

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, 132.5, and 547 as follows:

6 (215 ILCS 5/131.22)

7 (Text of Section before amendment by P.A. 102-578)

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
11 or disclosed to the Director or any other person in the course
12 of an examination or investigation made pursuant to this
13 Article and all information reported or provided to the
14 Department pursuant to paragraphs (12) and (13) of Section
15 131.5 and Sections 131.13 through 131.21 shall be confidential
16 by law and privileged, shall not be subject to the Illinois
17 Freedom of Information Act, shall not be subject to subpoena,
18 and shall not be subject to discovery or admissible in
19 evidence in any private civil action. However, the Director is
20 authorized to use the documents, materials, or other
21 information in the furtherance of any regulatory or legal
22 action brought as a part of the Director's official duties.
23 The Director shall not otherwise make the documents,

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

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

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

20 (1) may share documents, materials, or other
21 information, including the confidential and privileged
22 documents, materials, or information subject to subsection
23 (a) of this Section, with other state, federal, and
24 international regulatory agencies, with the NAIC and its
25 affiliates and subsidiaries, and with third-party
26 consultants, and with state, federal, and international

1 law enforcement authorities and regulatory agencies,
2 including members of any supervisory college allowed by
3 this Article, provided that the recipient agrees in
4 writing to maintain the confidentiality and privileged
5 status of the document, material, or other information,
6 and has verified in writing the legal authority to
7 maintain confidentiality;

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

15 (1.7) notwithstanding paragraph (1) of this subsection
16 (c), may only share confidential and privileged documents,
17 material, or information reported pursuant to Section
18 131.14b with the Illinois Insurance Guaranty Fund
19 regarding any member company defined in Section 534.5 if
20 the member company has an authorized control level event
21 as defined in Section 35A-25; the Director may disclose
22 the information described in this subsection so long as
23 the Fund agrees in writing to hold that information
24 confidential, in a manner consistent with this Code, and
25 uses that information to prepare for the possible
26 liquidation of the member company; access to the

1 information disclosed by the Director to the Fund shall be
2 limited to the Fund's staff and its counsel; the board of
3 directors of the Fund may have access to the information
4 disclosed by the Director to the Fund once the member
5 company is subject to a delinquency proceeding under
6 Article XIII subject to any terms and conditions
7 established by the Director; and

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

21 (c-5) Written agreements with the NAIC or third-party
22 consultants governing sharing and use of information provided
23 pursuant to this Article consistent with this subsection (c)
24 shall:

25 (1) specify procedures and protocols regarding the
26 confidentiality and security of information shared with

1 the NAIC and its affiliates and subsidiaries or
2 third-party consultants pursuant to this Article,
3 including procedures and protocols for sharing by the NAIC
4 with other state, federal, or international regulators;

5 (2) specify that ownership of information shared with
6 the NAIC and its affiliates and subsidiaries or
7 third-party consultants pursuant to this Article remains
8 with the Director and the NAIC's or third-party
9 consultant's use of the information is subject to the
10 direction of the Director;

11 (3) require prompt notice to be given to a company
12 whose confidential information in the possession of the
13 NAIC or third-party consultant pursuant to this Article is
14 subject to a request or subpoena for disclosure or
15 production; and

16 (4) require the NAIC and its affiliates and
17 subsidiaries or third-party consultants to consent to
18 intervention by a company in any judicial or
19 administrative action in which the NAIC and its affiliates
20 and subsidiaries or third-party consultants may be
21 required to disclose confidential information about the
22 company shared with the NAIC and its affiliates and
23 subsidiaries or third-party consultants pursuant to this
24 Article.

25 (d) The sharing of documents, materials, or information by
26 the Director pursuant to this Article shall not constitute a

1 delegation of regulatory authority or rulemaking, and the
2 Director is solely responsible for the administration,
3 execution, and enforcement of the provisions of this Article.

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

9 (f) Documents, materials, or other information in the
10 possession or control of the NAIC or a third-party consultant
11 pursuant to this Article shall be confidential by law and
12 privileged, shall not be subject to the Illinois Freedom of
13 Information Act, shall not be subject to subpoena, and shall
14 not be subject to discovery or admissible in evidence in any
15 private civil action.

16 (Source: P.A. 102-394, eff. 8-16-21.)

17 (Text of Section after amendment by P.A. 102-578)

18 Sec. 131.22. Confidential treatment.

19 (a) Documents, materials, or other information in the
20 possession or control of the Department that are obtained by
21 or disclosed to the Director or any other person in the course
22 of an examination or investigation made pursuant to this
23 Article and all information reported or provided to the
24 Department pursuant to paragraphs (12) and (13) of Section
25 131.5 and Sections 131.13 through 131.21 are recognized by

1 this State as being proprietary and to contain trade secrets,
2 and shall be confidential by law and privileged, shall not be
3 subject to the Illinois Freedom of Information Act, shall not
4 be subject to subpoena, and shall not be subject to discovery
5 or admissible in evidence in any private civil action.
6 However, the Director is authorized to use the documents,
7 materials, or other information in the furtherance of any
8 regulatory or legal action brought as a part of the Director's
9 official duties. The Director shall not otherwise make the
10 documents, materials, or other information public without the
11 prior written consent of the company to which it pertains
12 unless the Director, after giving the company and its
13 affiliates who would be affected thereby prior written notice
14 and an opportunity to be heard, determines that the interest
15 of policyholders, shareholders, or the public shall be served
16 by the publication thereof, in which event the Director may
17 publish all or any part in such manner as may be deemed
18 appropriate.

19 (b) Neither the Director nor any person who received
20 documents, materials, or other information while acting under
21 the authority of the Director or with whom such documents,
22 materials, or other information are shared pursuant to this
23 Article shall be permitted or required to testify in any
24 private civil action concerning any confidential documents,
25 materials, or information subject to subsection (a) of this
26 Section.

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

3 (1) may share documents, materials, or other
4 information, including the confidential and privileged
5 documents, materials, or information subject to subsection
6 (a) of this Section, including proprietary and trade
7 secret documents and materials, with other state, federal,
8 and international regulatory agencies, with the NAIC and
9 its affiliates and subsidiaries, ~~and~~ with third-party
10 consultants, and with state, federal, and international
11 law enforcement authorities and regulatory agencies,
12 including members of any supervisory college allowed by
13 this Article, provided that the recipient agrees in
14 writing to maintain the confidentiality and privileged
15 status of the document, material, or other information,
16 and has verified in writing the legal authority to
17 maintain confidentiality;

18 (1.5) notwithstanding paragraph (1) of this subsection
19 (c), may only share confidential and privileged documents,
20 material, or information reported pursuant to subsection
21 (a) of Section 131.14b with commissioners of states having
22 statutes or regulations substantially similar to
23 subsection (a) of this Section and who have agreed in
24 writing not to disclose such information; ~~and~~

25 (1.7) notwithstanding paragraph (1) of this subsection
26 (c), may only share confidential and privileged documents,

1 material, or information reported pursuant to Section
2 131.14b with the Illinois Insurance Guaranty Fund
3 regarding any member company defined in Section 534.5 if
4 the member company has an authorized control level event
5 as defined in Section 35A-25; the Director may disclose
6 the information described in this subsection so long as
7 the Fund agrees in writing to hold that information
8 confidential, in a manner consistent with this Code, and
9 uses that information to prepare for the possible
10 liquidation of the member company; access to the
11 information disclosed by the Director to the Fund shall be
12 limited to the Fund's staff and its counsel; the board of
13 directors of the Fund may have access to the information
14 disclosed by the Director to the Fund once the member
15 company is subject to a delinquency proceeding under
16 Article XIII subject to any terms and conditions
17 established by the Director; and

18 (2) may receive documents, materials, or information,
19 including otherwise confidential and privileged documents,
20 materials, or information, including proprietary and trade
21 secret information, from the NAIC and its affiliates and
22 subsidiaries and from regulatory and law enforcement
23 officials of other foreign or domestic jurisdictions, and
24 shall maintain as confidential or privileged any document,
25 material, or information received with notice or the
26 understanding that it is confidential or privileged under

1 the laws of the jurisdiction that is the source of the
2 document, material, or information; any such documents,
3 materials, or information, while in the Director's
4 possession, shall not be subject to the Illinois Freedom
5 of Information Act and shall not be subject to subpoena.

6 ~~(b)blank).~~

7 (c-5) Written agreements with the NAIC or third-party
8 consultants governing sharing and use of information provided
9 pursuant to this Article consistent with subsection (c) shall:

10 (1) specify procedures and protocols regarding the
11 confidentiality and security of information shared with
12 the NAIC and its affiliates and subsidiaries or
13 third-party consultants pursuant to this Article,
14 including procedures and protocols for sharing by the NAIC
15 with other state, federal, or international regulators;
16 the agreement shall provide that the recipient agrees in
17 writing to maintain the confidentiality and privileged
18 status of the documents, materials, or other information
19 and has verified in writing the legal authority to
20 maintain such confidentiality;

21 (2) specify that ownership of information shared with
22 the NAIC and its affiliates and subsidiaries or
23 third-party consultants pursuant to this Article remains
24 with the Director and the NAIC's or third-party
25 consultant's use of the information is subject to the
26 direction of the Director;

1 (3) require prompt notice to be given to a company
2 whose confidential information in the possession of the
3 NAIC or third-party consultant pursuant to this Article is
4 subject to a request or subpoena for disclosure or
5 production;

6 (4) require the NAIC and its affiliates and
7 subsidiaries or third-party consultants to consent to
8 intervention by a company in any judicial or
9 administrative action in which the NAIC and its affiliates
10 and subsidiaries or third-party consultants may be
11 required to disclose confidential information about the
12 company shared with the NAIC and its affiliates and
13 subsidiaries or third-party consultants pursuant to this
14 Article; and

15 (5) excluding documents, material, or information
16 reported pursuant to subsection (c) of Section 131.14b,
17 prohibit the NAIC or third-party consultant from storing
18 the information shared pursuant to this Code in a
19 permanent database after the underlying analysis is
20 completed.

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

26 (e) No waiver of any applicable privilege or claim of

1 confidentiality in the documents, materials, or information
2 shall occur as a result of disclosure to the Director under
3 this Section or as a result of sharing as authorized in
4 subsection (c) of this Section.

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

12 (Source: P.A. 102-394, eff. 8-16-21; 102-578, eff. 12-31-22;
13 revised 9-22-21.)

14 (215 ILCS 5/132.5) (from Ch. 73, par. 744.5)

15 Sec. 132.5. Examination reports.

16 (a) General description. All examination reports shall be
17 comprised of only facts appearing upon the books, records, or
18 other documents of the company, its agents, or other persons
19 examined or as ascertained from the testimony of its officers,
20 agents, or other persons examined concerning its affairs and
21 the conclusions and recommendations as the examiners find
22 reasonably warranted from those facts.

23 (b) Filing of examination report. No later than 60 days
24 following completion of the examination, the examiner in
25 charge shall file with the Department a verified written

1 report of examination under oath. Upon receipt of the verified
2 report, the Department shall transmit the report to the
3 company examined, together with a notice that affords the
4 company examined a reasonable opportunity of not more than 30
5 days to make a written submission or rebuttal with respect to
6 any matters contained in the examination report.

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

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

20 (2) Rejecting the examination report with directions
21 to the examiners to reopen the examination for purposes of
22 obtaining additional data, documentation, or information
23 and refileing under subsection (b).

24 (3) Calling for an investigatory hearing with no less
25 than 20 days notice to the company for purposes of
26 obtaining additional documentation, data, information, and

1 testimony.

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

15 Any hearing conducted under paragraph (3) of subsection
16 (c) by the Director or an authorized representative shall be
17 conducted as a nonadversarial confidential investigatory
18 proceeding as necessary for the resolution of any
19 inconsistencies, discrepancies, or disputed issues apparent
20 upon the face of the filed examination report or raised by or
21 as a result of the Director's review of relevant work papers or
22 by the written submission or rebuttal of the company. Within
23 20 days of the conclusion of any hearing, the Director shall
24 enter an order under paragraph (1) of subsection (c).

25 The Director shall not appoint an examiner as an
26 authorized representative to conduct the hearing. The hearing

1 shall proceed expeditiously with discovery by the company
2 limited to the examiner's work papers that tend to
3 substantiate any assertions set forth in any written
4 submission or rebuttal. The Director or his representative may
5 issue subpoenas for the attendance of any witnesses or the
6 production of any documents deemed relevant to the
7 investigation, whether under the control of the Department,
8 the company, or other persons. The documents produced shall be
9 included in the record, and testimony taken by the Director or
10 his representative shall be under oath and preserved for the
11 record. Nothing contained in this Section shall require the
12 Department to disclose any information or records that would
13 indicate or show the existence or content of any investigation
14 or activity of a criminal justice agency.

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

23 (e) Publication and use. Upon the adoption of the
24 examination report under paragraph (1) of subsection (c), the
25 Director shall continue to hold the content of the examination
26 report as private and confidential information for a period of

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

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

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

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

1 receiving the information to provide to it the same
2 confidential treatment as required by this Section, unless the
3 prior written consent of the company to which it pertains has
4 been obtained.

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

7 (g) Disclosure. Nothing contained in this Code shall
8 prevent or be construed as prohibiting the Director from
9 disclosing the information described in subsections (e) and
10 (f) to the Illinois Insurance Guaranty Fund regarding any
11 member company defined in Section 534.5 if the member company
12 has an authorized control level event as defined in Section
13 35A-25. The Director may disclose the information described in
14 this subsection so long as the Fund agrees in writing to hold
15 that information confidential, in a manner consistent with
16 this Code, and uses that information to prepare for the
17 possible liquidation of the member company. Access to the
18 information disclosed by the Director to the Fund shall be
19 limited to the Fund's staff and its counsel. The Board of
20 Directors of the Fund may have access to the information
21 disclosed by the Director to the Fund once the member company
22 is subject to a delinquency proceeding under Article XIII
23 subject to any terms and conditions established by the
24 Director.

25 (Source: P.A. 100-475, eff. 1-1-18.)

1 (215 ILCS 5/547) (from Ch. 73, par. 1065.97)

2 Sec. 547. Prevention of insolvencies. To aid in the
3 detection and prevention of company insolvencies:

4 (a) The board of directors may, upon majority vote, make
5 recommendations to the Director on matters pertaining to
6 regulation for solvency.

7 (b) The board of directors may prepare a report on the
8 history and causes of any company insolvency in which the Fund
9 was obligated to pay covered claims, based on the information
10 available to the Fund, and submit such report to the Director.

11 (c) The Director may disclose to the Fund the information
12 described in subsection (g) of Section 132.5 as well as the
13 information described in subsection (c) of Section 131.22, and
14 the Fund may use that information to prepare for the possible
15 liquidation of a member company subject to the requirements
16 and restrictions set forth in Section 132.5.

17 (Source: P.A. 85-576.)

18 Section 95. No acceleration or delay. Where this Act makes
19 changes in a statute that is represented in this Act by text
20 that is not yet or no longer in effect (for example, a Section
21 represented by multiple versions), the use of that text does
22 not accelerate or delay the taking effect of (i) the changes
23 made by this Act or (ii) provisions derived from any other
24 Public Act.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.