate  
13 danger to consumers or presents systemic risk to the State, the  
14 Department may prohibit a covered person from offering such  
15 financial innovation while the Department makes a  
16 determination on the petition.

17 (e) No later than 30 days after receiving a petition, the  
18 Department shall publish the petition on the Department's  
19 website and provide a 60-day period for public notice and  
20 comment.

21 The Department may waive the notice and comment period if  
22 the Department determines that the covered person submitting  
23 the petition is similarly situated to another covered person  
24 that has been granted approval of a petition pursuant to  
25 Section 25.

26 The Department shall maintain the confidentiality of any

1 nonpublicly available data or information in any petition  
2 submitted under this Section. The Department shall give  
3 reasonable consideration to maintaining the confidentiality of  
4 data or information identified by the covered person in the  
5 petition submitting under this Section as nonpublicly  
6 available data or information.

7 Section 25. Department determination of petition.

8 (a) No later than 30 days after the end of the comment  
9 period pursuant to subsection (e) of Section 20, or if the  
10 comment period was waived, not later than 60 days after receipt  
11 of a petition under Section 20, the Director shall complete a  
12 review of the petition and notify the covered person, in  
13 writing, of the Department's determination of the petition.

14 (b) If the covered person submitting the petition shows  
15 that it is more likely than not that the covered person meets  
16 the requirements for establishing an alternative compliance  
17 strategy, the Department shall:

18 (1) approve the petition; and

19 (2) enter into an enforceable compliance agreement  
20 with the covered person in accordance with the requirements  
21 of Section 30.

22 (c) If the Department rejects a petition, the Director  
23 shall provide the covered person with a written notice  
24 explaining the reason for rejecting the petition, including:

25 (1) evidence that the covered person did not satisfy

1 the requirements for establishing an alternative  
2 compliance strategy;

3 (2) an identification of the rules of the Department  
4 applicable to the covered person with respect to the  
5 insurance innovation; and

6 (3) a description of:

7 (A) any beneficial effects, including an  
8 identification of persons likely to benefit, from  
9 rejecting the petition;

10 (B) any potential costs, including an  
11 identification of persons likely to bear the costs, of  
12 rejecting the petition; and

13 (C) the baseline used by the Department to measure  
14 the likely economic consequences of rejecting the  
15 petition.

16 (d) No later than 90 days after receiving a notice of  
17 disapproval, a covered person may revise and resubmit a  
18 petition to the agency under Section 20.

19 (e) If the Department disapproves a petition submitted in  
20 good faith under this Section, the Department shall provide the  
21 covered person a reasonable amount of time before the  
22 Department takes an enforcement action against the covered  
23 person relating to the insurance innovation that was the  
24 subject of the petition.

25 Section 30. Enforceable compliance agreement.



1 (a) If the Department approves a petition under Section 25,  
2 the covered person may enter into an enforceable compliance  
3 agreement with the Department, which shall include the terms  
4 under which the covered person may develop or offer the  
5 approved insurance innovation to the public and any  
6 requirements of the covered person and the Department with  
7 respect to the insurance innovation.

8 (b) The Department, by rule, shall establish requirements  
9 relating to enforceable compliance agreements that include:

10 (1) procedures for modifying the terms of the  
11 agreement;

12 (2) consequences for failure to comply with the terms  
13 of the agreement;

14 (3) a compliance examination process that solicits  
15 feedback from other agencies on the agreement and occurs  
16 not less frequently than annually;

17 (4) a termination date for the agreement that is at  
18 least one year after the date on which the agreement is  
19 entered into;

20 (5) procedures for extending the termination date;

21 (6) procedures for judicial review; and

22 (7) procedures for maintaining the confidentiality of  
23 any information disclosed to the Department in making the  
24 agreement.

25 (c) If a covered person and the Department enter into an  
26 enforceable compliance agreement:

1           (1) another agency may not commence an enforcement  
2           action against the covered person with respect to the  
3           insurance innovation that is the subject of the enforceable  
4           compliance agreement; and

5           (2) a State agency may not commence an enforcement  
6           action against the covered person with respect to the  
7           insurance innovation that is the subject of the enforceable  
8           compliance agreement if the covered person provides the  
9           State agency with the enforcement compliance agreement and  
10          a statement of policies and procedures the covered person  
11          has in place to comply with State laws that are applicable  
12          to the financial innovation.

13          (d) Notwithstanding subsection (c) of this Section, the  
14          State may commence an enforcement action against a covered  
15          person with respect to an insurance innovation that is the  
16          subject of an enforceable compliance agreement if, in an action  
17          brought by the State in a court of competent jurisdiction, the  
18          court determines that the Department's action was arbitrary and  
19          capricious and the insurance innovation has substantially  
20          harmed consumers within the State.

21          (e) A covered person may elect to arbitrate any action  
22          initiated by another person relating to a financial innovation  
23          that is the subject of the enforceable compliance agreement.

24          Section 35. Report to the General Assembly. No later than  
25          one year after the effective date of this Act, and annually

1 thereafter, the Department shall submit to the General Assembly  
2 a report on the aggregate impact of enforceable compliance  
3 agreements entered into under this Act, which shall include:

4 (1) the number and characteristics of the agreements;

5 (2) the most innovative and least burdensome tools that  
6 the Innovation Division has implemented for achieving  
7 regulatory ends;

8 (3) the existing State laws, rules, or practices that  
9 the Department identifies as the most burdensome to  
10 innovation in developing or providing insurance products  
11 and services, that adversely affect competition in the  
12 insurance industry, or that restrict improvements for  
13 consumers of insurance products or services; and

14 (4) an identification of the overlap or fragmentation  
15 of regulation of financial products or services and  
16 recommendations for reducing, consolidating, or  
17 eliminating such overlap or fragmentation.

18 Section 40. Funding. The Department, by rule, shall  
19 establish the cost of each application for petition.

20 Section 45. Rulemaking authority. The Director may adopt  
21 reasonable rules as necessary to implement the purposes and  
22 provisions of this Act.

23 Section 50. Repeal. This Act is repealed on December 31,

1 2022.

2 Section 99. Effective date. This Act takes effect January  
3 1, 2018.