

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. If and only if Senate Bill 1737 of the 100th
5 General Assembly becomes law in the form in which it passed
6 both houses on May 31, 2018, then the Illinois Insurance Code
7 is amended by changing Sections 534.3 and 534.4 as follows:

8 (215 ILCS 5/534.3) (from Ch. 73, par. 1065.84-3)

9 Sec. 534.3. Covered claim; unearned premium defined.

10 (a) "Covered claim" means an unpaid claim for a loss
11 arising out of and within the coverage of an insurance policy
12 to which this Article applies and which is in force at the time
13 of the occurrence giving rise to the unpaid claim, including
14 claims presented during any extended discovery period which was
15 purchased from the company before the entry of a liquidation
16 order or which is purchased or obtained from the liquidator
17 after the entry of a liquidation order, made by a person
18 insured under such policy or by a person suffering injury or
19 damage for which a person insured under such policy is legally
20 liable, and for unearned premium, if:

21 (i) The company issuing, assuming, or being allocated
22 the policy becomes an insolvent company as defined in
23 Section 534.4 after the effective date of this Article; and

1 (ii) The claimant or insured is a resident of this
2 State at the time of the insured occurrence, or the
3 property from which a first party claim for damage to
4 property arises is permanently located in this State or, in
5 the case of an unearned premium claim, the policyholder is
6 a resident of this State at the time the policy was issued;
7 provided, that for entities other than an individual, the
8 residence of a claimant, insured, or policyholder is the
9 state in which its principal place of business is located
10 at the time of the insured event.

11 (b) "Covered claim" does not include:

12 (i) any amount in excess of the applicable limits of
13 liability provided by an insurance policy to which this
14 Article applies; nor

15 (ii) any claim for punitive or exemplary damages; nor

16 (iii) any first party claim by an insured who is an
17 affiliate of the insolvent company; nor

18 (iv) any first party or third party claim by or against
19 an insured whose net worth on December 31 of the year next
20 preceding the date the insurer becomes an insolvent insurer
21 exceeds \$25,000,000; provided that an insured's net worth
22 on such date shall be deemed to include the aggregate net
23 worth of the insured and all of its affiliates as
24 calculated on a consolidated basis. However, this
25 exclusion shall not apply to third party claims against the
26 insured where the insured has applied for or consented to

1 the appointment of a receiver, trustee, or liquidator for
2 all or a substantial part of its assets, filed a voluntary
3 petition in bankruptcy, filed a petition or an answer
4 seeking a reorganization or arrangement with creditors or
5 to take advantage of any insolvency law, or if an order,
6 judgment, or decree is entered by a court of competent
7 jurisdiction, on the application of a creditor,
8 adjudicating the insured bankrupt or insolvent or
9 approving a petition seeking reorganization of the insured
10 or of all or substantial part of its assets; nor

11 (v) any claim for any amount due any reinsurer,
12 insurer, insurance pool, or underwriting association as
13 subrogated recoveries, reinsurance recoverables,
14 contribution, indemnification or otherwise. No such claim
15 held by a reinsurer, insurer, insurance pool, or
16 underwriting association may be asserted in any legal
17 action against a person insured under a policy issued by an
18 insolvent company other than to the extent such claim
19 exceeds the Fund obligation limitations set forth in
20 Section 537.2 of this Code.

21 (c) "Unearned Premium" means the premium for the unexpired
22 period of a policy which has been terminated prior to the
23 expiration of the period for which premium has been paid and
24 does not mean premium which is returnable to the insured for
25 any other reason.

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

1 (215 ILCS 5/534.4) (from Ch. 73, par. 1065.84-4)

2 Sec. 534.4. "Insolvent company" means a company organized
3 as a stock company, mutual company, reciprocal or Lloyds (a)
4 which holds a certificate of authority to transact insurance in
5 this State either at the time the policy was issued or when the
6 insured event occurred, or any company which has assumed or has
7 been allocated such policy obligation through merger,
8 division, consolidation, or reinsurance, whether or not such
9 assuming company held a certificate of authority to transact
10 insurance in this State at the time such policy was issued or
11 when the insured event occurred; and (b) against which a final
12 Order of Liquidation with a finding of insolvency to which
13 there is no further right of appeal has been entered by a court
14 of competent jurisdiction in the company's State of domicile
15 after the effective date of this Article.

16 (Source: P.A. 90-499, eff. 8-19-97.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law or on the date Senate Bill 1737 of the 100th
19 General Assembly becomes law, whichever is later.