

# SB3865



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3865

Introduced 1/21/2022, by Sen. Mike Simmons

### SYNOPSIS AS INTRODUCED:

See Index

Amends various Acts to make changes concerning references to noncitizen individuals and non-domestic entities. Effective immediately.

LRB102 24242 RJF 33473 b

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Notary Public Act is amended by  
5 changing Section 2-102 as follows:

6 (5 ILCS 312/2-102) (from Ch. 102, par. 202-102)

7 (Text of Section before amendment by P.A. 102-160)

8 Sec. 2-102. Application. Every applicant for appointment  
9 and commission as a notary shall complete an application in a  
10 format prescribed by the Secretary of State to be filed with  
11 the Secretary of State, stating:

12 (a) the applicant's official name, as it appears on  
13 his or her current driver's license or state-issued  
14 identification card;

15 (b) the county in which the applicant resides or, if  
16 the applicant is a resident of a state bordering Illinois,  
17 the county in Illinois in which that person's principal  
18 place of work or principal place of business is located;

19 (c) the applicant's residence address, as it appears  
20 on his or her current driver's license or state-issued  
21 identification card;

22 (c-5) the applicant's business address if different  
23 than the applicant's residence address, if performing

1 notarial acts constitutes any portion of the applicant's  
2 job duties;

3 (d) that the applicant has resided in the State of  
4 Illinois for 30 days preceding the application or that the  
5 applicant who is a resident of a state bordering Illinois  
6 has worked or maintained a business in Illinois for 30  
7 days preceding the application;

8 (e) that the applicant is a citizen of the United  
9 States or a noncitizen ~~an alien~~ lawfully admitted for  
10 permanent residence in the United States;

11 (f) the applicant's date of birth;

12 (g) that the applicant is able to read and write the  
13 English language;

14 (h) that the applicant has never been the holder of a  
15 notary public appointment that was revoked or suspended  
16 during the past 10 years;

17 (i) that the applicant has not been convicted of a  
18 felony;

19 (i-5) that the applicant's signature authorizes the  
20 Office of the Secretary of State to conduct a verification  
21 to confirm the information provided in the application,  
22 including a criminal background check of the applicant, if  
23 necessary; and

24 (j) any other information the Secretary of State deems  
25 necessary.

26 (Source: P.A. 99-112, eff. 1-1-16; 100-809, eff. 1-1-19.)

1 (Text of Section after amendment by P.A. 102-160)

2 Sec. 2-102. Application.

3 (a) Application for notary public commission. Every  
4 applicant for appointment and commission as a notary shall  
5 complete an application in a format prescribed by the  
6 Secretary of State to be filed with the Secretary of State,  
7 stating:

8 (1) the applicant's official name, as it appears on  
9 his or her current driver's license or state-issued  
10 identification card;

11 (2) the county in which the applicant resides or, if  
12 the applicant is a resident of a state bordering Illinois,  
13 the county in Illinois in which that person's principal  
14 place of work or principal place of business is located;

15 (3) the applicant's residence address, as it appears  
16 on his or her current driver's license or state-issued  
17 identification card;

18 (4) the applicant's e-mail address;

19 (5) the applicant's business address if different than  
20 the applicant's residence address, if performing notarial  
21 acts constitutes any portion of the applicant's job  
22 duties;

23 (6) that the applicant has resided in the State of  
24 Illinois for 30 days preceding the application or that the  
25 applicant who is a resident of a state bordering Illinois

1 has worked or maintained a business in Illinois for 30  
2 days preceding the application;

3 (7) that the applicant is a citizen of the United  
4 States or lawfully admitted for permanent residence in the  
5 United States;

6 (8) the applicant's date of birth;

7 (9) that the applicant is proficient in the ~~the~~  
8 English language;

9 (10) that the applicant has not had a prior  
10 application or commission revoked due to a finding or  
11 decision by the Secretary of State;

12 (11) that the applicant has not been convicted of a  
13 felony;

14 (12) that the applicant's signature authorizes the  
15 Office of the Secretary of State to conduct a verification  
16 to confirm the information provided in the application,  
17 including a criminal background check of the applicant, if  
18 necessary;

19 (13) that the applicant has provided satisfactory  
20 proof to the Secretary of State that the applicant has  
21 successfully completed any required course of study on  
22 notarization; and

23 (14) any other information the Secretary of State  
24 deems necessary.

25 (b) Any notary appointed under subsection (a) shall have  
26 the authority to conduct remote notarizations.

1 (c) Application for electronic notary public commission.  
2 An application for an electronic notary public commission must  
3 be filed with the Secretary of State in a manner prescribed by  
4 the Secretary of State. Every applicant for appointment and  
5 commission as an electronic notary public shall complete an  
6 application to be filed with the Secretary of State, stating:

7 (1) all information required to be included in an  
8 application for appointment as an electronic notary  
9 public, as provided under subsection (a);

10 (2) that the applicant is commissioned as a notary  
11 public under this Act;

12 (3) the applicant's email address;

13 (4) that the applicant has provided satisfactory proof  
14 to the Secretary of State that the applicant has  
15 successfully completed any required course of study on  
16 electronic notarization and passed a qualifying  
17 examination;

18 (5) a description of the technology or device that the  
19 applicant intends to use to create his or her electronic  
20 signature in performing electronic notarial acts;

21 (6) the electronic signature of the applicant; and

22 (7) any other information the Secretary of State deems  
23 necessary.

24 (d) Electronic notarial acts. Before an electronic notary  
25 public performs an electronic notarial act using audio-video  
26 communication, he or she must be granted an electronic notary

1 public commission by the Secretary of State under this  
2 Section, and identify the technology that the electronic  
3 notary public intends to use, which must be approved by the  
4 Secretary of State.

5 (e) Approval of commission. Upon the applicant's  
6 fulfillment of the requirements for a notarial commission or  
7 an electronic notary public commission, the Secretary of State  
8 shall approve the commission and issue to the applicant a  
9 unique commission number.

10 (f) Rejection of application. The Secretary of State may  
11 reject an application for a notarial commission or an  
12 electronic notary public commission if the applicant fails to  
13 comply with any Section of this Act.

14 (Source: P.A. 102-160 (See Section 99 of P.A. 102-160 for  
15 effective date of P.A. 102-160).)

16 Section 10. The Illinois TRUST Act is amended by changing  
17 Section 10 as follows:

18 (5 ILCS 805/10)

19 Sec. 10. Definitions. In this Act:

20 "Citizenship or immigration status" means all matters  
21 regarding citizenship of the United States or any other  
22 country or the authority to reside in or otherwise be present  
23 in the United States.

24 "Civil immigration warrant" means any document that is not

1 approved or ordered by a judge that can form the basis for an  
2 individual's arrest or detention for a civil immigration  
3 enforcement purpose. "Civil immigration warrant" includes Form  
4 I-200 ~~"Warrant for the Arrest of Alien"~~, Form I-203 ~~"Order to~~  
5 ~~Detain or Release Alien"~~, Form I-205 "Warrant of  
6 Removal/Deportation", Form I-286 "Notice of Custody  
7 Determination", any predecessor or successor form, and all  
8 warrants, hits, or requests contained in the "Immigration  
9 Violator File" of the FBI's National Crime Information Center  
10 (NCIC) database. "Civil immigration warrant" does not include  
11 any criminal warrant.

12 "Contact information" means home address, work address,  
13 telephone number, electronic mail address, social media  
14 information, or any other personal identifying information  
15 that could be used as a means to contact an individual.

16 "Immigration agent" means an agent of federal Immigration  
17 and Customs Enforcement, federal Customs and Border  
18 Protection, or any similar or successor agency.

19 "Immigration detainer" means a request to a State or local  
20 law enforcement agency to provide notice of release or  
21 maintain custody of an individual based on an alleged  
22 violation of a civil immigration law, including detainers  
23 issued under Sections 1226 or 1357 of Title 8 of the United  
24 States Code or 287.7 or 236.1 of Title 8 of the Code of Federal  
25 Regulations. "Immigration detainer" includes Form I-247A  
26 "Immigration Detainer - Notice of Action" and any predecessor



1 or successor form.

2 "Law enforcement agency" means an agency of the State or  
3 of a unit of local government charged with enforcement of  
4 State, county, or municipal laws or with managing custody of  
5 detained persons in the State.

6 "Law enforcement official" means any individual with the  
7 power to arrest or detain individuals, including law  
8 enforcement officers, corrections officer, and others employed  
9 or designated by a law enforcement agency. "Law enforcement  
10 official" includes any probation officer.

11 (Source: P.A. 102-234, eff. 8-2-21.)

12 Section 15. The Department of Commerce and Economic  
13 Opportunity Law of the Civil Administrative Code of Illinois  
14 is amended by changing Section 605-800 as follows:

15 (20 ILCS 605/605-800) (was 20 ILCS 605/46.19a in part)

16 Sec. 605-800. Training grants for skills in critical  
17 demand.

18 (a) Grants to provide training in fields affected by  
19 critical demands for certain skills may be made as provided in  
20 this Section.

21 (b) The Director may make grants to eligible employers or  
22 to other eligible entities on behalf of employers as  
23 authorized in subsection (c) to provide training for employees  
24 in fields for which there are critical demands for certain

1 skills. No participating employee may be an unauthorized  
2 noncitizen (a person that is not lawfully admitted for  
3 permanent residence) alien, as defined in 8 U.S.C. 1324a.

4 (c) The Director may accept applications for training  
5 grant funds and grant requests from: (i) entities sponsoring  
6 multi-company eligible employee training projects as defined  
7 in subsection (d), including business associations, strategic  
8 business partnerships, institutions of secondary or higher  
9 education, large manufacturers for supplier network companies,  
10 federal Job Training Partnership Act administrative entities  
11 or grant recipients, and labor organizations when those  
12 projects will address common training needs identified by  
13 participating companies; and (ii) individual employers that  
14 are undertaking eligible employee training projects as defined  
15 in subsection (d), including intermediaries and training  
16 agents.

17 (d) The Director may make grants to eligible applicants as  
18 defined in subsection (c) for employee training projects that  
19 include, but need not be limited to, one or more of the  
20 following:

21 (1) Training programs in response to new or changing  
22 technology being introduced in the workplace.

23 (2) Job-linked training that offers special skills for  
24 career advancement or that is preparatory for, and leads  
25 directly to, jobs with definite career potential and  
26 long-term job security.

1           (3) Training necessary to implement total quality  
2 management or improvement or both management and  
3 improvement systems within the workplace.

4           (4) Training related to new machinery or equipment.

5           (5) Training of employees of companies that are  
6 expanding into new markets or expanding exports from  
7 Illinois.

8           (6) Basic, remedial, or both basic and remedial  
9 training of employees as a prerequisite for other  
10 vocational or technical skills training or as a condition  
11 for sustained employment.

12           (7) Self-employment training of the unemployed and  
13 underemployed with comprehensive, competency-based  
14 instructional programs and services, entrepreneurial  
15 education and training initiatives for youth and adult  
16 learners in cooperation with the Illinois Institute for  
17 Entrepreneurial Education, training and education,  
18 conferences, workshops, and best practice information for  
19 local program operators of entrepreneurial education and  
20 self-employment training programs.

21           (8) Other training activities or projects, or both  
22 training activities and projects, related to the support,  
23 development, or evaluation of job training programs,  
24 activities, and delivery systems, including training needs  
25 assessment and design.

26           (e) Grants shall be made on the terms and conditions that

1 the Department shall determine. No grant made under subsection  
2 (d), however, shall exceed 50% of the direct costs of all  
3 approved training programs provided by the employer or the  
4 employer's training agent or other entity as defined in  
5 subsection (c). Under this Section, allowable costs include,  
6 but are not limited to:

7 (1) Administrative costs of tracking, documenting,  
8 reporting, and processing training funds or project costs.

9 (2) Curriculum development.

10 (3) Wages and fringe benefits of employees.

11 (4) Training materials, including scrap product costs.

12 (5) Trainee travel expenses.

13 (6) Instructor costs, including wages, fringe  
14 benefits, tuition, and travel expenses.

15 (7) Rent, purchase, or lease of training equipment.

16 (8) Other usual and customary training costs.

17 (f) The Department may conduct on-site grant monitoring  
18 visits to verify trainee employment dates and wages and to  
19 ensure that the grantee's financial management system is  
20 structured to provide for accurate, current, and complete  
21 disclosure of the financial results of the grant program in  
22 accordance with all provisions, terms, and conditions  
23 contained in the grant contract. Each applicant must, on  
24 request by the Department, provide to the Department a  
25 notarized certification signed and dated by a duly authorized  
26 representative of the applicant, or that representative's

1 authorized designee, certifying that all participating  
2 employees are employed at an Illinois facility and, for each  
3 participating employee, stating the employee's name and  
4 providing either (i) the employee's social security number or  
5 (ii) a statement that the applicant has adequate written  
6 verification that the employee is employed at an Illinois  
7 facility. The Department may audit the accuracy of  
8 submissions. Applicants sponsoring multi-company training  
9 grant programs shall obtain information meeting the  
10 requirement of this subsection from each participating company  
11 and provide it to the Department upon request.

12 (g) The Director may establish and collect a schedule of  
13 charges from subgrantee entities and other system users under  
14 federal job-training programs for participating in and  
15 utilizing the Department's automated job-training program  
16 information systems if the systems and the necessary  
17 participation and utilization are requirements of the federal  
18 job-training programs. All monies collected pursuant to this  
19 subsection shall be deposited into the Federal Workforce  
20 Training Fund and may be used, subject to appropriation by the  
21 General Assembly, only for the purpose of financing the  
22 maintenance and operation of the automated federal  
23 job-training information systems.

24 (Source: P.A. 99-933, eff. 1-27-17.)

25 Section 20. The Illinois Guaranteed Job Opportunity Act is

1 amended by changing Section 25 as follows:

2 (20 ILCS 1510/25)

3 Sec. 25. Program eligibility.

4 (a) General Rule. An individual is eligible to participate  
5 in the job projects assisted under this Act if the individual:

6 (1) is at least 16 years of age;

7 (2) has resided in the eligible area for at least 30  
8 days;

9 (3) has been unemployed for 35 days prior to the  
10 determination of employment for job projects assisted  
11 under this Act;

12 (4) is a citizen of the United States, is a national of  
13 the United States, is a lawfully admitted permanent  
14 resident noncitizen ~~alien~~, is a lawfully admitted refugee  
15 or parolee, or is otherwise authorized by the United  
16 States Attorney General to work in the United States; and

17 (5) is a recipient of assistance under Article IV of  
18 the Illinois Public Aid Code.

19 (b) Limitations.

20 (1) (Blank).

21 (2) (Blank).

22 (3) No individual participating in the job opportunity  
23 project assisted under this Act may work in any  
24 compensated job other than the job assisted under this Act  
25 for more than 20 hours per week.

1           (4) Individuals participating under this Act shall  
2 seek employment during the period of employment assisted  
3 under this Act.

4           (5) Any individual eligible for retirement benefits  
5 under the Social Security Act, under any retirement system  
6 for Federal Government employees, under the railroad  
7 retirement system, under the military retirement system,  
8 under a State or local government pension plan or  
9 retirement system, or any private pension program is not  
10 eligible to receive a job under a job project assisted  
11 under this Act.

12 (Source: P.A. 93-46, eff. 7-1-03.)

13           Section 25. The Illinois Income Tax Act is amended by  
14 changing Section 1501 as follows:

15           (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

16           Sec. 1501. Definitions.

17           (a) In general. When used in this Act, where not otherwise  
18 distinctly expressed or manifestly incompatible with the  
19 intent thereof:

20           (1) Business income. The term "business income" means  
21 all income that may be treated as apportionable business  
22 income under the Constitution of the United States.  
23 Business income is net of the deductions allocable  
24 thereto. Such term does not include compensation or the

1       deductions allocable thereto. For each taxable year  
2       beginning on or after January 1, 2003, a taxpayer may  
3       elect to treat all income other than compensation as  
4       business income. This election shall be made in accordance  
5       with rules adopted by the Department and, once made, shall  
6       be irrevocable.

7           (1.5) Captive real estate investment trust:

8           (A) The term "captive real estate investment  
9       trust" means a corporation, trust, or association:

10           (i) that is considered a real estate  
11       investment trust for the taxable year under  
12       Section 856 of the Internal Revenue Code;

13           (ii) the certificates of beneficial interest  
14       or shares of which are not regularly traded on an  
15       established securities market; and

16           (iii) of which more than 50% of the voting  
17       power or value of the beneficial interest or  
18       shares, at any time during the last half of the  
19       taxable year, is owned or controlled, directly,  
20       indirectly, or constructively, by a single  
21       corporation.

22           (B) The term "captive real estate investment  
23       trust" does not include:

24           (i) a real estate investment trust of which  
25       more than 50% of the voting power or value of the  
26       beneficial interest or shares is owned or



1 controlled, directly, indirectly, or  
2 constructively, by:

3 (a) a real estate investment trust, other  
4 than a captive real estate investment trust;

5 (b) a person who is exempt from taxation  
6 under Section 501 of the Internal Revenue  
7 Code, and who is not required to treat income  
8 received from the real estate investment trust  
9 as unrelated business taxable income under  
10 Section 512 of the Internal Revenue Code;

11 (c) a listed Australian property trust, if  
12 no more than 50% of the voting power or value  
13 of the beneficial interest or shares of that  
14 trust, at any time during the last half of the  
15 taxable year, is owned or controlled, directly  
16 or indirectly, by a single person;

17 (d) an entity organized as a trust,  
18 provided a listed Australian property trust  
19 described in subparagraph (c) owns or  
20 controls, directly or indirectly, or  
21 constructively, 75% or more of the voting  
22 power or value of the beneficial interests or  
23 shares of such entity; or

24 (e) an entity that is organized outside of  
25 the laws of the United States and that  
26 satisfies all of the following criteria:

1 (1) at least 75% of the entity's total  
2 asset value at the close of its taxable  
3 year is represented by real estate assets  
4 (as defined in Section 856(c)(5)(B) of the  
5 Internal Revenue Code, thereby including  
6 shares or certificates of beneficial  
7 interest in any real estate investment  
8 trust), cash and cash equivalents, and  
9 U.S. Government securities;

10 (2) the entity is not subject to tax  
11 on amounts that are distributed to its  
12 beneficial owners or is exempt from  
13 entity-level taxation;

14 (3) the entity distributes at least  
15 85% of its taxable income (as computed in  
16 the jurisdiction in which it is organized)  
17 to the holders of its shares or  
18 certificates of beneficial interest on an  
19 annual basis;

20 (4) either (i) the shares or  
21 beneficial interests of the entity are  
22 regularly traded on an established  
23 securities market or (ii) not more than  
24 10% of the voting power or value in the  
25 entity is held, directly, indirectly, or  
26 constructively, by a single entity or

1 individual; and

2 (5) the entity is organized in a  
3 country that has entered into a tax treaty  
4 with the United States; or

5 (ii) during its first taxable year for which  
6 it elects to be treated as a real estate  
7 investment trust under Section 856(c)(1) of the  
8 Internal Revenue Code, a real estate investment  
9 trust the certificates of beneficial interest or  
10 shares of which are not regularly traded on an  
11 established securities market, but only if the  
12 certificates of beneficial interest or shares of  
13 the real estate investment trust are regularly  
14 traded on an established securities market prior  
15 to the earlier of the due date (including  
16 extensions) for filing its return under this Act  
17 for that first taxable year or the date it  
18 actually files that return.

19 (C) For the purposes of this subsection (1.5), the  
20 constructive ownership rules prescribed under Section  
21 318(a) of the Internal Revenue Code, as modified by  
22 Section 856(d)(5) of the Internal Revenue Code, apply  
23 in determining the ownership of stock, assets, or net  
24 profits of any person.

25 (D) For the purposes of this item (1.5), for  
26 taxable years ending on or after August 16, 2007, the

1 voting power or value of the beneficial interest or  
2 shares of a real estate investment trust does not  
3 include any voting power or value of beneficial  
4 interest or shares in a real estate investment trust  
5 held directly or indirectly in a segregated asset  
6 account by a life insurance company (as described in  
7 Section 817 of the Internal Revenue Code) to the  
8 extent such voting power or value is for the benefit of  
9 entities or persons who are either immune from  
10 taxation or exempt from taxation under subtitle A of  
11 the Internal Revenue Code.

12 (2) Commercial domicile. The term "commercial  
13 domicile" means the principal place from which the trade  
14 or business of the taxpayer is directed or managed.

15 (3) Compensation. The term "compensation" means wages,  
16 salaries, commissions and any other form of remuneration  
17 paid to employees for personal services.

18 (4) Corporation. The term "corporation" includes  
19 associations, joint-stock companies, insurance companies  
20 and cooperatives. Any entity, including a limited  
21 liability company formed under the Illinois Limited  
22 Liability Company Act, shall be treated as a corporation  
23 if it is so classified for federal income tax purposes.

24 (5) Department. The term "Department" means the  
25 Department of Revenue of this State.

26 (6) Director. The term "Director" means the Director

1 of Revenue of this State.

2 (7) Fiduciary. The term "fiduciary" means a guardian,  
3 trustee, executor, administrator, receiver, or any person  
4 acting in any fiduciary capacity for any person.

5 (8) Financial organization.

6 (A) The term "financial organization" means any  
7 bank, bank holding company, trust company, savings  
8 bank, industrial bank, land bank, safe deposit  
9 company, private banker, savings and loan association,  
10 building and loan association, credit union, currency  
11 exchange, cooperative bank, small loan company, sales  
12 finance company, investment company, or any person  
13 which is owned by a bank or bank holding company. For  
14 the purpose of this Section a "person" will include  
15 only those persons which a bank holding company may  
16 acquire and hold an interest in, directly or  
17 indirectly, under the provisions of the Bank Holding  
18 Company Act of 1956 (12 U.S.C. 1841, et seq.), except  
19 where interests in any person must be disposed of  
20 within certain required time limits under the Bank  
21 Holding Company Act of 1956.

22 (B) For purposes of subparagraph (A) of this  
23 paragraph, the term "bank" includes (i) any entity  
24 that is regulated by the Comptroller of the Currency  
25 under the National Bank Act, or by the Federal Reserve  
26 Board, or by the Federal Deposit Insurance Corporation

1 and (ii) any federally or State chartered bank  
2 operating as a credit card bank.

3 (C) For purposes of subparagraph (A) of this  
4 paragraph, the term "sales finance company" has the  
5 meaning provided in the following item (i) or (ii):

6 (i) A person primarily engaged in one or more  
7 of the following businesses: the business of  
8 purchasing customer receivables, the business of  
9 making loans upon the security of customer  
10 receivables, the business of making loans for the  
11 express purpose of funding purchases of tangible  
12 personal property or services by the borrower, or  
13 the business of finance leasing. For purposes of  
14 this item (i), "customer receivable" means:

15 (a) a retail installment contract or  
16 retail charge agreement within the meaning of  
17 the Sales Finance Agency Act, the Retail  
18 Installment Sales Act, or the Motor Vehicle  
19 Retail Installment Sales Act;

20 (b) an installment, charge, credit, or  
21 similar contract or agreement arising from the  
22 sale of tangible personal property or services  
23 in a transaction involving a deferred payment  
24 price payable in one or more installments  
25 subsequent to the sale; or

26 (c) the outstanding balance of a contract

1           or agreement described in provisions (a) or  
2           (b) of this item (i).

3           A customer receivable need not provide for  
4           payment of interest on deferred payments. A sales  
5           finance company may purchase a customer receivable  
6           from, or make a loan secured by a customer  
7           receivable to, the seller in the original  
8           transaction or to a person who purchased the  
9           customer receivable directly or indirectly from  
10          that seller.

11          (ii) A corporation meeting each of the  
12          following criteria:

13               (a) the corporation must be a member of an  
14               "affiliated group" within the meaning of  
15               Section 1504(a) of the Internal Revenue Code,  
16               determined without regard to Section 1504(b)  
17               of the Internal Revenue Code;

18               (b) more than 50% of the gross income of  
19               the corporation for the taxable year must be  
20               interest income derived from qualifying loans.  
21               A "qualifying loan" is a loan made to a member  
22               of the corporation's affiliated group that  
23               originates customer receivables (within the  
24               meaning of item (i)) or to whom customer  
25               receivables originated by a member of the  
26               affiliated group have been transferred, to the

1 extent the average outstanding balance of  
2 loans from that corporation to members of its  
3 affiliated group during the taxable year do  
4 not exceed the limitation amount for that  
5 corporation. The "limitation amount" for a  
6 corporation is the average outstanding  
7 balances during the taxable year of customer  
8 receivables (within the meaning of item (i))  
9 originated by all members of the affiliated  
10 group. If the average outstanding balances of  
11 the loans made by a corporation to members of  
12 its affiliated group exceed the limitation  
13 amount, the interest income of that  
14 corporation from qualifying loans shall be  
15 equal to its interest income from loans to  
16 members of its affiliated groups times a  
17 fraction equal to the limitation amount  
18 divided by the average outstanding balances of  
19 the loans made by that corporation to members  
20 of its affiliated group;

21 (c) the total of all shareholder's equity  
22 (including, without limitation, paid-in  
23 capital on common and preferred stock and  
24 retained earnings) of the corporation plus the  
25 total of all of its loans, advances, and other  
26 obligations payable or owed to members of its



1 affiliated group may not exceed 20% of the  
2 total assets of the corporation at any time  
3 during the tax year; and

4 (d) more than 50% of all interest-bearing  
5 obligations of the affiliated group payable to  
6 persons outside the group determined in  
7 accordance with generally accepted accounting  
8 principles must be obligations of the  
9 corporation.

10 This amendatory Act of the 91st General Assembly  
11 is declaratory of existing law.

12 (D) Subparagraphs (B) and (C) of this paragraph  
13 are declaratory of existing law and apply  
14 retroactively, for all tax years beginning on or  
15 before December 31, 1996, to all original returns, to  
16 all amended returns filed no later than 30 days after  
17 the effective date of this amendatory Act of 1996, and  
18 to all notices issued on or before the effective date  
19 of this amendatory Act of 1996 under subsection (a) of  
20 Section 903, subsection (a) of Section 904, subsection  
21 (e) of Section 909, or Section 912. A taxpayer that is  
22 a "financial organization" that engages in any  
23 transaction with an affiliate shall be a "financial  
24 organization" for all purposes of this Act.

25 (E) For all tax years beginning on or before  
26 December 31, 1996, a taxpayer that falls within the

1 definition of a "financial organization" under  
2 subparagraphs (B) or (C) of this paragraph, but who  
3 does not fall within the definition of a "financial  
4 organization" under the Proposed Regulations issued by  
5 the Department of Revenue on July 19, 1996, may  
6 irrevocably elect to apply the Proposed Regulations  
7 for all of those years as though the Proposed  
8 Regulations had been lawfully promulgated, adopted,  
9 and in effect for all of those years. For purposes of  
10 applying subparagraphs (B) or (C) of this paragraph to  
11 all of those years, the election allowed by this  
12 subparagraph applies only to the taxpayer making the  
13 election and to those members of the taxpayer's  
14 unitary business group who are ordinarily required to  
15 apportion business income under the same subsection of  
16 Section 304 of this Act as the taxpayer making the  
17 election. No election allowed by this subparagraph  
18 shall be made under a claim filed under subsection (d)  
19 of Section 909 more than 30 days after the effective  
20 date of this amendatory Act of 1996.

21 (F) Finance Leases. For purposes of this  
22 subsection, a finance lease shall be treated as a loan  
23 or other extension of credit, rather than as a lease,  
24 regardless of how the transaction is characterized for  
25 any other purpose, including the purposes of any  
26 regulatory agency to which the lessor is subject. A

1 finance lease is any transaction in the form of a lease  
2 in which the lessee is treated as the owner of the  
3 leased asset entitled to any deduction for  
4 depreciation allowed under Section 167 of the Internal  
5 Revenue Code.

6 (9) Fiscal year. The term "fiscal year" means an  
7 accounting period of 12 months ending on the last day of  
8 any month other than December.

9 (9.5) Fixed place of business. The term "fixed place  
10 of business" has the same meaning as that term is given in  
11 Section 864 of the Internal Revenue Code and the related  
12 Treasury regulations.

13 (10) Includes and including. The terms "includes" and  
14 "including" when used in a definition contained in this  
15 Act shall not be deemed to exclude other things otherwise  
16 within the meaning of the term defined.

17 (11) Internal Revenue Code. The term "Internal Revenue  
18 Code" means the United States Internal Revenue Code of  
19 1954 or any successor law or laws relating to federal  
20 income taxes in effect for the taxable year.

21 (11.5) Investment partnership.

22 (A) The term "investment partnership" means any  
23 entity that is treated as a partnership for federal  
24 income tax purposes that meets the following  
25 requirements:

26 (i) no less than 90% of the partnership's cost

1 of its total assets consists of qualifying  
2 investment securities, deposits at banks or other  
3 financial institutions, and office space and  
4 equipment reasonably necessary to carry on its  
5 activities as an investment partnership;

6 (ii) no less than 90% of its gross income  
7 consists of interest, dividends, and gains from  
8 the sale or exchange of qualifying investment  
9 securities; and

10 (iii) the partnership is not a dealer in  
11 qualifying investment securities.

12 (B) For purposes of this paragraph (11.5), the  
13 term "qualifying investment securities" includes all  
14 of the following:

15 (i) common stock, including preferred or debt  
16 securities convertible into common stock, and  
17 preferred stock;

18 (ii) bonds, debentures, and other debt  
19 securities;

20 (iii) foreign and domestic currency deposits  
21 secured by federal, state, or local governmental  
22 agencies;

23 (iv) mortgage or asset-backed securities  
24 secured by federal, state, or local governmental  
25 agencies;

26 (v) repurchase agreements and loan

1 participations;

2 (vi) foreign currency exchange contracts and  
3 forward and futures contracts on foreign  
4 currencies;

5 (vii) stock and bond index securities and  
6 futures contracts and other similar financial  
7 securities and futures contracts on those  
8 securities;

9 (viii) options for the purchase or sale of any  
10 of the securities, currencies, contracts, or  
11 financial instruments described in items (i) to  
12 (vii), inclusive;

13 (ix) regulated futures contracts;

14 (x) commodities (not described in Section  
15 1221(a)(1) of the Internal Revenue Code) or  
16 futures, forwards, and options with respect to  
17 such commodities, provided, however, that any item  
18 of a physical commodity to which title is actually  
19 acquired in the partnership's capacity as a dealer  
20 in such commodity shall not be a qualifying  
21 investment security;

22 (xi) derivatives; and

23 (xii) a partnership interest in another  
24 partnership that is an investment partnership.

25 (12) Mathematical error. The term "mathematical error"  
26 includes the following types of errors, omissions, or

1 defects in a return filed by a taxpayer which prevents  
2 acceptance of the return as filed for processing:

3 (A) arithmetic errors or incorrect computations on  
4 the return or supporting schedules;

5 (B) entries on the wrong lines;

6 (C) omission of required supporting forms or  
7 schedules or the omission of the information in whole  
8 or in part called for thereon; and

9 (D) an attempt to claim, exclude, deduct, or  
10 improperly report, in a manner directly contrary to  
11 the provisions of the Act and regulations thereunder  
12 any item of income, exemption, deduction, or credit.

13 (13) Nonbusiness income. The term "nonbusiness income"  
14 means all income other than business income or  
15 compensation.

16 (14) Nonresident. The term "nonresident" means a  
17 person who is not a resident.

18 (15) Paid, incurred and accrued. The terms "paid",  
19 "incurred" and "accrued" shall be construed according to  
20 the method of accounting upon the basis of which the  
21 person's base income is computed under this Act.

22 (16) Partnership and partner. The term "partnership"  
23 includes a syndicate, group, pool, joint venture or other  
24 unincorporated organization, through or by means of which  
25 any business, financial operation, or venture is carried  
26 on, and which is not, within the meaning of this Act, a

1 trust or estate or a corporation; and the term "partner"  
2 includes a member in such syndicate, group, pool, joint  
3 venture or organization.

4 The term "partnership" includes any entity, including  
5 a limited liability company formed under the Illinois  
6 Limited Liability Company Act, classified as a partnership  
7 for federal income tax purposes.

8 The term "partnership" does not include a syndicate,  
9 group, pool, joint venture, or other unincorporated  
10 organization established for the sole purpose of playing  
11 the Illinois State Lottery.

12 (17) Part-year resident. The term "part-year resident"  
13 means an individual who became a resident during the  
14 taxable year or ceased to be a resident during the taxable  
15 year. Under Section 1501(a)(20)(A)(i) residence commences  
16 with presence in this State for other than a temporary or  
17 transitory purpose and ceases with absence from this State  
18 for other than a temporary or transitory purpose. Under  
19 Section 1501(a)(20)(A)(ii) residence commences with the  
20 establishment of domicile in this State and ceases with  
21 the establishment of domicile in another State.

22 (18) Person. The term "person" shall be construed to  
23 mean and include an individual, a trust, estate,  
24 partnership, association, firm, company, corporation,  
25 limited liability company, or fiduciary. For purposes of  
26 Section 1301 and 1302 of this Act, a "person" means (i) an

1 individual, (ii) a corporation, (iii) an officer, agent,  
2 or employee of a corporation, (iv) a member, agent or  
3 employee of a partnership, or (v) a member, manager,  
4 employee, officer, director, or agent of a limited  
5 liability company who in such capacity commits an offense  
6 specified in Section 1301 and 1302.

7 (18A) Records. The term "records" includes all data  
8 maintained by the taxpayer, whether on paper, microfilm,  
9 microfiche, or any type of machine-sensible data  
10 compilation.

11 (19) Regulations. The term "regulations" includes  
12 rules promulgated and forms prescribed by the Department.

13 (20) Resident. The term "resident" means:

14 (A) an individual (i) who is in this State for  
15 other than a temporary or transitory purpose during  
16 the taxable year; or (ii) who is domiciled in this  
17 State but is absent from the State for a temporary or  
18 transitory purpose during the taxable year;

19 (B) The estate of a decedent who at his or her  
20 death was domiciled in this State;

21 (C) A trust created by a will of a decedent who at  
22 his death was domiciled in this State; and

23 (D) An irrevocable trust, the grantor of which was  
24 domiciled in this State at the time such trust became  
25 irrevocable. For purpose of this subparagraph, a trust  
26 shall be considered irrevocable to the extent that the



1 grantor is not treated as the owner thereof under  
2 Sections 671 through 678 of the Internal Revenue Code.

3 (21) Sales. The term "sales" means all gross receipts  
4 of the taxpayer not allocated under Sections 301, 302 and  
5 303.

6 (22) State. The term "state" when applied to a  
7 jurisdiction other than this State means any state of the  
8 United States, the District of Columbia, the Commonwealth  
9 of Puerto Rico, any Territory or Possession of the United  
10 States, and any foreign country, or any political  
11 subdivision of any of the foregoing. For purposes of the  
12 foreign tax credit under Section 601, the term "state"  
13 means any state of the United States, the District of  
14 Columbia, the Commonwealth of Puerto Rico, and any  
15 territory or possession of the United States, or any  
16 political subdivision of any of the foregoing, effective  
17 for tax years ending on or after December 31, 1989.

18 (23) Taxable year. The term "taxable year" means the  
19 calendar year, or the fiscal year ending during such  
20 calendar year, upon the basis of which the base income is  
21 computed under this Act. "Taxable year" means, in the case  
22 of a return made for a fractional part of a year under the  
23 provisions of this Act, the period for which such return  
24 is made.

25 (24) Taxpayer. The term "taxpayer" means any person  
26 subject to the tax imposed by this Act.

1           (25) International banking facility. The term  
2 international banking facility shall have the same meaning  
3 as is set forth in the Illinois Banking Act or as is set  
4 forth in the laws of the United States or regulations of  
5 the Board of Governors of the Federal Reserve System.

6           (26) Income Tax Return Preparer.

7           (A) The term "income tax return preparer" means  
8 any person who prepares for compensation, or who  
9 employs one or more persons to prepare for  
10 compensation, any return of tax imposed by this Act or  
11 any claim for refund of tax imposed by this Act. The  
12 preparation of a substantial portion of a return or  
13 claim for refund shall be treated as the preparation  
14 of that return or claim for refund.

15           (B) A person is not an income tax return preparer  
16 if all he or she does is

17                   (i) furnish typing, reproducing, or other  
18 mechanical assistance;

19                   (ii) prepare returns or claims for refunds for  
20 the employer by whom he or she is regularly and  
21 continuously employed;

22                   (iii) prepare as a fiduciary returns or claims  
23 for refunds for any person; or

24                   (iv) prepare claims for refunds for a taxpayer  
25 in response to any notice of deficiency issued to  
26 that taxpayer or in response to any waiver of

1 restriction after the commencement of an audit of  
2 that taxpayer or of another taxpayer if a  
3 determination in the audit of the other taxpayer  
4 directly or indirectly affects the tax liability  
5 of the taxpayer whose claims he or she is  
6 preparing.

7 (27) Unitary business group.

8 (A) The term "unitary business group" means a  
9 group of persons related through common ownership  
10 whose business activities are integrated with,  
11 dependent upon and contribute to each other. The group  
12 will not include those members whose business activity  
13 outside the United States is 80% or more of any such  
14 member's total business activity; for purposes of this  
15 paragraph and clause (a)(3)(B)(ii) of Section 304,  
16 business activity within the United States shall be  
17 measured by means of the factors ordinarily applicable  
18 under subsections (a), (b), (c), (d), or (h) of  
19 Section 304 except that, in the case of members  
20 ordinarily required to apportion business income by  
21 means of the 3 factor formula of property, payroll and  
22 sales specified in subsection (a) of Section 304,  
23 including the formula as weighted in subsection (h) of  
24 Section 304, such members shall not use the sales  
25 factor in the computation and the results of the  
26 property and payroll factor computations of subsection

1 (a) of Section 304 shall be divided by 2 (by one if  
2 either the property or payroll factor has a  
3 denominator of zero). The computation required by the  
4 preceding sentence shall, in each case, involve the  
5 division of the member's property, payroll, or revenue  
6 miles in the United States, insurance premiums on  
7 property or risk in the United States, or financial  
8 organization business income from sources within the  
9 United States, as the case may be, by the respective  
10 worldwide figures for such items. Common ownership in  
11 the case of corporations is the direct or indirect  
12 control or ownership of more than 50% of the  
13 outstanding voting stock of the persons carrying on  
14 unitary business activity. Unitary business activity  
15 can ordinarily be illustrated where the activities of  
16 the members are: (1) in the same general line (such as  
17 manufacturing, wholesaling, retailing of tangible  
18 personal property, insurance, transportation or  
19 finance); or (2) are steps in a vertically structured  
20 enterprise or process (such as the steps involved in  
21 the production of natural resources, which might  
22 include exploration, mining, refining, and marketing);  
23 and, in either instance, the members are functionally  
24 integrated through the exercise of strong centralized  
25 management (where, for example, authority over such  
26 matters as purchasing, financing, tax compliance,

1 product line, personnel, marketing and capital  
2 investment is not left to each member).

3 (B) In no event, for taxable years ending prior to  
4 December 31, 2017, shall any unitary business group  
5 include members which are ordinarily required to  
6 apportion business income under different subsections  
7 of Section 304 except that for tax years ending on or  
8 after December 31, 1987 this prohibition shall not  
9 apply to a holding company that would otherwise be a  
10 member of a unitary business group with taxpayers that  
11 apportion business income under any of subsections  
12 (b), (c), (c-1), or (d) of Section 304. If a unitary  
13 business group would, but for the preceding sentence,  
14 include members that are ordinarily required to  
15 apportion business income under different subsections  
16 of Section 304, then for each subsection of Section  
17 304 for which there are two or more members, there  
18 shall be a separate unitary business group composed of  
19 such members. For purposes of the preceding two  
20 sentences, a member is "ordinarily required to  
21 apportion business income" under a particular  
22 subsection of Section 304 if it would be required to  
23 use the apportionment method prescribed by such  
24 subsection except for the fact that it derives  
25 business income solely from Illinois. As used in this  
26 paragraph, for taxable years ending before December

1           31, 2017, the phrase "United States" means only the 50  
2           states and the District of Columbia, but does not  
3           include any territory or possession of the United  
4           States or any area over which the United States has  
5           asserted jurisdiction or claimed exclusive rights with  
6           respect to the exploration for or exploitation of  
7           natural resources. For taxable years ending on or  
8           after December 31, 2017, the phrase "United States",  
9           as used in this paragraph, means only the 50 states,  
10          the District of Columbia, and any area over which the  
11          United States has asserted jurisdiction or claimed  
12          exclusive rights with respect to the exploration for  
13          or exploitation of natural resources, but does not  
14          include any territory or possession of the United  
15          States.

16                (C) Holding companies.

17                (i) For purposes of this subparagraph, a  
18                "holding company" is a corporation (other than a  
19                corporation that is a financial organization under  
20                paragraph (8) of this subsection (a) of Section  
21                1501 because it is a bank holding company under  
22                the provisions of the Bank Holding Company Act of  
23                1956 (12 U.S.C. 1841, et seq.) or because it is  
24                owned by a bank or a bank holding company) that  
25                owns a controlling interest in one or more other  
26                taxpayers ("controlled taxpayers"); that, during

1 the period that includes the taxable year and the  
2 immediately preceding taxable years or, if the  
3 corporation was formed during the current or  
4 immediately preceding taxable year, the taxable  
5 years in which the corporation has been in  
6 existence, derived substantially all its gross  
7 income from dividends, interest, rents, royalties,  
8 fees or other charges received from controlled  
9 taxpayers for the provision of services, and gains  
10 on the sale or other disposition of interests in  
11 controlled taxpayers or in property leased or  
12 licensed to controlled taxpayers or used by the  
13 taxpayer in providing services to controlled  
14 taxpayers; and that incurs no substantial expenses  
15 other than expenses (including interest and other  
16 costs of borrowing) incurred in connection with  
17 the acquisition and holding of interests in  
18 controlled taxpayers and in the provision of  
19 services to controlled taxpayers or in the leasing  
20 or licensing of property to controlled taxpayers.

21 (ii) The income of a holding company which is  
22 a member of more than one unitary business group  
23 shall be included in each unitary business group  
24 of which it is a member on a pro rata basis, by  
25 including in each unitary business group that  
26 portion of the base income of the holding company

1           that bears the same proportion to the total base  
2           income of the holding company as the gross  
3           receipts of the unitary business group bears to  
4           the combined gross receipts of all unitary  
5           business groups (in both cases without regard to  
6           the holding company) or on any other reasonable  
7           basis, consistently applied.

8           (iii) A holding company shall apportion its  
9           business income under the subsection of Section  
10          304 used by the other members of its unitary  
11          business group. The apportionment factors of a  
12          holding company which would be a member of more  
13          than one unitary business group shall be included  
14          with the apportionment factors of each unitary  
15          business group of which it is a member on a pro  
16          rata basis using the same method used in clause  
17          (ii).

18          (iv) The provisions of this subparagraph (C)  
19          are intended to clarify existing law.

20          (D) If including the base income and factors of a  
21          holding company in more than one unitary business  
22          group under subparagraph (C) does not fairly reflect  
23          the degree of integration between the holding company  
24          and one or more of the unitary business groups, the  
25          dependence of the holding company and one or more of  
26          the unitary business groups upon each other, or the



1 contributions between the holding company and one or  
2 more of the unitary business groups, the holding  
3 company may petition the Director, under the  
4 procedures provided under Section 304(f), for  
5 permission to include all base income and factors of  
6 the holding company only with members of a unitary  
7 business group apportioning their business income  
8 under one subsection of subsections (a), (b), (c), or  
9 (d) of Section 304. If the petition is granted, the  
10 holding company shall be included in a unitary  
11 business group only with persons apportioning their  
12 business income under the selected subsection of  
13 Section 304 until the Director grants a petition of  
14 the holding company either to be included in more than  
15 one unitary business group under subparagraph (C) or  
16 to include its base income and factors only with  
17 members of a unitary business group apportioning their  
18 business income under a different subsection of  
19 Section 304.

20 (E) If the unitary business group members'  
21 accounting periods differ, the common parent's  
22 accounting period or, if there is no common parent,  
23 the accounting period of the member that is expected  
24 to have, on a recurring basis, the greatest Illinois  
25 income tax liability must be used to determine whether  
26 to use the apportionment method provided in subsection

1 (a) or subsection (h) of Section 304. The prohibition  
2 against membership in a unitary business group for  
3 taxpayers ordinarily required to apportion income  
4 under different subsections of Section 304 does not  
5 apply to taxpayers required to apportion income under  
6 subsection (a) and subsection (h) of Section 304. The  
7 provisions of this amendatory Act of 1998 apply to tax  
8 years ending on or after December 31, 1998.

9 (28) Subchapter S corporation. The term "Subchapter S  
10 corporation" means a corporation for which there is in  
11 effect an election under Section 1362 of the Internal  
12 Revenue Code, or for which there is a federal election to  
13 opt out of the provisions of the Subchapter S Revision Act  
14 of 1982 and have applied instead the prior federal  
15 Subchapter S rules as in effect on July 1, 1982.

16 (30) Foreign person. The term "foreign person" means  
17 any person who is a nonresident noncitizen ~~alien~~  
18 individual and any nonindividual entity, regardless of  
19 where created or organized, whose business activity  
20 outside the United States is 80% or more of the entity's  
21 total business activity.

22 (b) Other definitions.

23 (1) Words denoting number, gender, and so forth, when  
24 used in this Act, where not otherwise distinctly expressed  
25 or manifestly incompatible with the intent thereof:

1 (A) Words importing the singular include and apply  
2 to several persons, parties or things;

3 (B) Words importing the plural include the  
4 singular; and

5 (C) Words importing the masculine gender include  
6 the feminine as well.

7 (2) "Company" or "association" as including successors  
8 and assigns. The word "company" or "association", when  
9 used in reference to a corporation, shall be deemed to  
10 embrace the words "successors and assigns of such company  
11 or association", and in like manner as if these last-named  
12 words, or words of similar import, were expressed.

13 (3) Other terms. Any term used in any Section of this  
14 Act with respect to the application of, or in connection  
15 with, the provisions of any other Section of this Act  
16 shall have the same meaning as in such other Section.

17 (Source: P.A. 99-213, eff. 7-31-15; 100-22, eff. 7-6-17.)

18 Section 30. The Interstate Insurance Receivership Compact  
19 Act is amended by changing Section 5 as follows:

20 (45 ILCS 160/5)

21 Sec. 5. Ratification of Compact. The State of Illinois  
22 ratifies and approves the Interstate Insurance Receivership  
23 Compact and enters into that Compact with all other  
24 jurisdictions legally joining in it in substantially the

1 following form:

2 ARTICLE I. PURPOSES

3 The purposes of this Compact are, through means of joint  
4 and cooperative action among the compacting states:

5 (1) to promote, develop and facilitate orderly, efficient,  
6 cost-effective, and uniform insurer receivership laws and  
7 operations;

8 (2) to coordinate interaction between insurer receivership  
9 and Guaranty Association operations;

10 (3) to create the Interstate Insurance Receivership  
11 Commission; and

12 (4) to perform these and such other related functions as  
13 may be consistent with the state regulation of the business of  
14 insurance pursuant to the McCarran-Ferguson Act.

15 ARTICLE II. DEFINITIONS

16 For the purposes of this Compact:

17 (1) "By-laws" means those by-laws prescribed by the  
18 Commission for its governance or for directing or controlling  
19 the Commission's actions or conduct.

20 (2) "Compacting state" means any state which has enacted  
21 enabling legislation for this Compact.

22 (3) "Commission" means the Interstate Insurance  
23 Receivership Commission established by this Compact.

24 (4) "Commissioner" means the chief insurance regulatory

1 official of a state.

2 (5) "Deputy Receiver" means a person appointed or retained  
3 by a Receiver and who is the Receiver's duly authorized  
4 representative for administering one or more estates.

5 (6) "Domiciliary state" means the state in which an  
6 insurer is incorporated or organized; or, in the case of a  
7 non-domestic ~~an alien~~ insurer, its state of entry; or in the  
8 case of an unauthorized insurer not incorporated, organized,  
9 or entered in any state, a state where the insurer is engaged  
10 in or doing business.

11 (7) "Estate" means the assets and liabilities of any  
12 insurer in receivership.

13 (8) "Guaranty Association" means an insurance guaranty  
14 fund or association or any similar entity now or hereafter  
15 created by statute in a compacting state, other than a  
16 receivership, to pay or assume, in whole or in part, the  
17 contractual claim obligations of insolvent insurers.

18 (9) "Insurer" means any person or entity that has done,  
19 purports to do, is doing, or is licensed to do any insurance or  
20 reinsurance business, or is or has been subject to the  
21 authority of, or to liquidation, rehabilitation, supervision,  
22 conservation, or ancillary receivership by, any Commissioner.

23 (10) "Member" means the Commissioner of a compacting state  
24 or his or her designee, who shall be a person officially  
25 connected with the Commissioner and who is wholly or  
26 principally employed by the Commissioner.

1 (11) "Non-compacting state" means a state which has not  
2 enacted enabling legislation for this Compact.

3 (12) "Operating procedures" means procedures promulgated  
4 by the Commission implementing a rule, an existing law in a  
5 compacting state, or a provision of this Compact.

6 (13) "Publication" means the act of publishing in the  
7 official state publication in a compacting state or in such  
8 other publication as may be established by the Commission.

9 (14) "Receiver" means receiver, liquidator, rehabilitator,  
10 conservator, or ancillary receiver as the context requires.

11 (15) "Receivership" means any liquidation, rehabilitation,  
12 conservation, or ancillary receivership proceeding as the  
13 context requires.

14 (16) "Rules" means acts of the Commission, duly  
15 promulgated pursuant to Article VII of this Compact,  
16 substantially affecting interested parties in addition to the  
17 Commission, which shall have the force and effect of law in the  
18 compacting states.

19 (17) "State" means any state, district or territory of the  
20 United States of America.

21 ARTICLE III. ESTABLISHMENT OF THE COMMISSION AND VENUE

22 (1) The compacting states hereby create and establish an  
23 entity known as the Interstate Insurance Receivership  
24 Commission.

25 (2) The Commission is a body corporate of each compacting

1 state.

2 (3) The Commission is a not-for-profit entity, separate  
3 and distinct from the compacting states.

4 (4) The Commission is solely responsible for its  
5 liabilities except as otherwise provided in this Compact.

6 (5) Except as otherwise specifically provided in state or  
7 federal law in the jurisdiction where the Commission's  
8 principal office is located or where the Commission is acting  
9 as Receiver, venue is proper and judicial proceedings by or  
10 against the Commission shall be brought in a court of  
11 competent jurisdiction where the Commission's principal office  
12 is located.

13 ARTICLE IV. POWERS OF THE COMMISSION

14 The Commission shall have all of the following powers:

15 (1) To promulgate rules which shall have the force and  
16 effect of statutory law and shall be binding in the compacting  
17 states to the extent and in the manner provided in this  
18 Compact.

19 (2) To promulgate operating procedures which shall be  
20 binding in the compacting states to the extent and in the  
21 manner provided in this Compact.

22 (3) To oversee, supervise, and coordinate the activities  
23 of receivers in compacting states.

24 (4) To act as Receiver of insurers organized under the  
25 laws of, engaged in, or doing the business of insurance in a

1 compacting state upon the request of the Commissioner of such  
2 state or when grounds for receivership by the Commission exist  
3 under Article IX of this Compact.

4 (5) To act as Deputy Receiver of insurers organized under  
5 the laws of, engaged in, or doing the business of insurance in  
6 a non-compacting state in accordance with Article IX of this  
7 Compact.

8 (6) To act as ancillary Receiver in a compacting state of  
9 an insurer domiciled in a non-compacting state.

10 (7) To monitor the activities and functions of Guaranty  
11 Associations in the compacting states.

12 (8) To delegate its operating authority or functions;  
13 provided, that its rulemaking authority under Article VII of  
14 this Compact shall not be delegated.

15 (9) To bring or prosecute legal proceedings or actions in  
16 its name as the Commission, or in the name of the Commission  
17 acting as Receiver.

18 (10) To bring or prosecute legal proceedings or actions as  
19 Receiver on behalf of an estate or its policyholders and  
20 creditors; provided, that any Guaranty Association's standing  
21 to sue or be sued under applicable law shall not be affected.

22 (11) To issue subpoenas requiring the attendance and  
23 testimony of witnesses and the production of evidence.

24 (12) To establish and maintain offices.

25 (13) To purchase and maintain insurance and bonds.

26 (14) To borrow, accept, or contract for services of



1 personnel including, but not limited to, members and their  
2 staff.

3 (15) To elect or appoint such officers, attorneys,  
4 employees, or agents, and to fix their compensation, define  
5 their duties, and determine their qualifications; and to  
6 establish the Commission's personnel policies and programs  
7 relating to, among other things, conflicts of interest, rates  
8 of compensation, and qualifications of personnel.

9 (16) To accept any and all donations and grants of money,  
10 equipment, supplies, materials, and services, and to receive,  
11 utilize, and dispose of the same.

12 (17) To lease, purchase, accept gifts or donations of, or  
13 otherwise to own, hold, improve or use, any property, real,  
14 personal, or mixed.

15 (18) To sell, convey, mortgage, pledge, lease, exchange,  
16 abandon, or otherwise dispose of any property, real, personal,  
17 or mixed.

18 (19) To enforce compliance with Commission rules,  
19 operating procedures, and by-laws.

20 (20) To provide for dispute resolution among compacting  
21 states and Receivers.

22 (21) To represent and advise compacting states on issues  
23 relating to insurers domiciled or doing business in  
24 non-compacting jurisdictions, consistent with the purposes of  
25 this compact.

26 (22) To provide advice and training to receivership

1 personnel of compacting states, and to be a resource for  
2 compacting states by maintaining a reference library of  
3 relevant materials.

4 (23) To establish a budget and make expenditures.

5 (24) To borrow money.

6 (25) To appoint committees including, but not limited to,  
7 an industry advisory committee and an executive committee of  
8 members.

9 (26) To provide and receive information relating to  
10 receiverships and Guaranty Associations and to cooperate with  
11 law enforcement agencies.

12 (27) To adopt and use a corporate seal.

13 (28) To perform such other functions as may be necessary  
14 or appropriate to achieve the purposes of this Compact as may  
15 be consistent with the state regulation of the business of  
16 insurance pursuant to the McCarran-Ferguson Act.

17 ARTICLE V. ORGANIZATION OF THE COMMISSION

18 Section A. Membership, voting, and by-laws.

19 (1) A compacting state shall have and be limited to one  
20 member. A member shall be qualified to serve in such capacity  
21 under or pursuant to the applicable law of the compacting  
22 state. A compacting state retains the discretionary right to  
23 determine the due election or appointment and qualification of  
24 its own Commissioner, and to fill all vacancies of its member.

25 (2) A member shall be entitled to one vote.

1           (3) The Commission shall, by a majority of the members,  
2 prescribe by-laws to govern its conduct as may be necessary or  
3 appropriate to carry out the purposes of the Compact,  
4 including, but not limited to:

5           (a) establishing the fiscal year of the Commission;

6           (b) providing reasonable standards and procedures:

7           (i) for the establishment of committees, and (ii)  
8 governing any general or specific delegation of any authority  
9 or function of the Commission;

10           (c) providing reasonable procedures for calling and  
11 conducting meetings of the Commission and for ensuring  
12 reasonable notice of each such meeting;

13           (d) establishing the titles and responsibilities of  
14 the officers of the Commission;

15           (e) providing reasonable standards and procedures for  
16 the establishment of the personnel policies and programs  
17 of the Commission. Notwithstanding any civil service or  
18 other similar laws of any compacting state, the by-laws  
19 shall exclusively govern the personnel policies and  
20 programs of the Commission; and

21           (f) providing a mechanism for winding up the  
22 operations of the Commission and the equitable return of  
23 any surplus funds that may exist after the dissolution of  
24 the Compact after the payment or reserving of all of its  
25 debts and obligations, or both.

1 Section B. Officers and personnel.

2 (1) The Commission shall, by a majority of the members,  
3 elect annually from among its members a chairperson and a vice  
4 chairperson, each of whom shall have such authorities and  
5 duties as may be specified in the by-laws. The chairperson or,  
6 in his or her absence or disability, a member designated in  
7 accordance with the by-laws, shall preside at all meetings of  
8 the Commission. The officers so elected shall serve without  
9 compensation or remuneration from the Commission; provided,  
10 that subject to the availability of budgeted funds, the  
11 officers shall be reimbursed for any actual and necessary  
12 costs and expenses incurred by them in the performance of  
13 their duties and responsibilities as officers of the  
14 Commission.

15 (2) The Commission may, by a majority of the members,  
16 appoint or retain an executive director for such period, upon  
17 such terms and conditions and for such compensation as the  
18 Commission may deem appropriate. The executive director shall  
19 serve as secretary to the Commission, but shall not be a member  
20 of the Commission. The executive director shall hire and  
21 supervise such other staff as may be authorized by the  
22 Commission.

23 Section C. Corporate records of the Commission. The  
24 Commission shall maintain its corporate books and records in  
25 accordance with the by-laws.

1           Section    D.   Qualified   immunity,   defense,   and  
2   indemnification.

3           (1)   The   members,   officers,   executive   director,   and  
4   employees   of   the   Commission   shall   be   immune   from   suit   and  
5   liability,   either   personally   or   in   their   official   capacity,  
6   for   any   claim   for   damage   to   or   loss   of   property   or   personal  
7   injury   or   other   civil   liability   caused   or   arising   out   of   or  
8   relating   to   any   actual   or   alleged   act,   error,   or   omission   that  
9   occurred,   or   that   such   person   had   a   reasonable   basis   for  
10   believing   occurred   within   the   scope   of   Commission   employment,  
11   duties,   or   responsibilities;   provided,   that   nothing   in   this  
12   paragraph   shall   be   construed   to   protect   any   such   person   from  
13   suit   or   liability,   or   both,   for   any   damage,   loss,   injury,   or  
14   liability   caused   by   the   intentional   or   willful   and   wanton  
15   misconduct   of   any   such   person,   or   to   protect   the   Commission  
16   acting   as   Receiver   under   Article   IX   of   this   Compact.

17           (2)   The   Commission   shall   defend   any   Commissioner   of   a  
18   compacting   state,   his   or   her   representatives   or   employees,   or  
19   the   Commission's   representatives   or   employees   in   any   civil  
20   action   seeking   to   impose   liability   against   such   person   arising  
21   out   of   or   relating   to   any   actual   or   alleged   act,   error,   or  
22   omission   that   occurred   within   the   scope   of   Commission  
23   employment,   duties,   or   responsibilities   or   that   such   person  
24   had   a   reasonable   basis   for   believing   occurred   within   the   scope  
25   of   Commission   employment,   duties,   or   responsibilities;

1 provided, that the actual or alleged act, error, or omission  
2 did not result from gross negligence or intentional wrongdoing  
3 on the part of such person.

4 (3) The Commission shall indemnify and hold the  
5 Commissioner of a compacting state, his or her representatives  
6 or employees, or the Commission's representatives or employees  
7 harmless in the amount of any settlement or judgment obtained  
8 against such person arising out of or relating to any actual or  
9 alleged act, error, or omission that occurred within the scope  
10 of Commission employment, duties, or responsibilities or that  
11 such person had a reasonable basis for believing occurred  
12 within the scope of Commission employment, duties, or  
13 responsibilities; provided, that the actual or alleged act,  
14 error, or omission did not result from gross negligence or  
15 intentional wrongdoing on the part of such person.

16 (4) The costs and expenses of defense and indemnification  
17 of the Commission acting as Receiver of an estate shall be paid  
18 as administrative expenses from the assets of that estate  
19 unless such costs and expenses are covered by insurance  
20 maintained by the Commission.

21 ARTICLE VI. MEETINGS AND ACTS OF THE COMMISSION

22 (1) The Commission shall meet and take such actions as are  
23 consistent with the provisions of this Compact.

24 (2) Except as otherwise provided in this Compact and  
25 unless a greater percentage is required by the by-laws, in

1 order to constitute an act of the Commission, such act shall  
2 have been taken at a meeting of the Commission and shall have  
3 received an affirmative vote of a majority of the members.

4 (3) Each member of the Commission shall have the right and  
5 power to cast a vote to which that compacting state is entitled  
6 and to participate in the business and affairs of the  
7 Commission. A member shall vote in person and shall not  
8 delegate his or her vote to another member. The by-laws may  
9 provide for members' participation in meetings by telephone or  
10 other means of telecommunication.

11 (4) The Commission shall meet at least once during each  
12 calendar year. The chairperson of the Commission may call  
13 additional meetings at any time and, upon the request of a  
14 majority of the members, shall call additional meetings.

15 (5) The Commission's rules shall establish conditions and  
16 procedures under which the Commission shall make its  
17 information and official records available to the public for  
18 inspection or copying. The Commission may exempt from  
19 disclosure any information or official records to the extent  
20 disclosure would adversely affect personal privacy rights or  
21 proprietary interests. In promulgating such rules, the  
22 Commission may consider any special circumstances pertaining  
23 to insurer insolvencies, but shall be guided by the principles  
24 embodied in state and federal freedom of information laws. The  
25 Commission may promulgate additional rules under which it may  
26 make available to law enforcement agencies records and

1 information otherwise exempt from disclosure and may enter  
2 into agreements with law enforcement agencies to receive or  
3 exchange information or records subject to nondisclosure and  
4 confidentiality provisions.

5 (6) Public notice shall be given of all meetings, and all  
6 meetings shall be open to the public, except as set forth in  
7 the rules or as otherwise provided in this Compact. The  
8 Commission shall promulgate rules consistent with the  
9 principles contained in the federal Government in Sunshine  
10 Act, 5 U.S.C. Section 552b, as may be amended. The Commission  
11 and any of its committees may close a meeting to the public  
12 where it determines by two-thirds vote that an open meeting  
13 would be likely to:

14 (a) relate solely to the Commission's internal  
15 personnel practices and procedures;

16 (b) disclose matters specifically exempted from  
17 disclosure by statute;

18 (c) disclose trade secrets or commercial or financial  
19 information which is privileged or confidential;

20 (d) involve accusing any person of a crime or formally  
21 censuring any person;

22 (e) disclose information of a personal nature where  
23 disclosure would constitute a clearly unwarranted invasion  
24 of personal privacy;

25 (f) disclose investigatory records compiled for law  
26 enforcement purposes;



1 (g) disclose information contained in or related to  
2 examination, operating, or condition reports prepared by,  
3 on behalf of, or for the use of the Commission with respect  
4 to a regulated entity for the purpose of regulation or  
5 supervision of such entity;

6 (h) disclose information, the premature disclosure of  
7 which would significantly endanger the stability of a  
8 regulated entity;

9 (i) specifically relate to the Commission's issuance  
10 of a subpoena or its participation in a civil action or  
11 proceeding.

12 (7) For every meeting closed pursuant to paragraph (6),  
13 the Commission's chief legal officer shall publicly certify  
14 that, in his or her opinion, the meeting may be closed to the  
15 public and shall reference each relevant exemptive provision.  
16 The Commission shall keep minutes which shall fully and  
17 clearly describe all matters discussed in any meeting and  
18 shall provide a full and accurate summary of any actions taken  
19 and the reasons therefor, including a description of each of  
20 the views expressed on any item and the record of any roll call  
21 vote (reflected in the vote of each member on the question).  
22 All documents considered in connection with any action shall  
23 be identified in such minutes.

24 ARTICLE VII. RULEMAKING FUNCTIONS OF THE COMMISSION

25 (1) The Commission shall promulgate rules and operating

1 procedures in order to effectively and efficiently achieve the  
2 purposes of this Compact; provided, that the Commission shall  
3 not promulgate any rules: (i) directly relating to Guaranty  
4 Associations including, but not limited to, rules governing  
5 coverage, funding, or assessment mechanisms, or (ii) (except  
6 pursuant to rules promulgated under Article VII(3) of this  
7 Compact) altering the statutory priorities for distributing  
8 assets out of an estate.

9 (2) Rulemaking shall occur pursuant to the criteria set  
10 forth in this Article and the rules and operating procedures  
11 promulgated pursuant thereto. Such rulemaking shall  
12 substantially conform to the principles of the federal  
13 Administrative Procedure Act, 5 U.S.C.S. Section 551 et seq.  
14 and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2,  
15 Section 1 et seq., as may be amended.

16 (3) Other than the promulgation of such rules as are  
17 necessary for the orderly operation of the Commission, the  
18 first rule to be considered by the Commission shall be uniform  
19 provisions governing insurer receiverships including, but not  
20 limited to, provisions requiring compacting states to  
21 implement, execute, and administer in a fair, just, effective,  
22 and efficient manner rules and operating procedures relating  
23 to receiverships. The Commission shall within 3 years of the  
24 adoption of this Compact by 2 or more states, promulgate such  
25 uniform provisions through the rulemaking process. Such  
26 uniform provisions shall become law in all of the compacting

1 states upon legislative enactment in a majority of the  
2 compacting states.

3 (4) All rules and amendments shall become binding as of  
4 the date specified in each rule or amendment; provided, that  
5 if a compacting state expressly rejects such rule or amendment  
6 through legislative enactment as of the expiration of the  
7 second full calendar year after such rule is promulgated, such  
8 rule or amendment shall have no further force or effect in the  
9 rejecting compacting state. If a majority of compacting states  
10 reject a rule, then such rule shall have no further force or  
11 effect in any compacting state.

12 (5) When promulgating a rule or operating procedure, the  
13 Commission shall:

14 (a) effect publication of the proposed rulemaking,  
15 stating with particularity the text of the rule or  
16 operating procedure which is proposed and the reason for  
17 the proposed rule or operating procedure;

18 (b) allow persons to submit written data, facts,  
19 opinions and arguments, which information the Commission  
20 shall make publicly available;

21 (c) provide an opportunity for an informal hearing;  
22 and

23 (d) promulgate a final rule or operating procedure and  
24 its effective date, if appropriate, based on the  
25 rulemaking record.

26 (6) Not later than 60 days after a rule or operating

1 procedure is promulgated, any interested person may file a  
2 petition in a court of competent jurisdiction where the  
3 Commission's principal office is located for judicial review  
4 of such rule or operating procedure. If the court finds that  
5 the Commission's action is not supported by substantial  
6 evidence in the rulemaking record, the court shall hold the  
7 rule unlawful and set it aside.

8 ARTICLE VIII. OVERSIGHT AND  
9 DISPUTE RESOLUTION BY THE COMMISSION

10 Section A. Oversight.

11 (1) The Commission shall oversee the administration and  
12 operations of receiverships in compacting states and shall  
13 monitor receiverships being administered in non-compacting  
14 states which may significantly affect compacting states.

15 (2) To aid its monitoring, oversight, and coordination  
16 responsibilities, the Commission shall establish operating  
17 procedures requiring each member to submit written reports to  
18 the Commission as follows:

19 (a) An initial report to the Commission upon a finding  
20 or other official action by the compacting state that  
21 grounds exist for receivership of an insurer doing  
22 business in more than one state. Thereafter, reports shall  
23 be submitted periodically and as otherwise required  
24 pursuant to the Commission's operating procedures. The

1 Commission shall be entitled to receive notice of, and  
2 shall have standing to appear in, compacting states'  
3 receiverships.

4 (b) An initial report of the status of an insurer  
5 within a reasonable time after the initiation of a  
6 receivership.

7 (3) The Commission shall promulgate operating procedures  
8 requiring Receivers to submit to the Commission periodic  
9 written reports and such additional information and  
10 documentation as the Commission may reasonably request. Each  
11 compacting state's Receivers shall establish the capability to  
12 obtain and provide all such records, data, and information  
13 required by the Commission in accordance with the Commission's  
14 operating procedures.

15 (4) Except as to privileged records, data, and  
16 information, the laws of any compacting state pertaining to  
17 confidentiality or nondisclosure shall not relieve any  
18 compacting state Commissioner of the responsibility to  
19 disclose any relevant records, data, or information to the  
20 Commission; provided, that disclosure to the Commission shall  
21 not be deemed to waive or otherwise affect any confidentiality  
22 requirement; and further provided, that the Commission shall  
23 be subject to the compacting state's laws pertaining to  
24 confidentiality and nondisclosure with respect to all such  
25 records, data, and information in its possession.

26 (5) The courts and executive agencies in each compacting

1 state shall enforce this Compact and shall take all actions  
2 necessary and appropriate to effectuate the Compact's purposes  
3 and intent. In any receivership or other judicial or  
4 administrative proceeding in a compacting state pertaining to  
5 the subject matter of this Compact which may affect the  
6 powers, responsibilities, or actions of the Commission, the  
7 Commission shall be entitled to receive all service of process  
8 in any such proceeding and shall have standing to intervene in  
9 the receivership or proceeding for all purposes.

10 (6) The Commission shall analyze and correlate records,  
11 data, information, and reports received from Receivers and  
12 Guaranty Associations and shall make recommendations for  
13 improving their performance to the compacting states. The  
14 Commission shall include summary information and data  
15 regarding its oversight functions in its annual report.

16 Section B. Dispute resolution.

17 (1) The Commission shall attempt, upon the request of a  
18 member, to resolve any disputes or other issues which are  
19 subject to this Compact and which may arise among compacting  
20 states and non-compacting states.

21 (2) The compacting states shall report to the Commission  
22 on issues or activities of concern to them and cooperate with  
23 and support the Commission in the discharge of its duties and  
24 responsibilities.

25 (3) The Commission shall promulgate an operating procedure

1 providing for binding dispute resolution for disputes among  
2 Receivers.

3 (4) The Commission shall facilitate voluntary dispute  
4 resolution for disputes among Guaranty Associations and  
5 Receivers.

6 ARTICLE IX. RECEIVERSHIP FUNCTIONS OF THE COMMISSION

7 (1) The Commission has authority to act as Receiver of any  
8 insurer domiciled, engaged in, or doing business in a  
9 compacting state upon the request of the Commissioner of such  
10 compacting state or as otherwise provided in this Compact.

11 (a) The Commission as Receiver shall have all powers  
12 and duties pursuant to the receivership laws of the  
13 domiciliary state.

14 (b) The Commission shall maintain accounts of receipts  
15 and disbursements of the estates for which it is acting as  
16 Receiver, consistent with the accounting practices and  
17 procedures set forth in the by-laws.

18 (c) The Commission shall cause an annual audit of each  
19 estate for which it is acting as Receiver, to be conducted  
20 by an independent certified public accountant. The costs  
21 and expenses of such audit shall be paid as administrative  
22 expenses from the assets of the estate. The Commission  
23 shall not cause an audit to be conducted of any estate that  
24 lacks sufficient assets to conduct such audit.

25 (d) The Commission as Receiver is authorized to

1 delegate its receivership duties and functions and to  
2 effectuate such delegation through contracts with others.

3 (2) The Commission shall act as Receiver of any insurer  
4 domiciled or doing business in a compacting state in the event  
5 that the member acting as Receiver in that compacting state  
6 fails to comply with duly promulgated Commission rules or  
7 operating procedures. The Commission shall notify such member  
8 in writing of noncompliance with Commission rules or operating  
9 procedures. If the member acting as Receiver fails to remedy  
10 such noncompliance within 10 days after receipt of such  
11 notification, the Commission may petition the supervising  
12 court before which such receivership is pending for an order  
13 substituting and appointing the Commission as Receiver of the  
14 estate.

15 (3) The Commission shall not act as Receiver of an estate  
16 which appears to lack sufficient assets to fund such  
17 receivership unless the compacting state makes provisions for  
18 the payment of the estate's administrative expenses  
19 satisfactory to the Commission.

20 (4) The Commission may act as Deputy Receiver for any  
21 insurer domiciled or doing business in a non-compacting state  
22 in accordance with such state's laws upon request of that  
23 non-compacting state's Commissioner and approval of the  
24 Commission.

25 (5) With respect to receiverships pending in a compacting  
26 state on the effective date of the enactment of this Compact by



1 the compacting state:

2 (a) the Commission may act as Receiver of an insurer  
3 upon the request of that compacting state's member and  
4 approval of the Commission; and

5 (b) the Commission shall oversee, monitor, and  
6 coordinate the activities of all receiverships pending in  
7 that compacting state regardless whether the Commission is  
8 acting as Receiver of estates in such state.

9 ARTICLE X. FINANCE

10 (1) The Commission shall pay or provide for the payment of  
11 the reasonable expenses of its establishment and organization.

12 (2) Except as otherwise provided in this Compact or by act  
13 of the Commission, the costs and expenses of each compacting  
14 state shall be the sole and exclusive responsibility of the  
15 respective compacting state. The Commission may pay or provide  
16 for actual and necessary costs and expenses for attendance of  
17 its members at official meetings of the Commission or its  
18 designated committees.

19 (3) The Commission shall levy on and collect an annual  
20 assessment from each compacting state and each insurer  
21 authorized to do business in a compacting state, and writing  
22 direct insurance, to cover the cost of the internal operations  
23 and activities of the Commission and its staff in a total  
24 amount sufficient to cover the Commission's annual budget.

25 (a) The aggregate annual assessment amount shall be

1 allocated 75% to insurers, hereinafter referred to as the  
2 "insurers' portion", and 25% to compacting states,  
3 hereinafter referred to as the "compacting states'  
4 portion". The insurer portion shall be allocated to each  
5 insurer by the percentage derived from a fraction, the  
6 numerator of which shall be the gross direct written  
7 premium received on that insurer's business in all  
8 compacting states and the denominator of which shall be  
9 the gross direct written premium received by all insurers  
10 on business in all compacting states. The compacting  
11 states' portion shall be allocated to each compacting  
12 state by the percentage derived from a fraction, the  
13 numerator of which shall be the gross direct written  
14 premium received by all insurers on business in that  
15 compacting state and the denominator shall be the gross  
16 direct written premium received on all insurers on  
17 business in all compacting states. A compacting state's  
18 portion shall be funded as designated by that state's  
19 legislature. In no event shall an insurer's assessment be  
20 less than \$50 or more than \$25,000; provided, that  
21 affiliated insurers' combined assessments shall not exceed  
22 \$50,000. Upon the request of an insurer, the Commission  
23 may exempt or defer the assessment of any insurer if such  
24 assessment would cause the insurer's financial impairment.

25 (b) These assessments shall not be used to pay any  
26 costs or expenses incurred by the Commission and its staff

1 acting as Receiver of estates. Such costs and expenses  
2 shall be paid as administrative expenses from the assets  
3 of the estates as provided by law, except as otherwise  
4 provided in this Compact.

5 (c) An insurer authorized to do business in a  
6 compacting state shall timely pay assessments to the  
7 Commission. Failure to pay such assessments shall not be  
8 grounds for the revocation, suspension, or denial of an  
9 insurer's authority to do business, but shall subject the  
10 insurer to suit by the Commission for recovery of any  
11 assessment due, attorneys' fees, and costs, together with  
12 interest from the date the assessment is due at a rate of  
13 10% per annum, and to civil forfeiture in an amount to be  
14 determined by the Commissioner of that compacting state in  
15 which the insurer received the greatest premium in the  
16 year next preceding the first year for which the insurer  
17 shall be delinquent in payment of assessments.

18 (4) The Commission shall be reimbursed in the following  
19 manner for the costs and expenses incurred by the Commission  
20 and its staff acting as Receiver of estates to the extent that  
21 an insurer's assets may be insufficient for the effective  
22 administration of its estate:

23 (a) if the insurer is domiciled in a compacting state,  
24 the estate shall be closed unless that compacting state  
25 makes provisions for reimbursing the Commission; and

26 (b) if the insurer is unauthorized to do business in a

1 compacting state or if the insurer is domiciled in a  
2 non-compacting state and subject to ancillary  
3 receivership, then the Commission and such state shall  
4 make provisions for reimbursing the Commission prior to  
5 the Commission becoming Receiver of such insurer.

6 (5) To fund the cost of the initial operations of the  
7 Commission until its first annual budget is adopted and  
8 related assessments have been made, contributions from  
9 compacting states and others may be accepted and a one time  
10 assessment on insurers doing a direct insurance business in  
11 the compacting states may be made not to exceed \$450 per  
12 insurer.

13 (6) The Commission's adopted budget for a fiscal year  
14 shall not be approved until it has been subject to notice and  
15 comment as set forth in Article VII of this Compact. The budget  
16 shall determine the amount of the annual assessment. The  
17 Commission may accumulate a net worth not to exceed 30% of its  
18 then annual cost of operation to provide for contingencies and  
19 events not contemplated. These accumulated funds shall be held  
20 separately and shall not be used for any other purpose. The  
21 Commission's budget may include a provision for a contribution  
22 to the Commission's net worth.

23 (7) The Commission shall be exempt from all taxation in  
24 and by the compacting states.

25 (8) The Commission shall not pledge the credit of any  
26 compacting state, except by and with the appropriate legal

1 authority of that compacting state.

2 (9) The Commission shall keep complete and accurate  
3 accounts of all its internal receipts (including grants and  
4 donations) and disbursements of all funds, other than  
5 receivership assets, under its control. The internal financial  
6 accounts of the Commission shall be subject to the accounting  
7 procedures established under its by-laws. The financial  
8 accounts and reports including the system of internal controls  
9 and procedures of the Commission shall be audited annually by  
10 an independent certified public accountant. Upon the  
11 determination of the Commission, but no less frequently than  
12 every 3 years, the review of such independent auditor shall  
13 include a management and performance audit of the Commission.  
14 The report of such independent audit shall be made available  
15 to the public and shall be included in and become part of the  
16 annual report of the Commission to the Governors and  
17 legislatures of the compacting states. The Commission's  
18 internal accounts, any workpapers related to any internal  
19 audit, and any workpapers related to the independent audit,  
20 shall be confidential; provided, that such materials shall be  
21 made available: (i) in compliance with the order of any court  
22 of competent jurisdiction; (ii) pursuant to such reasonable  
23 rules as the Commission shall promulgate; and (iii) to any  
24 Commissioner, Governor of a compacting state, or their duly  
25 authorized representatives.

26 (10) No compacting state shall have any claim to or

1 ownership of any property held by or vested in the Commission  
2 or the Commission acting as Receiver or to any other  
3 Commission funds held pursuant to the provisions of this  
4 Compact.

5 ARTICLE XI. COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

6 (1) Any state is eligible to become a compacting state.

7 (2) The Compact shall become effective and binding upon  
8 legislative enactment of the Compact into law by 2 compacting  
9 states. Thereafter, it shall become effective and binding as  
10 to any other compacting state upon enactment of the Compact  
11 into law by that state.

12 (3) Amendments to the Compact may be proposed by the  
13 Commission for enactment by the compacting states. No  
14 amendment shall become effective and binding upon the  
15 Commission and the compacting states unless and until it is  
16 enacted into law by unanimous consent of the compacting  
17 states.

18 ARTICLE XII. WITHDRAWAL, DEFAULT, AND TERMINATION

19 Section A. Withdrawal.

20 (1) Once effective, the Compact shall continue in force  
21 and remain binding upon each and every compacting state;  
22 provided, that a compacting state may withdraw from the  
23 Compact ("withdrawing state") by enacting a statute

1 specifically repealing the statute which enacted the Compact  
2 into law.

3 (2) The effective date of withdrawal is the effective date  
4 of the repeal; provided, that the repeal shall not apply to any  
5 receiverships, for which the Commission is acting as Receiver,  
6 pending on the date of the repeal except by mutual agreement of  
7 the Commission and the withdrawing state.

8 (3) The withdrawing state shall immediately notify the  
9 Chairperson of the Commission in writing upon the introduction  
10 of legislation repealing this Compact in the withdrawing  
11 state.

12 (4) The Commission shall notify the other compacting  
13 states of the withdrawing state's intent to withdraw within 60  
14 days of its receipt thereof.

15 (5) The withdrawing state is responsible for all  
16 assessments, obligations, and liabilities incurred through the  
17 effective date of withdrawal, including any obligations, the  
18 performance of which extend beyond the effective date of  
19 withdrawal, except to the extent those obligations may have  
20 been released or relinquished by mutual agreement of the  
21 Commission and the withdrawing state. Notwithstanding the  
22 foregoing, the withdrawing state is responsible for the costs  
23 and expenses of its estates subject to this Compact pending on  
24 the date of repeal; the Commission and the other estates  
25 subject to this Compact shall not bear any costs and expenses  
26 related to the withdrawing state's estates unless otherwise

1 mutually agreed upon between the Commission and the  
2 withdrawing state.

3 (6) Reinstatement following withdrawal of any compacting  
4 state shall occur upon the withdrawing state reenacting the  
5 Compact or upon such later date as determined by the  
6 Commission.

7 Section B. Default.

8 (1) If the Commission determines that any compacting state  
9 has at any time defaulted ("defaulting state") in the  
10 performance of any of its obligations or responsibilities  
11 under this Compact, the by-laws, or duly promulgated rules,  
12 all rights, privileges, and benefits conferred by this Compact  
13 and any agreements entered into pursuant to this Compact shall  
14 be suspended from the effective date of default as fixed by the  
15 Commission. The grounds for default include, but are not  
16 limited to, failure of a compacting state to perform such  
17 obligations or responsibilities and any other grounds  
18 designated in Commission rules. The Commission shall  
19 immediately notify the defaulting state in writing of the  
20 defaulting state's suspension pending a cure of the default.  
21 The Commission shall stipulate the conditions and the time  
22 period within which the defaulting state must cure its  
23 default. If the defaulting state fails to cure the default  
24 within the time period specified by the Commission, the  
25 defaulting state shall be terminated from the Compact upon an



1 affirmative vote of a majority of the compacting states and  
2 all rights, privileges, and benefits conferred by this Compact  
3 shall be terminated from the effective date of termination.

4 (2) Within 60 days of the effective date of termination of  
5 a defaulting state, the Commission shall notify the Governor  
6 and the Majority and Minority Leaders of the defaulting  
7 state's legislature of such termination.

8 (3) The termination of a defaulting state shall apply to  
9 all receiverships, for which the Commission is acting as  
10 Receiver, pending on the effective date of termination except  
11 by mutual agreement of the Commission and the defaulting  
12 state.

13 (4) The defaulting state is responsible for all  
14 assessments, obligations, and liabilities incurred through the  
15 effective date of termination and is responsible for the costs  
16 and expenses relating to its estates subject to this Compact  
17 pending on the date of the termination. The Commission and the  
18 other estates subject to this Compact shall not bear any costs  
19 or expenses relating the defaulting state's estates unless  
20 otherwise mutually agreed upon between the Commission and the  
21 defaulting state.

22 (5) Reinstatement following termination of any compacting  
23 state requires both a reenactment of the Compact by the  
24 defaulting state and the approval of the Commission pursuant  
25 to the rules.

1 Section C. Dissolution of Compact.

2 (1) The Compact dissolves effective upon the date of the  
3 withdrawal or the termination by default of the compacting  
4 state which reduces membership in the Compact to one  
5 compacting state.

6 (2) Upon the dissolution of this Compact, the Compact  
7 becomes null and void and shall be of no further force or  
8 effect, and the business and affairs of the Commission shall  
9 be wound up and any surplus funds shall be distributed in  
10 accordance with the by-laws.

11 ARTICLE XIII. SEVERABILITY AND CONSTRUCTION

12 (1) The provisions of this Compact shall be severable, and  
13 if any phrase, clause, sentence, or provision is deemed  
14 unenforceable, the remaining provisions of the Compact shall  
15 be enforceable.

16 (2) The provisions of this Compact shall be liberally  
17 construed to effectuate its purposes.

18 ARTICLE XIV. BINDING EFFECT OF COMPACT AND OTHER LAWS

19 Section A. Other laws.

20 (1) Nothing herein prevents the enforcement of any other  
21 law of a compacting state that is not inconsistent with this  
22 Compact.

23 (2) All compacting states' laws conflicting with this

1 Compact are superseded to the extent of the conflict.

2 Section B. Binding effect of this Compact.

3 (1) All lawful actions of the Commission, including all  
4 rules and operating procedures promulgated by the Commission,  
5 are binding upon the compacting states.

6 (2) All agreements between the Commission and the  
7 compacting states are binding in accordance with their terms.

8 (3) Upon the request of a party to a conflict over meaning  
9 or interpretation of Commission actions, and upon a majority  
10 vote of the compacting states, the Commission may issue  
11 advisory opinions regarding such meaning or interpretation.

12 (4) In the event any provision of this Compact exceeds the  
13 constitutional limits imposed on the legislature of any  
14 compacting state, the obligations, duties, powers, or  
15 jurisdiction sought to be conferred by such provision upon the  
16 Commission shall be ineffective and such obligations, duties,  
17 powers or jurisdiction shall remain in the compacting state  
18 and shall be exercised by the agency thereof to which such  
19 obligations, duties, powers, or jurisdiction are delegated by  
20 law in effect at the time this Compact becomes effective.

21 (Source: P.A. 95-331, eff. 8-21-07.)

22 Section 35. The Interstate Insurance Product Regulation  
23 Compact is amended by changing Section 10 as follows:

1 (45 ILCS 162/10)

2 Sec. 10. Ratification. The State of Illinois ratifies,  
3 approves, and adopts the following interstate compact:

4 Article I. PURPOSES

5 The purposes of this Compact are, through means of joint  
6 and cooperative action among the Compacting States:

7 1. To promote and protect the interest of consumers of  
8 individual and group annuity, life insurance, disability  
9 income and long-term care insurance products;

10 2. To develop uniform standards for insurance products  
11 covered under the Compact;

12 3. To establish a central clearinghouse to receive and  
13 provide prompt review of insurance products covered under  
14 the Compact and, in certain cases, advertisements related  
15 thereto, submitted by insurers authorized to do business  
16 in one or more Compacting States;

17 4. To give appropriate regulatory approval to those  
18 product filings and advertisements satisfying the  
19 applicable uniform standard;

20 5. To improve coordination of regulatory resources and  
21 expertise between state insurance departments regarding  
22 the setting of uniform standards and review of insurance  
23 products covered under the Compact;

24 6. To create the Interstate Insurance Product  
25 Regulation Commission; and

1           7. To perform these and such other related functions  
2           as may be consistent with the state regulation of the  
3           business of insurance.

4                                   Article II. DEFINITIONS

5           For purposes of this Compact:

6           1. "Advertisement" means any material designed to  
7           create public interest in a Product, or induce the public  
8           to purchase, increase, modify, reinstate, borrow on,  
9           surrender, replace or retain a policy, as more  
10          specifically defined in the Rules and Operating Procedures  
11          of the Commission.

12          2. "Bylaws" mean those bylaws established by the  
13          Commission for its governance, or for directing or  
14          controlling the Commission's actions or conduct.

15          3. "Compacting State" means any State which has  
16          enacted this Compact legislation and which has not  
17          withdrawn pursuant to Article XIV, Section 1, or been  
18          terminated pursuant to Article XIV, Section 2.

19          4. "Commission" means the "Interstate Insurance  
20          Product Regulation Commission" established by this  
21          Compact.

22          5. "Commissioner" means the chief insurance regulatory  
23          official of a State including, but not limited to  
24          commissioner, superintendent, director or administrator.

25          6. "Domiciliary State" means the state in which an

1 Insurer is incorporated or organized; or, in the case of a  
2 non-domestic ~~an alien~~ Insurer, its state of entry.

3 7. "Insurer" means any entity licensed by a State to  
4 issue contracts of insurance for any of the lines of  
5 insurance covered by this Act.

6 8. "Member" means the person chosen by a Compacting  
7 State as its representative to the Commission, or his or  
8 her designee.

9 9. "Non-compacting State" means any State which is not  
10 at the time a Compacting State.

11 10. "Operating Procedures" mean procedures promulgated  
12 by the Commission implementing a Rule, Uniform Standard or  
13 a provision of this Compact.

14 11. "Product" means the form of a policy or contract,  
15 including any application, endorsement, or related form  
16 which is attached to and made a part of the policy or  
17 contract, and any evidence of coverage or certificate, for  
18 an individual or group annuity, life insurance, disability  
19 income or long-term care insurance product that an Insurer  
20 is authorized to issue.

21 12. "Rule" means a statement of general or particular  
22 applicability and future effect promulgated by the  
23 Commission, including a Uniform Standard developed  
24 pursuant to Article VII of this Compact, designed to  
25 implement, interpret, or prescribe law or policy or  
26 describing the organization, procedure, or practice

1 requirements of the Commission, which shall have the force  
2 and effect of law in the Compacting States.

3 13. "State" means any state, district or territory of  
4 the United States of America.

5 14. "Third-Party Filer" means an entity that submits a  
6 Product filing to the Commission on behalf of an Insurer.

7 15. "Uniform Standard" means a standard adopted by the  
8 Commission for a Product line, pursuant to Article VII of  
9 this Compact, and shall include all of the Product  
10 requirements in aggregate; provided, that each Uniform  
11 Standard shall be construed, whether express or implied,  
12 to prohibit the use of any inconsistent, misleading or  
13 ambiguous provisions in a Product and the form of the  
14 Product made available to the public shall not be unfair,  
15 inequitable or against public policy as determined by the  
16 Commission.

17 Article III. ESTABLISHMENT OF THE COMMISSION AND VENUE

18 1. The Compacting States hereby create and establish a  
19 joint public agency known as the "Interstate Insurance Product  
20 Regulation Commission." Pursuant to Article IV, the Commission  
21 will have the power to develop Uniform Standards for Product  
22 lines, receive and provide prompt review of Products filed  
23 therewith, and give approval to those Product filings  
24 satisfying applicable Uniform Standards; provided, it is not  
25 intended for the Commission to be the exclusive entity for

1 receipt and review of insurance product filings. Nothing  
2 herein shall prohibit any Insurer from filing its product in  
3 any State wherein the Insurer is licensed to conduct the  
4 business of insurance; and any such filing shall be subject to  
5 the laws of the State where filed.

6 2. The Commission is a body corporate and politic, and an  
7 instrumentality of the Compacting States.

8 3. The Commission is solely responsible for its  
9 liabilities except as otherwise specifically provided in this  
10 Compact.

11 4. Venue is proper and judicial proceedings by or against  
12 the Commission shall be brought solely and exclusively in a  
13 Court of competent jurisdiction where the principal office of  
14 the Commission is located.

15 Article IV. POWERS OF THE COMMISSION

16 The Commission shall have the following powers:

17 1. To promulgate Rules, pursuant to Article VII of  
18 this Compact, which shall have the force and effect of law  
19 and shall be binding in the Compacting States to the  
20 extent and in the manner provided in this Compact;

21 2. To exercise its rule-making authority and establish  
22 reasonable Uniform Standards for Products covered under  
23 the Compact, and Advertisement related thereto, which  
24 shall have the force and effect of law and shall be binding  
25 in the Compacting States, but only for those Products



1 filed with the Commission, provided, that a Compacting  
2 State shall have the right to opt out of such Uniform  
3 Standard pursuant to Article VII, to the extent and in the  
4 manner provided in this Compact, and, provided further,  
5 that any Uniform Standard established by the Commission  
6 for long-term care insurance products may provide the same  
7 or greater protections for consumers as, but shall not  
8 provide less than, those protections set forth in the  
9 National Association of Insurance Commissioners' Long-Term  
10 Care Insurance Model Act and Long-Term Care Insurance  
11 Model Regulation, respectively, adopted as of 2001. The  
12 Commission shall consider whether any subsequent  
13 amendments to the NAIC Long-Term Care Insurance Model Act  
14 or Long-Term Care Insurance Model Regulation adopted by  
15 the NAIC require amending of the Uniform Standards  
16 established by the Commission for long-term care insurance  
17 products;

18 3. To receive and review in an expeditious manner  
19 Products filed with the Commission, and rate filings for  
20 disability income and long-term care insurance Products,  
21 and give approval of those Products and rate filings that  
22 satisfy the applicable Uniform Standard, where such  
23 approval shall have the force and effect of law and be  
24 binding on the Compacting States to the extent and in the  
25 manner provided in the Compact;

26 4. To receive and review in an expeditious manner

1 Advertisement relating to long-term care insurance  
2 products for which Uniform Standards have been adopted by  
3 the Commission, and give approval to all Advertisement  
4 that satisfies the applicable Uniform Standard. For any  
5 product covered under this Compact, other than long-term  
6 care insurance products, the Commission shall have the  
7 authority to require an insurer to submit all or any part  
8 of its Advertisement with respect to that product for  
9 review or approval prior to use, if the Commission  
10 determines that the nature of the product is such that an  
11 Advertisement of the product could have the capacity or  
12 tendency to mislead the public. The actions of Commission  
13 as provided in this section shall have the force and  
14 effect of law and shall be binding in the Compacting  
15 States to the extent and in the manner provided in the  
16 Compact;

17 5. To exercise its rule-making authority and designate  
18 Products and Advertisement that may be subject to a  
19 self-certification process without the need for prior  
20 approval by the Commission.

21 6. To promulgate Operating Procedures, pursuant to  
22 Article VII of this Compact, which shall be binding in the  
23 Compacting States to the extent and in the manner provided  
24 in this Compact;

25 7. To bring and prosecute legal proceedings or actions  
26 in its name as the Commission; provided, that the standing

1 of any state insurance department to sue or be sued under  
2 applicable law shall not be affected;

3 8. To issue subpoenas requiring the attendance and  
4 testimony of witnesses and the production of evidence;

5 9. To establish and maintain offices;

6 10. To purchase and maintain insurance and bonds;

7 11. To borrow, accept or contract for services of  
8 personnel, including, but not limited to, employees of a  
9 Compacting State;

10 12. To hire employees, professionals or specialists,  
11 and elect or appoint officers, and to fix their  
12 compensation, define their duties and give them  
13 appropriate authority to carry out the purposes of the  
14 Compact, and determine their qualifications; and to  
15 establish the Commission's personnel policies and programs  
16 relating to, among other things, conflicts of interest,  
17 rates of compensation and qualifications of personnel;

18 13. To accept any and all appropriate donations and  
19 grants of money, equipment, supplies, materials and  
20 services, and to receive, utilize and dispose of the same;  
21 provided that at all times the Commission shall strive to  
22 avoid any appearance of impropriety;

23 14. To lease, purchase, accept appropriate gifts or  
24 donations of, or otherwise to own, hold, improve or use,  
25 any property, real, personal or mixed; provided that at  
26 all times the Commission shall strive to avoid any

1 appearance of impropriety;

2 15. To sell, convey, mortgage, pledge, lease,  
3 exchange, abandon or otherwise dispose of any property,  
4 real, personal or mixed;

5 16. To remit filing fees to Compacting States as may  
6 be set forth in the Bylaws, Rules or Operating Procedures;

7 17. To enforce compliance by Compacting States with  
8 Rules, Uniform Standards, Operating Procedures and Bylaws;

9 18. To provide for dispute resolution among Compacting  
10 States;

11 19. To advise Compacting States on issues relating to  
12 Insurers domiciled or doing business in Non-compacting  
13 jurisdictions, consistent with the purposes of this  
14 Compact;

15 20. To provide advice and training to those personnel  
16 in state insurance departments responsible for product  
17 review, and to be a resource for state insurance  
18 departments;

19 21. To establish a budget and make expenditures;

20 22. To borrow money;

21 23. To appoint committees, including advisory  
22 committees comprising Members, state insurance regulators,  
23 state legislators or their representatives, insurance  
24 industry and consumer representatives, and such other  
25 interested persons as may be designated in the Bylaws;

26 24. To provide and receive information from, and to

1 cooperate with law enforcement agencies;

2 25. To adopt and use a corporate seal; and

3 26. To perform such other functions as may be  
4 necessary or appropriate to achieve the purposes of this  
5 Compact consistent with the state regulation of the  
6 business of insurance.

7 Article V. ORGANIZATION OF THE COMMISSION

8 1. Membership, Voting and Bylaws.

9 a. Each Compacting State shall have and be limited to one  
10 Member. Each Member shall be qualified to serve in that  
11 capacity pursuant to applicable law of the Compacting State.  
12 Any Member may be removed or suspended from office as provided  
13 by the law of the State from which he or she shall be  
14 appointed. Any vacancy occurring in the Commission shall be  
15 filled in accordance with the laws of the Compacting State  
16 wherein the vacancy exists. Nothing herein shall be construed  
17 to affect the manner in which a Compacting State determines  
18 the election or appointment and qualification of its own  
19 Commissioner.

20 b. Each Member shall be entitled to one vote and shall have  
21 an opportunity to participate in the governance of the  
22 Commission in accordance with the Bylaws. Notwithstanding any  
23 provision herein to the contrary, no action of the Commission  
24 with respect to the promulgation of a Uniform Standard shall  
25 be effective unless two-thirds (2/3) of the Members vote in

1 favor thereof.

2 c. The Commission shall, by a majority of the Members,  
3 prescribe Bylaws to govern its conduct as may be necessary or  
4 appropriate to carry out the purposes, and exercise the  
5 powers, of the Compact, including, but not limited to:

6 i. establishing the fiscal year of the Commission;

7 ii. providing reasonable procedures for appointing  
8 and electing members, as well as holding meetings, of  
9 the Management Committee;

10 iii. providing reasonable standards and  
11 procedures: (i) for the establishment and meetings of  
12 other committees, and (ii) governing any general or  
13 specific delegation of any authority or function of  
14 the Commission;

15 iv. providing reasonable procedures for calling  
16 and conducting meetings of the Commission that  
17 consists of a majority of Commission members, ensuring  
18 reasonable advance notice of each such meeting, and  
19 providing for the right of citizens to attend each  
20 such meeting with enumerated exceptions designed to  
21 protect the public's interest, the privacy of  
22 individuals, and insurers' proprietary information,  
23 including trade secrets. The Commission may meet in  
24 camera only after a majority of the entire membership  
25 votes to close a meeting en toto or in part. As soon as  
26 practicable, the Commission must make public (i) a

1 copy of the vote to close the meeting revealing the  
2 vote of each Member with no proxy votes allowed, and  
3 (ii) votes taken during such meeting;

4 v. establishing the titles, duties and authority  
5 and reasonable procedures for the election of the  
6 officers of the Commission;

7 vi. providing reasonable standards and procedures  
8 for the establishment of the personnel policies and  
9 programs of the Commission. Notwithstanding any civil  
10 service or other similar laws of any Compacting State,  
11 the Bylaws shall exclusively govern the personnel  
12 policies and programs of the Commission;

13 vii. promulgating a code of ethics to address  
14 permissible and prohibited activities of commission  
15 members and employees; and

16 viii. providing a mechanism for winding up the  
17 operations of the Commission and the equitable  
18 disposition of any surplus funds that may exist after  
19 the termination of the Compact after the payment  
20 and/or reserving of all of its debts and obligations.

21 d. The Commission shall publish its bylaws in a convenient  
22 form and file a copy thereof and a copy of any amendment  
23 thereto, with the appropriate agency or officer in each of the  
24 Compacting States.

25 2. Management Committee, Officers and Personnel.

26 a. A Management Committee comprising no more than fourteen

1 (14) members shall be established as follows:

2 (i) One (1) member from each of the six (6)  
3 Compacting States with the largest premium volume for  
4 individual and group annuities, life, disability  
5 income and long-term care insurance products,  
6 determined from the records of the NAIC for the prior  
7 year;

8 (ii) Four (4) members from those Compacting States  
9 with at least two percent (2%) of the market based on  
10 the premium volume described above, other than the six  
11 (6) Compacting States with the largest premium volume,  
12 selected on a rotating basis as provided in the  
13 Bylaws, and;

14 (iii) Four (4) members from those Compacting  
15 States with less than two percent (2%) of the market,  
16 based on the premium volume described above, with one  
17 (1) selected from each of the four (4) zone regions of  
18 the NAIC as provided in the Bylaws.

19 b. The Management Committee shall have such authority and  
20 duties as may be set forth in the Bylaws, including but not  
21 limited to:

22 i. managing the affairs of the Commission in a  
23 manner consistent with the Bylaws and purposes of the  
24 Commission;

25 ii. establishing and overseeing an organizational  
26 structure within, and appropriate procedures for, the



1 Commission to provide for the creation of Uniform  
2 Standards and other Rules, receipt and review of  
3 product filings, administrative and technical support  
4 functions, review of decisions regarding the  
5 disapproval of a product filing, and the review of  
6 elections made by a Compacting State to opt out of a  
7 Uniform Standard; provided that a Uniform Standard  
8 shall not be submitted to the Compacting States for  
9 adoption unless approved by two-thirds (2/3) of the  
10 members of the Management Committee;

11 iii. overseeing the offices of the Commission; and

12 iv. planning, implementing, and coordinating  
13 communications and activities with other state,  
14 federal and local government organizations in order to  
15 advance the goals of the Commission.

16 c. The Commission shall elect annually officers from the  
17 Management Committee, with each having such authority and  
18 duties, as may be specified in the Bylaws.

19 d. The Management Committee may, subject to the approval  
20 of the Commission, appoint or retain an executive director for  
21 such period, upon such terms and conditions and for such  
22 compensation as the Commission may deem appropriate. The  
23 executive director shall serve as secretary to the Commission,  
24 but shall not be a Member of the Commission. The executive  
25 director shall hire and supervise such other staff as may be  
26 authorized by the Commission.

1           3. Legislative and Advisory Committees.

2           a. A legislative committee comprising state legislators or  
3 their designees shall be established to monitor the operations  
4 of, and make recommendations to, the Commission, including the  
5 Management Committee; provided that the manner of selection  
6 and term of any legislative committee member shall be as set  
7 forth in the Bylaws. Prior to the adoption by the Commission of  
8 any Uniform Standard, revision to the Bylaws, annual budget or  
9 other significant matter as may be provided in the Bylaws, the  
10 Management Committee shall consult with and report to the  
11 legislative committee.

12           b. The Commission shall establish two (2) advisory  
13 committees, one of which shall comprise consumer  
14 representatives independent of the insurance industry, and the  
15 other comprising insurance industry representatives.

16           c. The Commission may establish additional advisory  
17 committees as its Bylaws may provide for the carrying out of  
18 its functions.

19           4. Corporate Records of the Commission. The Commission  
20 shall maintain its corporate books and records in accordance  
21 with the Bylaws.

22           5. Qualified Immunity, Defense and Indemnification.

23           a. The Members, officers, executive director, employees  
24 and representatives of the Commission shall be immune from  
25 suit and liability, either personally or in their official  
26 capacity, for any claim for damage to or loss of property or

1 personal injury or other civil liability caused by or arising  
2 out of any actual or alleged act, error or omission that  
3 occurred, or that the person against whom the claim is made had  
4 a reasonable basis for believing occurred within the scope of  
5 Commission employment, duties or responsibilities; provided,  
6 that nothing in this paragraph shall be construed to protect  
7 any such person from suit and/or liability for any damage,  
8 loss, injury or liability caused by the intentional or willful  
9 and wanton misconduct of that person.

10 b. The Commission shall defend any Member, officer,  
11 executive director, employee or representative of the  
12 Commission in any civil action seeking to impose liability  
13 arising out of any actual or alleged act, error or omission  
14 that occurred within the scope of Commission employment,  
15 duties or responsibilities, or that the person against whom  
16 the claim is made had a reasonable basis for believing  
17 occurred within the scope of Commission employment, duties or  
18 responsibilities; provided, that nothing herein shall be  
19 construed to prohibit that person from retaining his or her  
20 own counsel; and provided further, that the actual or alleged  
21 act, error or omission did not result from that person's  
22 intentional or willful and wanton misconduct.

23 c. The Commission shall indemnify and hold harmless any  
24 Member, officer, executive director, employee or  
25 representative of the Commission for the amount of any  
26 settlement or judgment obtained against that person arising

1 out of any actual or alleged act, error or omission that  
2 occurred within the scope of Commission employment, duties or  
3 responsibilities, or that such person had a reasonable basis  
4 for believing occurred within the scope of Commission  
5 employment, duties or responsibilities, provided, that the  
6 actual or alleged act, error or omission did not result from  
7 the intentional or willful and wanton misconduct of that  
8 person.

9 Article VI. MEETINGS AND ACTS OF THE COMMISSION

10 1. The Commission shall meet and take such actions as are  
11 consistent with the provisions of this Compact and the Bylaws.

12 2. Each Member of the Commission shall have the right and  
13 power to cast a vote to which that Compacting State is entitled  
14 and to participate in the business and affairs of the  
15 Commission. A Member shall vote in person or by such other  
16 means as provided in the Bylaws. The Bylaws may provide for  
17 Members' participation in meetings by telephone or other means  
18 of communication.

19 3. The Commission shall meet at least once during each  
20 calendar year. Additional meetings shall be held as set forth  
21 in the Bylaws.

22 Article VII. RULES & OPERATING PROCEDURES: RULEMAKING

23 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF UNIFORM

24 STANDARDS

1           1. Rulemaking Authority. The Commission shall promulgate  
2 reasonable Rules, including Uniform Standards, and Operating  
3 Procedures in order to effectively and efficiently achieve the  
4 purposes of this Compact. Notwithstanding the foregoing, in  
5 the event the Commission exercises its rulemaking authority in  
6 a manner that is beyond the scope of the purposes of this Act,  
7 or the powers granted hereunder, then such an action by the  
8 Commission shall be invalid and have no force and effect.

9           2. Rulemaking Procedure. Rules and Operating Procedures  
10 shall be made pursuant to a rulemaking process that conforms  
11 to the Model State Administrative Procedure Act of 1981 as  
12 amended, as may be appropriate to the operations of the  
13 Commission. Before the Commission adopts a Uniform Standard,  
14 the Commission shall give written notice to the relevant state  
15 legislative committee(s) in each Compacting State responsible  
16 for insurance issues of its intention to adopt the Uniform  
17 Standard. The Commission in adopting a Uniform Standard shall  
18 consider fully all submitted materials and issue a concise  
19 explanation of its decision.

20           3. Effective Date and Opt Out of a Uniform Standard. A  
21 Uniform Standard shall become effective ninety (90) days after  
22 its promulgation by the Commission or such later date as the  
23 Commission may determine; provided, however, that a Compacting  
24 State may opt out of a Uniform Standard as provided in this  
25 Article. "Opt out" shall be defined as any action by a  
26 Compacting State to decline to adopt or participate in a

1 promulgated Uniform Standard. All other Rules and Operating  
2 Procedures, and amendments thereto, shall become effective as  
3 of the date specified in each Rule, Operating Procedure or  
4 amendment.

5 4. Opt Out Procedure. A Compacting State may opt out of a  
6 Uniform Standard, either by legislation or regulation duly  
7 promulgated by the Insurance Department under the Compacting  
8 State's Administrative Procedure Act. If a Compacting State  
9 elects to opt out of a Uniform Standard by regulation, it must  
10 (a) give written notice to the Commission no later than ten  
11 (10) business days after the Uniform Standard is promulgated,  
12 or at the time the State becomes a Compacting State and (b)  
13 find that the Uniform Standard does not provide reasonable  
14 protections to the citizens of the State, given the conditions  
15 in the State. The Commissioner shall make specific findings of  
16 fact and conclusions of law, based on a preponderance of the  
17 evidence, detailing the conditions in the State which warrant  
18 a departure from the Uniform Standard and determining that the  
19 Uniform Standard would not reasonably protect the citizens of  
20 the State. The Commissioner must consider and balance the  
21 following factors and find that the conditions in the State  
22 and needs of the citizens of the State outweigh: (i) the intent  
23 of the legislature to participate in, and the benefits of, an  
24 interstate agreement to establish national uniform consumer  
25 protections for the Products subject to this Act; and (ii) the  
26 presumption that a Uniform Standard adopted by the Commission

1 provides reasonable protections to consumers of the relevant  
2 Product.

3 Notwithstanding the foregoing, a Compacting State may, at  
4 the time of its enactment of this Compact, prospectively opt  
5 out of all Uniform Standards involving long-term care  
6 insurance products by expressly providing for such opt out in  
7 the enacted Compact, and such an opt out shall not be treated  
8 as a material variance in the offer or acceptance of any State  
9 to participate in this Compact. Such an opt out shall be  
10 effective at the time of enactment of this Compact by the  
11 Compacting State and shall apply to all existing Uniform  
12 Standards involving long-term care insurance products and  
13 those subsequently promulgated.

14 5. Effect of Opt Out. If a Compacting State elects to opt  
15 out of a Uniform Standard, the Uniform Standard shall remain  
16 applicable in the Compacting State electing to opt out until  
17 such time the opt out legislation is enacted into law or the  
18 regulation opting out becomes effective.

19 Once the opt out of a Uniform Standard by a Compacting  
20 State becomes effective as provided under the laws of that  
21 State, the Uniform Standard shall have no further force and  
22 effect in that State unless and until the legislation or  
23 regulation implementing the opt out is repealed or otherwise  
24 becomes ineffective under the laws of the State. If a  
25 Compacting State opts out of a Uniform Standard after the  
26 Uniform Standard has been made effective in that State, the

1 opt out shall have the same prospective effect as provided  
2 under Article XIV for withdrawals.

3 6. Stay of Uniform Standard. If a Compacting State has  
4 formally initiated the process of opting out of a Uniform  
5 Standard by regulation, and while the regulatory opt out is  
6 pending, the Compacting State may petition the Commission, at  
7 least fifteen (15) days before the effective date of the  
8 Uniform Standard, to stay the effectiveness of the Uniform  
9 Standard in that State. The Commission may grant a stay if it  
10 determines the regulatory opt out is being pursued in a  
11 reasonable manner and there is a likelihood of success. If a  
12 stay is granted or extended by the Commission, the stay or  
13 extension thereof may postpone the effective date by up to  
14 ninety (90) days, unless affirmatively extended by the  
15 Commission; provided, a stay may not be permitted to remain in  
16 effect for more than one (1) year unless the Compacting State  
17 can show extraordinary circumstances which warrant a  
18 continuance of the stay, including, but not limited to, the  
19 existence of a legal challenge which prevents the Compacting  
20 State from opting out. A stay may be terminated by the  
21 Commission upon notice that the rulemaking process has been  
22 terminated.

23 7. Not later than thirty (30) days after a Rule or  
24 Operating Procedure is promulgated, any person may file a  
25 petition for judicial review of the Rule or Operating  
26 Procedure; provided, that the filing of such a petition shall



1 not stay or otherwise prevent the Rule or Operating Procedure  
2 from becoming effective unless the court finds that the  
3 petitioner has a substantial likelihood of success. The court  
4 shall give deference to the actions of the Commission  
5 consistent with applicable law and shall not find the Rule or  
6 Operating Procedure to be unlawful if the Rule or Operating  
7 Procedure represents a reasonable exercise of the Commission's  
8 authority.

9 Article VIII. COMMISSION RECORDS AND ENFORCEMENT

10 1. The Commission shall promulgate Rules establishing  
11 conditions and procedures for public inspection and copying of  
12 its information and official records, except such information  
13 and records involving the privacy of individuals and insurers'  
14 trade secrets. The Commission may promulgate additional Rules  
15 under which it may make available to federal and state  
16 agencies, including law enforcement agencies, records and  
17 information otherwise exempt from disclosure, and may enter  
18 into agreements with such agencies to receive or exchange  
19 information or records subject to nondisclosure and  
20 confidentiality provisions.

21 2. Except as to privileged records, data and information,  
22 the laws of any Compacting State pertaining to confidentiality  
23 or nondisclosure shall not relieve any Compacting State  
24 Commissioner of the duty to disclose any relevant records,  
25 data or information to the Commission; provided, that

1 disclosure to the Commission shall not be deemed to waive or  
2 otherwise affect any confidentiality requirement; and further  
3 provided, that, except as otherwise expressly provided in this  
4 Act, the Commission shall not be subject to the Compacting  
5 State's laws pertaining to confidentiality and nondisclosure  
6 with respect to records, data and information in its  
7 possession. Confidential information of the Commission shall  
8 remain confidential after such information is provided to any  
9 Commissioner.

10 3. The Commission shall monitor Compacting States for  
11 compliance with duly adopted Bylaws, Rules, including Uniform  
12 Standards, and Operating Procedures. The Commission shall  
13 notify any non-complying Compacting State in writing of its  
14 noncompliance with Commission Bylaws, Rules or Operating  
15 Procedures. If a non-complying Compacting State fails to  
16 remedy its noncompliance within the time specified in the  
17 notice of noncompliance, the Compacting State shall be deemed  
18 to be in default as set forth in Article XIV.

19 4. The Commissioner of any State in which an Insurer is  
20 authorized to do business, or is conducting the business of  
21 insurance, shall continue to exercise his or her authority to  
22 oversee the market regulation of the activities of the Insurer  
23 in accordance with the provisions of the State's law. The  
24 Commissioner's enforcement of compliance with the Compact is  
25 governed by the following provisions:

26 a. With respect to the Commissioner's market regulation of

1 a Product or Advertisement that is approved or certified to  
2 the Commission, the content of the Product or Advertisement  
3 shall not constitute a violation of the provisions, standards  
4 or requirements of the Compact except upon a final order of the  
5 Commission, issued at the request of a Commissioner after  
6 prior notice to the Insurer and an opportunity for hearing  
7 before the Commission.

8 b. Before a Commissioner may bring an action for violation  
9 of any provision, standard or requirement of the Compact  
10 relating to the content of an Advertisement not approved or  
11 certified to the Commission, the Commission, or an authorized  
12 Commission officer or employee, must authorize the action.  
13 However, authorization pursuant to this Paragraph does not  
14 require notice to the Insurer, opportunity for hearing or  
15 disclosure of requests for authorization or records of the  
16 Commission's action on such requests.

17 Article IX. DISPUTE RESOLUTION

18 The Commission shall attempt, upon the request of a  
19 Member, to resolve any disputes or other issues that are  
20 subject to this Compact and which may arise between two or more  
21 Compacting States, or between Compacting States and  
22 Non-compacting States, and the Commission shall promulgate an  
23 Operating Procedure providing for resolution of such disputes.

24 Article X. PRODUCT FILING AND APPROVAL

1           1. Insurers and Third-Party Filers seeking to have a  
2 Product approved by the Commission shall file the Product  
3 with, and pay applicable filing fees to, the Commission.  
4 Nothing in this Act shall be construed to restrict or  
5 otherwise prevent an insurer from filing its Product with the  
6 insurance department in any State wherein the insurer is  
7 licensed to conduct the business of insurance, and such filing  
8 shall be subject to the laws of the States where filed.

9           2. The Commission shall establish appropriate filing and  
10 review processes and procedures pursuant to Commission Rules  
11 and Operating Procedures. Notwithstanding any provision herein  
12 to the contrary, the Commission shall promulgate Rules to  
13 establish conditions and procedures under which the Commission  
14 will provide public access to Product filing information. In  
15 establishing such Rules, the Commission shall consider the  
16 interests of the public in having access to such information,  
17 as well as protection of personal medical and financial  
18 information and trade secrets, that may be contained in a  
19 Product filing or supporting information.

20           3. Any Product approved by the Commission may be sold or  
21 otherwise issued in those Compacting States for which the  
22 Insurer is legally authorized to do business.

#### 23       Article XI. REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

24           1. Not later than thirty (30) days after the Commission  
25 has given notice of a disapproved Product or Advertisement

1 filed with the Commission, the Insurer or Third Party Filer  
2 whose filing was disapproved may appeal the determination to a  
3 review panel appointed by the Commission. The Commission shall  
4 promulgate Rules to establish procedures for appointing such  
5 review panels and provide for notice and hearing. An  
6 allegation that the Commission, in disapproving a Product or  
7 Advertisement filed with the Commission, acted arbitrarily,  
8 capriciously, or in a manner that is an abuse of discretion or  
9 otherwise not in accordance with the law, is subject to  
10 judicial review in accordance with Article III, section 5.

11 2. The Commission shall have authority to monitor, review  
12 and reconsider Products and Advertisement subsequent to their  
13 filing or approval upon a finding that the product does not  
14 meet the relevant Uniform Standard. Where appropriate, the  
15 Commission may withdraw or modify its approval after proper  
16 notice and hearing, subject to the appeal process in section 1  
17 above.

18 Article XII. FINANCE

19 1. The Commission shall pay or provide for the payment of  
20 the reasonable expenses of its establishment and organization.  
21 To fund the cost of its initial operations, the Commission may  
22 accept contributions and other forms of funding from the  
23 National Association of Insurance Commissioners, Compacting  
24 States and other sources. Contributions and other forms of  
25 funding from other sources shall be of such a nature that the

1 independence of the Commission concerning the performance of  
2 its duties shall not be compromised.

3 2. The Commission shall collect a filing fee from each  
4 Insurer and Third Party Filer filing a product with the  
5 Commission to cover the cost of the operations and activities  
6 of the Commission and its staff in a total amount sufficient to  
7 cover the Commission's annual budget.

8 3. The Commission's budget for a fiscal year shall not be  
9 approved until it has been subject to notice and comment as set  
10 forth in Article VII of this Compact.

11 4. The Commission shall be exempt from all taxation in and  
12 by the Compacting States.

13 5. The Commission shall not pledge the credit of any  
14 Compacting State, except by and with the appropriate legal  
15 authority of that Compacting State.

16 6. The Commission shall keep complete and accurate  
17 accounts of all its internal receipts, including grants and  
18 donations, and disbursements of all funds under its control.  
19 The internal financial accounts of the Commission shall be  
20 subject to the accounting procedures established under its  
21 Bylaws. The financial accounts and reports including the  
22 system of internal controls and procedures of the Commission  
23 shall be audited annually by an independent certified public  
24 accountant. Upon the determination of the Commission, but no  
25 less frequently than every three (3) years, the review of the  
26 independent auditor shall include a management and performance

1 audit of the Commission. The Commission shall make an Annual  
2 Report to the Governor and legislature of the Compacting  
3 States, which shall include a report of the independent audit.  
4 The Commission's internal accounts shall not be confidential  
5 and such materials may be shared with the Commissioner of any  
6 Compacting State upon request, provided, however, that any  
7 work papers related to any internal or independent audit and  
8 any information regarding the privacy of individuals and  
9 insurers' proprietary information, including trade secrets,  
10 shall remain confidential.

11 7. No Compacting State shall have any claim to or  
12 ownership of any property held by or vested in the Commission  
13 or to any Commission funds held pursuant to the provisions of  
14 this Compact.

15 Article XIII. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

16 1. Any State is eligible to become a Compacting State.

17 2. The Compact shall become effective and binding upon  
18 legislative enactment of the Compact into law by two  
19 Compacting States; provided, the Commission shall become  
20 effective for purposes of adopting Uniform Standards for,  
21 reviewing, and giving approval or disapproval of, Products  
22 filed with the Commission that satisfy applicable Uniform  
23 Standards only after twenty-six (26) States are Compacting  
24 States or, alternatively, by States representing greater than  
25 forty percent (40%) of the premium volume for life insurance,

1 annuity, disability income and long-term care insurance  
2 products, based on records of the NAIC for the prior year.  
3 Thereafter, it shall become effective and binding as to any  
4 other Compacting State upon enactment of the Compact into law  
5 by that State.

6 3. Amendments to the Compact may be proposed by the  
7 Commission for enactment by the Compacting States. No  
8 amendment shall become effective and binding upon the  
9 Commission and the Compacting States unless and until all  
10 Compacting States enact the amendment into law.

11 Article XIV. WITHDRAWAL, DEFAULT AND TERMINATION

12 1. Withdrawal.

13 a. Once effective, the Compact shall continue in force and  
14 remain binding upon each and every Compacting State; provided,  
15 that a Compacting State may withdraw from the Compact  
16 ("Withdrawing State") by enacting a statute specifically  
17 repealing the statute which enacted the Compact into law.

18 b. The effective date of withdrawal is the effective date  
19 of the repealing statute. However, the withdrawal shall not  
20 apply to any product filings approved or self-certified, or  
21 any Advertisement of such products, on the date the repealing  
22 statute becomes effective, except by mutual agreement of the  
23 Commission and the Withdrawing State unless the approval is  
24 rescinded by the Withdrawing State as provided in subsection  
25 e. of this section.



1           c. The Commissioner of the Withdrawing State shall  
2 immediately notify the Management Committee in writing upon  
3 the introduction of legislation repealing this Compact in the  
4 Withdrawing State.

5           d. The Commission shall notify the other Compacting States  
6 of the introduction of such legislation within ten (10) days  
7 after its receipt of notice thereof.

8           e. The Withdrawing State is responsible for all  
9 obligations, duties and liabilities incurred through the  
10 effective date of withdrawal, including any obligations, the  
11 performance of which extend beyond the effective date of  
12 withdrawal, except to the extent those obligations may have  
13 been released or relinquished by mutual agreement of the  
14 Commission and the Withdrawing State. The Commission's  
15 approval of Products and Advertisement prior to the effective  
16 date of withdrawal shall continue to be effective and be given  
17 full force and effect in the Withdrawing State, unless  
18 formally rescinded by the Withdrawing State in the same manner  
19 as provided by the laws of the Withdrawing State for the  
20 prospective disapproval of products or advertisement  
21 previously approved under state law.

22           f. Reinstatement following withdrawal of any Compacting  
23 State shall occur upon the effective date of the Withdrawing  
24 State reenacting the Compact.

25           2. Default.

26           a. If the Commission determines that any Compacting State

1 has at any time defaulted ("Defaulting State") in the  
2 performance of any of its obligations or responsibilities  
3 under this Compact, the Bylaws or duly promulgated Rules or  
4 Operating Procedures, then, after notice and hearing as set  
5 forth in the Bylaws, all rights, privileges and benefits  
6 conferred by this Compact on the Defaulting State shall be  
7 suspended from the effective date of default as fixed by the  
8 Commission. The grounds for default include, but are not  
9 limited to, failure of a Compacting State to perform its  
10 obligations or responsibilities, and any other grounds  
11 designated in Commission Rules. The Commission shall  
12 immediately notify the Defaulting State in writing of the  
13 Defaulting State's suspension pending a cure of the default.  
14 The Commission shall stipulate the conditions and the time  
15 period within which the Defaulting State must cure its  
16 default. If the Defaulting State fails to cure the default  
17 within the time period specified by the Commission, the  
18 Defaulting State shall be terminated from the Compact and all  
19 rights, privileges and benefits conferred by this Compact  
20 shall be terminated from the effective date of termination.

21 b. Product approvals by the Commission or product  
22 self-certifications, or any Advertisement in connection with  
23 such product, that are in force on the effective date of  
24 termination shall remain in force in the Defaulting State in  
25 the same manner as if the Defaulting State had withdrawn  
26 voluntarily pursuant to paragraph 1 of this Article.

1 c. Reinstatement following termination of any Compacting  
2 State requires a reenactment of the Compact.

3 3. Dissolution of Compact.

4 a. The Compact dissolves effective upon the date of the  
5 withdrawal or default of the Compacting State which reduces  
6 membership in the Compact to one Compacting State.

7 b. Upon the dissolution of this Compact, the Compact  
8 becomes null and void and shall be of no further force or  
9 effect, and the business and affairs of the Commission shall  
10 be wound up and any surplus funds shall be distributed in  
11 accordance with the Bylaws.

12 Article XV. SEVERABILITY AND CONSTRUCTION

13 1. The provisions of this Compact shall be severable; and  
14 if any phrase, clause, sentence or provision is deemed  
15 unenforceable, the remaining provisions of the Compact shall  
16 be enforceable.

17 2. The provisions of this Compact shall be liberally  
18 construed to effectuate its purposes.

19 Article XVI. BINDING EFFECT OF COMPACT AND OTHER LAWS

20 1. Other Laws.

21 a. Nothing herein prevents the enforcement of any other  
22 law of a Compacting State, except as provided in paragraph b of  
23 this Article.

24 b. For any Product approved or certified to the

1 Commission, the Rules, Uniform Standards and any other  
2 requirements of the Commission shall constitute the exclusive  
3 provisions applicable to the content, approval and  
4 certification of such Products. For Advertisement that is  
5 subject to the Commission's authority, any Rule, Uniform  
6 Standard or other requirement of the Commission which governs  
7 the content of the Advertisement shall constitute the  
8 exclusive provision that a Commissioner may apply to the  
9 content of the Advertisement. Notwithstanding the foregoing,  
10 no action taken by the Commission shall abrogate or restrict:  
11 (i) the access of any person to state courts; (ii) remedies  
12 available under state law related to breach of contract, tort,  
13 or other laws not specifically directed to the content of the  
14 Product; (iii) state law relating to the construction of  
15 insurance contracts; or (iv) the authority of the attorney  
16 general of the state, including but not limited to maintaining  
17 any actions or proceedings, as authorized by law.

18 c. All insurance products filed with individual States  
19 shall be subject to the laws of those States.

20 2. Binding Effect of this Compact.

21 a. All lawful actions of the Commission, including all  
22 Rules and Operating Procedures promulgated by the Commission,  
23 are binding upon the Compacting States.

24 b. All agreements between the Commission and the  
25 Compacting States are binding in accordance with their terms.

26 c. Upon the request of a party to a conflict over the

1 meaning or interpretation of Commission actions, and upon a  
2 majority vote of the Compacting States, the Commission may  
3 issue advisory opinions regarding the meaning or  
4 interpretation in dispute.

5 d. In the event any provision of this Compact exceeds the  
6 constitutional limits imposed on the legislature of any  
7 Compacting State, the obligations, duties, powers or  
8 jurisdiction sought to be conferred by that provision upon the  
9 Commission shall be ineffective as to that Compacting State,  
10 and those obligations, duties, powers or jurisdiction shall  
11 remain in the Compacting State and shall be exercised by the  
12 agency thereof to which those obligations, duties, powers or  
13 jurisdiction are delegated by law in effect at the time this  
14 Compact becomes effective.

15 (Source: P.A. 96-1481, eff. 11-29-10.)

16 Section 40. The Counties Code is amended by changing  
17 Section 3-12007 as follows:

18 (55 ILCS 5/3-12007) (from Ch. 34, par. 3-12007)

19 Sec. 3-12007. Proposed rules for classified service. (a)  
20 The Director of Personnel shall prepare and submit to the  
21 commission proposed rules for the classified service. The  
22 director shall give at least 10 days' notice to the heads of  
23 all departments or agencies affected and they shall be given  
24 an opportunity, upon their request, to appear before the

1 commission to express their views thereon before action is  
2 taken by the commission.

3 (b) The rules, as adopted pursuant to subsection (a) of  
4 Section 3-12005 shall provide for:

5 (1) preparation, maintenance and revision of a position  
6 classification plan for all positions in the classified  
7 service, based upon the similarity of duties performed and  
8 responsibilities assumed, so that the same qualifications may  
9 reasonably be required and the same schedule of pay may be  
10 applied to all positions in the same class. Each position  
11 authorized by the Board shall be allocated by the director to  
12 the proper class and assigned to the appropriate pay range for  
13 that class.

14 (2) promotion which shall give appropriate consideration  
15 to the applicant's qualifications, record of performance,  
16 seniority, and conduct. Vacancies shall be filled by promotion  
17 whenever practicable and in the best interest of the county  
18 service, and preference may be given to employees within the  
19 department in which the vacancy occurs.

20 (3) open competitive examinations to determine the  
21 relative fitness of applicants for the respective competitive  
22 positions.

23 (4) competitive selection of employees for all classes in  
24 the classified service.

25 (5) establishment of lists of eligibles for appointment  
26 and promotion, upon which lists shall be placed the names of

1 successful candidates in the order of their relative  
2 excellence in the respective examinations. The duration of  
3 eligible lists for initial appointment shall be for no more  
4 than one year unless extended by the director for not more than  
5 one additional year; lists of eligibles for promotion shall be  
6 maintained for as long as the tests on which they are based are  
7 considered valid by the director.

8 (6) certification by the director to the appointing  
9 authorities of not more than the top 5 names from the list of  
10 eligibles for a single vacancy.

11 (7) rejection of candidates who do not comply with  
12 reasonable job requirements in regard to such factors as age,  
13 physical condition, training and experience, or who are  
14 addicted to alcohol or narcotics or have been guilty of  
15 infamous or disgraceful conduct or are illegal noncitizens  
16 ~~aliens~~.

17 (8) periods of probationary employment. During the initial  
18 probation period following appointment any employee may be  
19 discharged or demoted without charges or hearing except that  
20 any applicant or employee, regardless of status, who has  
21 reason to believe that he/she has been discriminated against  
22 because of religious opinions or affiliation, or race, sex, or  
23 national origin in any personnel action may appeal to the  
24 commission in accordance with the provisions of this Division  
25 or in appropriate rules established by the commission pursuant  
26 to subsection (a) of Section 3-12005.

1           (9)     provisional     employment     without     competitive  
2     examinations when there is no appropriate eligible list  
3     available. No person hired as a provisional employee shall  
4     continue on the county payroll longer than 6 months per  
5     calendar year nor shall successive provisional appointments be  
6     allowed.

7           (10)  transfer from a position in one department to a  
8     position in another department involving similar  
9     qualifications, duties, responsibilities and salary.

10          (11)  procedures for authorized reinstatement within one  
11     year of persons who resign in good standing.

12          (12)  layoff by reason of lack of funds or work or abolition  
13     of the position, or material changes in duties or  
14     organization, and for the layoff of nontenured employees  
15     first, and for the reemployment of permanent employees so laid  
16     off, giving consideration in both layoff and reemployment to  
17     performance record and seniority in service.

18          (13)  keeping records of performance of all employees in  
19     the classified service.

20          (14)  suspension, demotion or dismissal of an employee for  
21     misconduct, inefficiency, incompetence, insubordination,  
22     malfeasance or other unfitness to render effective service and  
23     for the investigation and hearing of appeals of any employee  
24     recommended for suspension, demotion or dismissal by a  
25     department head for any of the foregoing reasons.

26          (15)  establishment of a plan for resolving employee



1 grievances and complaints, including an appeals procedure.

2 (16) hours of work, holidays and attendance regulations,  
3 and for annual, sick and special leaves of absence, with or  
4 without pay, or at reduced pay.

5 (17) development of employee morale, safety and training  
6 programs.

7 (18) establishment of a period of probation, the length of  
8 which shall be determined by the complexity of the work  
9 involved, but which shall not exceed one year without special  
10 written approval from the commission.

11 (19) such other rules, not inconsistent with this  
12 Division, as may be proper and necessary for its enforcement.

13 (Source: P.A. 86-962.)

14 Section 45. The Illinois Municipal Code is amended by  
15 changing Section 11-74.2-14 as follows:

16 (65 ILCS 5/11-74.2-14) (from Ch. 24, par. 11-74.2-14)

17 Sec. 11-74.2-14. The corporate authorities may at any time  
18 transfer and sell the fee simple title, or any lesser estate  
19 that they acquired to all or any part of the real property  
20 within the redevelopment area. No such sale shall be  
21 inconsistent with the provisions of paragraph (e) of Section  
22 11-74.2-8.

23 Such sales and transfers may be made to:

24 (1) Any individual, association or corporation, organized

1 under the laws of this State or of any other State or country,  
2 which may legally make such investments in this State,  
3 including foreign and non-domestic ~~alien~~ insurance companies,  
4 as defined in Section 2 of the "Illinois Insurance Code"; or

5 (2) Any body politic and corporate, public corporation or  
6 private individual, corporation, association or interest  
7 empowered by law to acquire, develop and use such real  
8 property for such uses, public or private, as are in  
9 accordance with the final redevelopment plan.

10 To provide that the real property sold by the corporate  
11 authorities is used in accordance with the final redevelopment  
12 plan, the corporate authorities shall inquire into and satisfy  
13 themselves concerning the financial ability of the purchaser  
14 to complete the redevelopment in accordance with the  
15 redevelopment plan and shall require the purchaser to execute  
16 in writing such undertakings as the corporate authorities may  
17 deem necessary to obligate the purchaser to:

18 (1) Use the land for the purposes designated in the  
19 approved plan;

20 (2) Commence and complete the building of the improvements  
21 or the renovation of the property within the periods of time  
22 which the corporate authorities fix as reasonable; and

23 (3) Comply with such other conditions as are necessary to  
24 carry out the purposes of the final redevelopment plan.

25 Any redevelopment area may be sold either as an entirety  
26 or in such parcels as the corporate authorities may select. It

1 is not necessary that title be acquired to all real property  
2 within the redevelopment area before the sale of a part  
3 thereof may be made as provided in this Section. All real  
4 property sold shall be sold at its use value which may be less  
5 than its acquisition cost. For purposes of this Division, use  
6 value represents the value at which the corporate authorities  
7 determine that such land should be made available in order  
8 that it may be developed or redeveloped for the purposes  
9 specified in the final redevelopment plan.

10 (Source: P.A. 81-3.)

11 Section 50. The Metropolitan Water Reclamation District  
12 Act is amended by changing Section 11.15 as follows:

13 (70 ILCS 2605/11.15) (from Ch. 42, par. 331.15)

14 Sec. 11.15. No person shall be employed upon contracts for  
15 work to be done by any such sanitary district unless he or she  
16 is a citizen of the United States, a national of the United  
17 States under Section 1401 of Title 8 of the United States Code,  
18 a person ~~an alien~~ lawfully admitted for permanent residence  
19 under Section 1101 of Title 8 of the United States Code, an  
20 individual who has been granted asylum under Section 1158 of  
21 Title 8 of the United States Code, or an individual who is  
22 otherwise legally authorized to work in the United States.

23 (Source: P.A. 98-280, eff. 8-9-13; 99-231, eff. 8-3-15.)

1 Section 55. The Board of Higher Education Act is amended  
2 by changing Section 9.16 as follows:

3 (110 ILCS 205/9.16) (from Ch. 144, par. 189.16)

4 Sec. 9.16. Underrepresentation of certain groups in higher  
5 education. To require public institutions of higher education  
6 to develop and implement methods and strategies to increase  
7 the participation of minorities, women and individuals with  
8 disabilities who are traditionally underrepresented in  
9 education programs and activities. For the purpose of this  
10 Section, minorities shall mean persons who are citizens of the  
11 United States or lawful permanent resident noncitizens ~~aliens~~  
12 of the United States and who are any of the following:

13 (1) American Indian or Alaska Native (a person having  
14 origins in any of the original peoples of North and South  
15 America, including Central America, and who maintains  
16 tribal affiliation or community attachment).

17 (2) Asian (a person having origins in any of the  
18 original peoples of the Far East, Southeast Asia, or the  
19 Indian subcontinent, including, but not limited to,  
20 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,  
21 the Philippine Islands, Thailand, and Vietnam).

22 (3) Black or African American (a person having origins  
23 in any of the black racial groups of Africa).

24 (4) Hispanic or Latino (a person of Cuban, Mexican,  
25 Puerto Rican, South or Central American, or other Spanish

1 culture or origin, regardless of race).

2 (5) Native Hawaiian or Other Pacific Islander (a  
3 person having origins in any of the original peoples of  
4 Hawaii, Guam, Samoa, or other Pacific Islands).

5 The Board shall adopt any rules necessary to administer  
6 this Section. The Board shall also do the following:

7 (a) require all public institutions of higher education to  
8 develop and submit plans for the implementation of this  
9 Section;

10 (b) conduct periodic review of public institutions of  
11 higher education to determine compliance with this Section;  
12 and if the Board finds that a public institution of higher  
13 education is not in compliance with this Section, it shall  
14 notify the institution of steps to take to attain compliance;

15 (c) provide advice and counsel pursuant to this Section;

16 (d) conduct studies of the effectiveness of methods and  
17 strategies designed to increase participation of students in  
18 education programs and activities in which minorities, women  
19 and individuals with disabilities are traditionally  
20 underrepresented, and monitor the success of students in such  
21 education programs and activities;

22 (e) encourage minority student recruitment and retention  
23 in colleges and universities. In implementing this paragraph,  
24 the Board shall undertake but need not be limited to the  
25 following: the establishment of guidelines and plans for  
26 public institutions of higher education for minority student

1 recruitment and retention, the review and monitoring of  
2 minority student programs implemented at public institutions  
3 of higher education to determine their compliance with any  
4 guidelines and plans so established, the determination of the  
5 effectiveness and funding requirements of minority student  
6 programs at public institutions of higher education, the  
7 dissemination of successful programs as models, and the  
8 encouragement of cooperative partnerships between community  
9 colleges and local school attendance centers which are  
10 experiencing difficulties in enrolling minority students in  
11 four-year colleges and universities;

12 (f) mandate all public institutions of higher education to  
13 submit data and information essential to determine compliance  
14 with this Section. The Board shall prescribe the format and  
15 the date for submission of this data and any other education  
16 equity data; and

17 (g) report to the General Assembly and the Governor  
18 annually with a description of the plans submitted by each  
19 public institution of higher education for implementation of  
20 this Section, including financial data relating to the most  
21 recent fiscal year expenditures for specific minority  
22 programs, the effectiveness of such plans and programs and the  
23 effectiveness of the methods and strategies developed by the  
24 Board in meeting the purposes of this Section, the degree of  
25 compliance with this Section by each public institution of  
26 higher education as determined by the Board pursuant to its

1 periodic review responsibilities, and the findings made by the  
2 Board in conducting its studies and monitoring student success  
3 as required by paragraph d) of this Section. With respect to  
4 each public institution of higher education such report also  
5 shall include, but need not be limited to, information with  
6 respect to each institution's minority program budget  
7 allocations; minority student admission, retention and  
8 graduation statistics; admission, retention, and graduation  
9 statistics of all students who are the first in their  
10 immediate family to attend an institution of higher education;  
11 number of financial assistance awards to undergraduate and  
12 graduate minority students; and minority faculty  
13 representation. This paragraph shall not be construed to  
14 prohibit the Board from making, preparing or issuing  
15 additional surveys or studies with respect to minority  
16 education in Illinois.

17 (Source: P.A. 102-465, eff. 1-1-22.)

18 Section 60. The Dental Student Grant Act is amended by  
19 changing Section 3.06 as follows:

20 (110 ILCS 925/3.06) (from Ch. 144, par. 1503.06)

21 Sec. 3.06. "Eligible dental student" means a person who  
22 meets all of the following qualifications:

23 (a) That the individual is a resident of this State and a  
24 citizen or lawful permanent resident noncitizen ~~alien~~ of the

1 United States;

2 (b) That the individual has been accepted in a dental  
3 school located in Illinois;

4 (c) That the individual exhibits financial need as  
5 determined by the Department;

6 (d) That the individual has earned an educational diploma  
7 at an institution of education located in this State or has  
8 been a resident of the State for no less than 3 years prior to  
9 applying for the grant;

10 (e) That the individual is a member of a racial minority as  
11 defined in Section 3.07; and

12 (f) That the individual meets other qualifications which  
13 shall be established by the Department.

14 (Source: P.A. 87-665.)

15 Section 65. The Diversifying Higher Education Faculty in  
16 Illinois Act is amended by changing Sections 2 and 7 as  
17 follows:

18 (110 ILCS 930/2) (from Ch. 144, par. 2302)

19 Sec. 2. Definitions. As used in this Act, unless the  
20 context otherwise requires:

21 "Board" means the Board of Higher Education.

22 "DFI" means the Diversifying Higher Education Faculty in  
23 Illinois Program of financial assistance to minorities who are  
24 traditionally underrepresented as participants in



1 postsecondary education. The program shall assist them in  
2 pursuing a graduate or professional degree and shall also  
3 assist program graduates to find employment at an Illinois  
4 institution of higher education, including a community  
5 college, in a faculty or staff position.

6 "Program Board" means the entity created to administer the  
7 grant program authorized by this Act.

8 "Qualified institution of higher education" means a  
9 qualifying publicly or privately operated educational  
10 institution located within Illinois (i) that offers  
11 instruction leading toward or prerequisite to an academic or  
12 professional degree beyond the baccalaureate degree, excluding  
13 theological schools, and (ii) that is authorized to operate in  
14 the State of Illinois.

15 "Racial minority" means a person who is a citizen of the  
16 United States or a lawful permanent resident noncitizen ~~alien~~  
17 of the United States and who is any of the following:

18 (1) American Indian or Alaska Native (a person having  
19 origins in any of the original peoples of North and South  
20 America, including Central America, and who maintains  
21 tribal affiliation or community attachment).

22 (2) Asian (a person having origins in any of the  
23 original peoples of the Far East, Southeast Asia, or the  
24 Indian subcontinent, including, but not limited to,  
25 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,  
26 the Philippine Islands, Thailand, and Vietnam).

1           (3) Black or African American (a person having origins  
2           in any of the black racial groups of Africa).

3           (4) Hispanic or Latino (a person of Cuban, Mexican,  
4           Puerto Rican, South or Central American, or other Spanish  
5           culture or origin, regardless of race).

6           (5) Native Hawaiian or Other Pacific Islander (a  
7           person having origins in any of the original peoples of  
8           Hawaii, Guam, Samoa, or other Pacific Islands).

9           (Source: P.A. 102-465, eff. 1-1-22.)

10           (110 ILCS 930/7) (from Ch. 144, par. 2307)

11           Sec. 7. Eligibility for DFI grants. An individual is  
12           eligible for an award under the provisions of this Act when the  
13           Program Board finds:

14           (a) That the individual is a resident of this State  
15           and a citizen or lawful permanent resident noncitizen  
16           ~~alien~~ of the United States;

17           (b) That the individual is a member of a racial  
18           minority as defined under the terms of this Act;

19           (c) That the individual has earned any educational  
20           diploma at an institution of education located in this  
21           State, or is a resident of the State for no less than three  
22           years prior to applying for the grant, and the individual  
23           must hold a baccalaureate degree from an institution of  
24           higher learning;

25           (d) That the individual's financial resources are such

1 that, in the absence of a DFI grant, the individual will be  
2 prevented from pursuing a graduate or professional degree  
3 at a qualified institution of higher education of his or  
4 her choice;

5 (e) That the individual has above average academic  
6 ability to pursue a graduate or professional degree; and

7 (f) That the individual meets other qualifications  
8 which shall be established by the Program Board.

9 Grant funds shall be awarded only to those persons  
10 pursuing a graduate or professional degree program at a  
11 qualified institution of higher education.

12 The Board shall by rule promulgate, pursuant to the  
13 Illinois Administrative Procedure Act, precise standards to be  
14 used by the Program Board to determine whether a program  
15 applicant has above average academic ability to pursue a  
16 graduate or professional degree.

17 (Source: P.A. 93-862, eff. 8-4-04.)

18 Section 70. The Higher Education Student Assistance Act is  
19 amended by changing Sections 65.50 and 65.110 as follows:

20 (110 ILCS 947/65.50)

21 Sec. 65.50. Teacher training full-time undergraduate  
22 scholarships.

23 (a) Five hundred new scholarships shall be provided each  
24 year for qualified high school students or high school

1 graduates who desire to pursue full-time undergraduate studies  
2 in teacher education at public or private universities or  
3 colleges and community colleges in this State. The Commission,  
4 in accordance with rules and regulations promulgated for this  
5 program, shall provide funding and shall designate each year's  
6 new recipients from among those applicants who qualify for  
7 consideration by showing:

8 (1) that he or she is a resident of this State and a  
9 citizen or a lawful permanent resident noncitizen ~~alien~~ of  
10 the United States;

11 (2) that he or she has successfully completed the  
12 program of instruction at an approved high school or is a  
13 student in good standing at such a school and is engaged in  
14 a program that will be completed by the end of the academic  
15 year, and in either event that his or her cumulative grade  
16 average was or is in the upper 1/4 of the high school  
17 class;

18 (3) that he or she has superior capacity to profit by a  
19 higher education; and

20 (4) that he or she agrees to teach in Illinois schools  
21 in accordance with subsection (b).

22 No rule or regulation promulgated by the State Board of  
23 Education prior to the effective date of this amendatory Act  
24 of 1993 pursuant to the exercise of any right, power, duty,  
25 responsibility or matter of pending business transferred from  
26 the State Board of Education to the Commission under this

1 Section shall be affected thereby, and all such rules and  
2 regulations shall become the rules and regulations of the  
3 Commission until modified or changed by the Commission in  
4 accordance with law.

5 If in any year the number of qualified applicants exceeds  
6 the number of scholarships to be awarded, the Commission shall  
7 give priority in awarding scholarships to students in  
8 financial need. The Commission shall consider factors such as  
9 the applicant's family income, the size of the applicant's  
10 family and the number of other children in the applicant's  
11 family attending college in determining the financial need of  
12 the individual.

13 Unless otherwise indicated, these scholarships shall be  
14 good for a period of up to 4 years while the recipient is  
15 enrolled for residence credit at a public or private  
16 university or college or at a community college. The  
17 scholarship shall cover tuition, fees and a stipend of \$1,500  
18 per year. For purposes of calculating scholarship awards for  
19 recipients attending private universities or colleges, tuition  
20 and fees for students at private colleges and universities  
21 shall not exceed the average tuition and fees for students at  
22 4-year public colleges and universities for the academic year  
23 in which the scholarship is made.

24 (b) Upon graduation from or termination of enrollment in a  
25 teacher education program, any person who accepted a  
26 scholarship under the undergraduate scholarship program

1 continued by this Section, including persons whose graduation  
2 or termination of enrollment occurred prior to the effective  
3 date of this amendatory Act of 1993, shall teach in any school  
4 in this State for at least 4 of the 7 years immediately  
5 following his or her graduation or termination. If the  
6 recipient spends up to 4 years in military service before or  
7 after he or she graduates, the period of military service  
8 shall be excluded from the computation of that 7 year period. A  
9 recipient who is enrolled full-time in an academic program  
10 leading to a graduate degree in education shall have the  
11 period of graduate study excluded from the computation of that  
12 7 year period.

13 Any person who fails to fulfill the teaching requirement  
14 shall pay to the Commission an amount equal to one-fourth of  
15 the scholarship received for each unfulfilled year of the  
16 4-year teaching requirement, together with interest at 8% per  
17 year on that amount. However, this obligation to repay does  
18 not apply when the failure to fulfill the teaching requirement  
19 results from involuntarily leaving the profession due to a  
20 decrease in the number of teachers employed by the school  
21 board or a discontinuation of a type of teaching service under  
22 Section 24-12 of the School Code or from the death or  
23 adjudication as incompetent of the person holding the  
24 scholarship. No claim for repayment may be filed against the  
25 estate of such a decedent or incompetent.

26 Each person applying for such a scholarship shall be

1 provided with a copy of this subsection at the time he or she  
2 applies for the benefits of such scholarship.

3 (c) This Section is substantially the same as Sections  
4 30-14.5 and 30-14.6 of the School Code, which are repealed by  
5 this amendatory Act of 1993, and shall be construed as a  
6 continuation of the teacher training undergraduate scholarship  
7 program established by that prior law, and not as a new or  
8 different teacher training undergraduate scholarship program.  
9 The State Board of Education shall transfer to the Commission,  
10 as the successor to the State Board of Education for all  
11 purposes of administering and implementing the provisions of  
12 this Section, all books, accounts, records, papers, documents,  
13 contracts, agreements, and pending business in any way  
14 relating to the teacher training undergraduate scholarship  
15 program continued under this Section, and all scholarships at  
16 any time awarded under that program by, and all applications  
17 for any such scholarship at any time made to, the State Board  
18 of Education shall be unaffected by the transfer to the  
19 Commission of all responsibility for the administration and  
20 implementation of the teacher training undergraduate  
21 scholarship program continued under this Section. The State  
22 Board of Education shall furnish to the Commission such other  
23 information as the Commission may request to assist it in  
24 administering this Section.

25 (Source: P.A. 88-228.)

1 (110 ILCS 947/65.110)

2 Sec. 65.110. Post-Master of Social Work School Social Work  
3 Professional Educator License scholarship.

4 (a) Subject to appropriation, beginning with awards for  
5 the 2022-2023 academic year, the Commission shall award  
6 annually up to 250 Post-Master of Social Work School Social  
7 Work Professional Educator License scholarships to a person  
8 who:

9 (1) holds a valid Illinois-licensed clinical social  
10 work license or social work license;

11 (2) has obtained a master's degree in social work from  
12 an approved program;

13 (3) is a United States citizen or eligible noncitizen;  
14 and

15 (4) submits an application to the Commission for such  
16 scholarship and agrees to take courses to obtain an  
17 Illinois Professional Educator License with an endorsement  
18 in School Social Work.

19 (b) If an appropriation for this Section for a given  
20 fiscal year is insufficient to provide scholarships to all  
21 qualified applicants, the Commission shall allocate the  
22 appropriation in accordance with this subsection (b). If funds  
23 are insufficient to provide all qualified applicants with a  
24 scholarship as authorized by this Section, the Commission  
25 shall allocate the available scholarship funds for that fiscal  
26 year to qualified applicants who submit a complete application



1 on or before a date specified by the Commission, based on the  
2 following order of priority:

3 (1) firstly, to students who received a scholarship  
4 under this Section in the prior academic year and who  
5 remain eligible for a scholarship under this Section;

6 (2) secondly, to new, qualified applicants who are  
7 members of a racial minority, as defined in subsection  
8 (c); and

9 (3) finally, to other new, qualified applicants in  
10 accordance with this Section.

11 (c) Scholarships awarded under this Section shall be  
12 issued pursuant to rules adopted by the Commission. In  
13 awarding scholarships, the Commission shall give priority to  
14 those applicants who are members of a racial minority. Racial  
15 minorities are underrepresented as school social workers in  
16 elementary and secondary schools in this State, and the  
17 General Assembly finds that it is in the interest of this State  
18 to provide them with priority consideration for programs that  
19 encourage their participation in this field and thereby foster  
20 a profession that is more reflective of the diversity of  
21 Illinois students and the parents they will serve. A more  
22 reflective workforce in school social work allows improved  
23 outcomes for students and a better utilization of services.  
24 Therefore, the Commission shall give priority to those  
25 applicants who are members of a racial minority. In this  
26 subsection (c), "racial minority" means a person who is a

1 citizen of the United States or a lawful permanent resident  
2 noncitizen ~~alien~~ of the United States and who is:

3 (1) Black (a person having origins in any of the black  
4 racial groups in Africa);

5 (2) Hispanic (a person of Spanish or Portuguese  
6 culture with origins in Mexico, South or Central America,  
7 or the Caribbean Islands, regardless of race);

8 (3) Asian American (a person having origins in any of  
9 the original peoples of the Far East, Southeast Asia, the  
10 Indian Subcontinent, or the Pacific Islands); or

11 (4) American Indian or Alaskan Native (a person having  
12 origins in any of the original peoples of North America).

13 (d) Each scholarship shall be applied to the payment of  
14 tuition and mandatory fees at the University of Illinois,  
15 Southern Illinois University, Chicago State University,  
16 Eastern Illinois University, Governors State University,  
17 Illinois State University, Northeastern Illinois University,  
18 Northern Illinois University, and Western Illinois University.  
19 Each scholarship may be applied to pay tuition and mandatory  
20 fees required to obtain an Illinois Professional Educator  
21 License with an endorsement in School Social Work.

22 (e) The Commission shall make tuition and fee payments  
23 directly to the qualified institution of higher learning that  
24 the applicant attends.

25 (f) Any person who has accepted a scholarship under this  
26 Section must, within one year after graduation or termination

1 of enrollment in a Post-Master of Social Work Professional  
2 Education License with an endorsement in School Social Work  
3 program, begin working as a school social worker at a public or  
4 nonpublic not-for-profit preschool, elementary school, or  
5 secondary school located in this State for at least 2 of the 5  
6 years immediately following that graduation or termination,  
7 excluding, however, from the computation of that 5-year  
8 period: (i) any time up to 3 years spent in the military  
9 service, whether such service occurs before or after the  
10 person graduates; (ii) the time that person is a person with a  
11 temporary total disability for a period of time not to exceed 3  
12 years, as established by the sworn affidavit of a qualified  
13 physician; and (iii) the time that person is seeking and  
14 unable to find full-time employment as a school social worker  
15 at a State public or nonpublic not-for-profit preschool,  
16 elementary school, or secondary school.

17 (g) If a recipient of a scholarship under this Section  
18 fails to fulfill the work obligation set forth in subsection  
19 (f), the Commission shall require the recipient to repay the  
20 amount of the scholarships received, prorated according to the  
21 fraction of the obligation not completed, at a rate of  
22 interest equal to 5%, and, if applicable, reasonable  
23 collection fees. The Commission is authorized to establish  
24 rules relating to its collection activities for repayment of  
25 scholarships under this Section. All repayments collected  
26 under this Section shall be forwarded to the State Comptroller

1 for deposit into this State's General Revenue Fund.

2 A recipient of a scholarship under this Section is not  
3 considered to be in violation of the failure to fulfill the  
4 work obligation under subsection (f) if the recipient (i)  
5 enrolls on a full-time basis as a graduate student in a course  
6 of study related to the field of social work at a qualified  
7 Illinois institution of higher learning; (ii) is serving, not  
8 in excess of 3 years, as a member of the armed services of the  
9 United States; (iii) is a person with a temporary total  
10 disability for a period of time not to exceed 3 years, as  
11 established by the sworn affidavit of a qualified physician;  
12 (iv) is seeking and unable to find full-time employment as a  
13 school social worker at an Illinois public or nonpublic  
14 not-for-profit preschool, elementary school, or secondary  
15 school that satisfies the criteria set forth in subsection (f)  
16 and is able to provide evidence of that fact; or (v) becomes a  
17 person with a permanent total disability, as established by  
18 the sworn affidavit of a qualified physician.

19 (Source: P.A. 102-621, eff. 1-1-22.)

20 Section 75. The Mental Health Graduate Education  
21 Scholarship Act is amended by changing Section 20 as follows:

22 (110 ILCS 952/20)

23 Sec. 20. Scholarships.

24 (a) Beginning with the fall term of the 2009-2010 academic

1 year, the Department, in accordance with rules adopted by it  
2 for this program, shall provide scholarships to individuals  
3 selected from among those applicants who qualify for  
4 consideration by showing all of the following:

5 (1) That the individual has been a resident of this  
6 State for at least one year prior to application and is a  
7 citizen or a lawful permanent resident noncitizen ~~alien~~ of  
8 the United States.

9 (2) That the individual enrolled in or accepted into a  
10 mental health graduate program at an approved institution.

11 (3) That the individual agrees to meet the mental  
12 health employment obligation.

13 (b) If in any year the number of qualified applicants  
14 exceeds the number of scholarships to be awarded, the  
15 Department shall, in consultation with the Advisory Council,  
16 consider the following factors in granting priority in  
17 awarding scholarships:

18 (1) Financial need, as shown on a standardized  
19 financial needs assessment form used by an approved  
20 institution.

21 (2) A student's merit, as shown through his or her  
22 grade point average, class rank, and other academic and  
23 extracurricular activities.

24 The Department may add to and further define these merit  
25 criteria by rule.

26 (c) Unless otherwise indicated, scholarships shall be

1 awarded to recipients at approved institutions for a period of  
2 up to 2 years if the recipient is enrolled in a master's degree  
3 program and up to 4 years if the recipient is enrolled in a  
4 doctoral degree program.

5 (Source: P.A. 96-672, eff. 8-25-09.)

6 Section 80. The Nursing Education Scholarship Law is  
7 amended by changing Sections 5 and 6.5 as follows:

8 (110 ILCS 975/5) (from Ch. 144, par. 2755)

9 Sec. 5. Nursing education scholarships. Beginning with the  
10 fall term of the 2004-2005 academic year, the Department, in  
11 accordance with rules and regulations promulgated by it for  
12 this program, shall provide scholarships to individuals  
13 selected from among those applicants who qualify for  
14 consideration by showing:

15 (1) that he or she has been a resident of this State  
16 for at least one year prior to application, and is a  
17 citizen or a lawful permanent resident noncitizen ~~alien~~ of  
18 the United States;

19 (2) that he or she is enrolled in or accepted for  
20 admission to an associate degree in nursing program,  
21 hospital-based diploma in nursing program, baccalaureate  
22 degree in nursing program, graduate degree in nursing  
23 program, or practical nursing program at an approved  
24 institution; and

1           (3) that he or she agrees to meet the nursing  
2           employment obligation.

3           If in any year the number of qualified applicants exceeds  
4           the number of scholarships to be awarded, the Department  
5           shall, in consultation with the Illinois Nursing Workforce  
6           Center Advisory Board, consider the following factors in  
7           granting priority in awarding scholarships:

8                   (A) Financial need, as shown on a standardized  
9                   financial needs assessment form used by an approved  
10                  institution, of students who will pursue their  
11                  education on a full-time or close to full-time basis  
12                  and who already have a certificate in practical  
13                  nursing, a diploma in nursing, or an associate degree  
14                  in nursing and are pursuing a higher degree.

15                  (B) A student's status as a registered nurse who  
16                  is pursuing a graduate degree in nursing to pursue  
17                  employment in an approved institution that educates  
18                  licensed practical nurses and that educates registered  
19                  nurses in undergraduate and graduate nursing programs.

20                  (C) A student's merit, as shown through his or her  
21                  grade point average, class rank, and other academic  
22                  and extracurricular activities. The Department may add  
23                  to and further define these merit criteria by rule.

24           Unless otherwise indicated, scholarships shall be awarded  
25           to recipients at approved institutions for a period of up to 2  
26           years if the recipient is enrolled in an associate degree in

1 nursing program, up to 3 years if the recipient is enrolled in  
2 a hospital-based diploma in nursing program, up to 4 years if  
3 the recipient is enrolled in a baccalaureate degree in nursing  
4 program, up to 5 years if the recipient is enrolled in a  
5 graduate degree in nursing program, and up to one year if the  
6 recipient is enrolled in a certificate in practical nursing  
7 program. At least 40% of the scholarships awarded shall be for  
8 recipients who are pursuing baccalaureate degrees in nursing,  
9 30% of the scholarships awarded shall be for recipients who  
10 are pursuing associate degrees in nursing or a diploma in  
11 nursing, 10% of the scholarships awarded shall be for  
12 recipients who are pursuing a certificate in practical  
13 nursing, and 20% of the scholarships awarded shall be for  
14 recipients who are pursuing a graduate degree in nursing.

15 Beginning with the fall term of the 2021-2022 academic  
16 year and continuing through the 2024-2025 academic year,  
17 subject to appropriation from the Hospital Licensure Fund, in  
18 addition to any other funds available to the Department for  
19 such scholarships, the Department may award a total of  
20 \$500,000 annually in scholarships under this Section.

21 (Source: P.A. 102-641, eff. 8-27-21.)

22 (110 ILCS 975/6.5)

23 Sec. 6.5. Nurse educator scholarships.

24 (a) Beginning with the fall term of the 2009-2010 academic  
25 year, the Department shall provide scholarships to individuals



1 selected from among those applicants who qualify for  
2 consideration by showing the following:

3 (1) that he or she has been a resident of this State  
4 for at least one year prior to application and is a citizen  
5 or a lawful permanent resident noncitizen ~~alien~~ of the  
6 United States;

7 (2) that he or she is enrolled in or accepted for  
8 admission to a graduate degree in nursing program at an  
9 approved institution; and

10 (3) that he or she agrees to meet the nurse educator  
11 employment obligation.

12 (b) If in any year the number of qualified applicants  
13 exceeds the number of scholarships to be awarded under this  
14 Section, the Department shall, in consultation with the  
15 Illinois Nursing Workforce Center Advisory Board, consider the  
16 following factors in granting priority in awarding  
17 scholarships:

18 (1) Financial need, as shown on a standardized  
19 financial needs assessment form used by an approved  
20 institution, of students who will pursue their education  
21 on a full-time or close to full-time basis and who already  
22 have a diploma in nursing and are pursuing a higher  
23 degree.

24 (2) A student's status as a registered nurse who is  
25 pursuing a graduate degree in nursing to pursue employment  
26 in an approved institution that educates licensed

1 practical nurses and that educates registered nurses in  
2 undergraduate and graduate nursing programs.

3 (3) A student's merit, as shown through his or her  
4 grade point average, class rank, experience as a nurse,  
5 including supervisory experience, experience as a nurse in  
6 the United States military, and other academic and  
7 extracurricular activities.

8 (c) Unless otherwise indicated, scholarships under this  
9 Section shall be awarded to recipients at approved  
10 institutions for a period of up to 3 years.

11 (d) Within 12 months after graduation from a graduate  
12 degree in nursing program for nurse educators, any recipient  
13 who accepted a scholarship under this Section shall begin  
14 meeting the required nurse educator employment obligation. In  
15 order to defer his or her continuous employment obligation, a  
16 recipient must request the deferment in writing from the  
17 Department. A recipient shall receive a deferment if he or she  
18 notifies the Department, within 30 days after enlisting, that  
19 he or she is spending up to 4 years in military service. A  
20 recipient shall receive a deferment if he or she notifies the  
21 Department, within 30 days after enrolling, that he or she is  
22 enrolled in an academic program leading to a graduate degree  
23 in nursing. The recipient must begin meeting the required  
24 nurse educator employment obligation no later than 6 months  
25 after the end of the deferment or deferments.

26 Any person who fails to fulfill the nurse educator

1 employment obligation shall pay to the Department an amount  
2 equal to the amount of scholarship funds received per year for  
3 each unfulfilled year of the nurse educator employment  
4 obligation, together with interest at 7% per year on the  
5 unpaid balance. Payment must begin within 6 months following  
6 the date of the occurrence initiating the repayment. All  
7 repayments must be completed within 6 years from the date of  
8 the occurrence initiating the repayment. However, this  
9 repayment obligation may be deferred and re-evaluated every 6  
10 months when the failure to fulfill the nurse educator  
11 employment obligation results from involuntarily leaving the  
12 profession due to a decrease in the number of nurses employed  
13 in this State or when the failure to fulfill the nurse educator  
14 employment obligation results from total and permanent  
15 disability. The repayment obligation shall be excused if the  
16 failure to fulfill the nurse educator employment obligation  
17 results from the death or adjudication as incompetent of the  
18 person holding the scholarship. No claim for repayment may be  
19 filed against the estate of such a decedent or incompetent.

20 The Department may allow a nurse educator employment  
21 obligation fulfillment alternative if the nurse educator  
22 scholarship recipient is unsuccessful in finding work as a  
23 nurse educator. The Department shall maintain a database of  
24 all available nurse educator positions in this State.

25 (e) Each person applying for a scholarship under this  
26 Section must be provided with a copy of this Section at the

1 time of application for the benefits of this scholarship.

2 (f) Rulemaking authority to implement this amendatory Act  
3 of the 96th General Assembly, if any, is conditioned on the  
4 rules being adopted in accordance with all provisions of the  
5 Illinois Administrative Procedure Act and all rules and  
6 procedures of the Joint Committee on Administrative Rules; any  
7 purported rule not so adopted, for whatever reason, is  
8 unauthorized.

9 (Source: P.A. 100-513, eff. 1-1-18.)

10 Section 85. The Residential Mortgage License Act of 1987  
11 is amended by changing Section 1-4 as follows:

12 (205 ILCS 635/1-4)

13 Sec. 1-4. Definitions. The following words and phrases  
14 have the meanings given to them in this Section:

15 (a) "Residential real property" or "residential real  
16 estate" shall mean any real property located in Illinois,  
17 upon which is constructed or intended to be constructed a  
18 dwelling. Those terms include a manufactured home as  
19 defined in subdivision (53) of Section 9-102 of the  
20 Uniform Commercial Code which is real property as defined  
21 in Section 5-35 of the Conveyance and Encumbrance of  
22 Manufactured Homes as Real Property and Severance Act.

23 (b) "Making a residential mortgage loan" or "funding a  
24 residential mortgage loan" shall mean for compensation or

1 gain, either directly or indirectly, advancing funds or  
2 making a commitment to advance funds to a loan applicant  
3 for a residential mortgage loan.

4 (c) "Soliciting, processing, placing, or negotiating a  
5 residential mortgage loan" shall mean for compensation or  
6 gain, either directly or indirectly, accepting or offering  
7 to accept an application for a residential mortgage loan,  
8 assisting or offering to assist in the processing of an  
9 application for a residential mortgage loan on behalf of a  
10 borrower, or negotiating or offering to negotiate the  
11 terms or conditions of a residential mortgage loan with a  
12 lender on behalf of a borrower including, but not limited  
13 to, the submission of credit packages for the approval of  
14 lenders, the preparation of residential mortgage loan  
15 closing documents, including a closing in the name of a  
16 broker.

17 (d) "Exempt person or entity" shall mean the  
18 following:

19 (1) (i) Any banking organization or foreign  
20 banking corporation licensed by the Illinois  
21 Commissioner of Banks and Real Estate or the United  
22 States Comptroller of the Currency to transact  
23 business in this State; (ii) any national bank,  
24 federally chartered savings and loan association,  
25 federal savings bank, federal credit union; (iii)  
26 (blank); (iv) any bank, savings and loan association,

1 savings bank, or credit union organized under the laws  
2 of this or any other state; (v) any Illinois Consumer  
3 Installment Loan Act licensee; (vi) any insurance  
4 company authorized to transact business in this State;  
5 (vii) any entity engaged solely in commercial mortgage  
6 lending; (viii) any service corporation of a savings  
7 and loan association or savings bank organized under  
8 the laws of this State or the service corporation of a  
9 federally chartered savings and loan association or  
10 savings bank having its principal place of business in  
11 this State, other than a service corporation licensed  
12 or entitled to reciprocity under the Real Estate  
13 License Act of 2000; or (ix) any first tier subsidiary  
14 of a bank, the charter of which is issued under the  
15 Illinois Banking Act by the Illinois Commissioner of  
16 Banks and Real Estate, or the first tier subsidiary of  
17 a bank chartered by the United States Comptroller of  
18 the Currency and that has its principal place of  
19 business in this State, provided that the first tier  
20 subsidiary is regularly examined by the Illinois  
21 Commissioner of Banks and Real Estate or the  
22 Comptroller of the Currency, or a consumer compliance  
23 examination is regularly conducted by the Federal  
24 Reserve Board.

25 (1.5) Any employee of a person or entity mentioned  
26 in item (1) of this subsection, when acting for such

1 person or entity, or any registered mortgage loan  
2 originator when acting for an entity described in  
3 subsection (tt) of this Section.

4 (1.8) Any person or entity that does not originate  
5 mortgage loans in the ordinary course of business, but  
6 makes or acquires residential mortgage loans with his  
7 or her own funds for his or her or its own investment  
8 without intent to make, acquire, or resell more than 3  
9 residential mortgage loans in any one calendar year.

10 (2) (Blank).

11 (2.1) A bona fide nonprofit organization.

12 (2.2) An employee of a bona fide nonprofit  
13 organization when acting on behalf of that  
14 organization.

15 (3) Any person employed by a licensee to assist in  
16 the performance of the residential mortgage licensee's  
17 activities regulated by this Act who is compensated in  
18 any manner by only one licensee.

19 (4) (Blank).

20 (5) Any individual, corporation, partnership, or  
21 other entity that originates, services, or brokers  
22 residential mortgage loans, as these activities are  
23 defined in this Act, and who or which receives no  
24 compensation for those activities, subject to the  
25 Commissioner's regulations and the federal Secure and  
26 Fair Enforcement for Mortgage Licensing Act of 2008

1 and the rules promulgated under that Act with regard  
2 to the nature and amount of compensation.

3 (6) (Blank).

4 (7) Any entity engaged solely in providing loan  
5 processing services through the sponsoring of  
6 individuals acting pursuant to subsection (d) of  
7 Section 7-1A of this Act.

8 (e) "Licensee" or "residential mortgage licensee"  
9 shall mean a person, partnership, association,  
10 corporation, or any other entity who or which is licensed  
11 pursuant to this Act to engage in the activities regulated  
12 by this Act.

13 (f) "Mortgage loan" "residential mortgage loan" or  
14 "home mortgage loan" shall mean any loan primarily for  
15 personal, family, or household use that is secured by a  
16 mortgage, deed of trust, or other equivalent consensual  
17 security interest on a dwelling as defined in Section  
18 103(v) of the federal Truth in Lending Act, or residential  
19 real estate upon which is constructed or intended to be  
20 constructed a dwelling.

21 (g) "Lender" shall mean any person, partnership,  
22 association, corporation, or any other entity who either  
23 lends or invests money in residential mortgage loans.

24 (h) "Ultimate equitable owner" shall mean a person  
25 who, directly or indirectly, owns or controls an ownership  
26 interest in a corporation, foreign corporation,



1        non-domestic ~~alien~~ business organization, trust, or any  
2        other form of business organization regardless of whether  
3        the person owns or controls the ownership interest through  
4        one or more persons or one or more proxies, powers of  
5        attorney, nominees, corporations, associations,  
6        partnerships, trusts, joint stock companies, or other  
7        entities or devices, or any combination thereof.

8            (i) "Residential mortgage financing transaction" shall  
9        mean the negotiation, acquisition, sale, or arrangement  
10       for or the offer to negotiate, acquire, sell, or arrange  
11       for, a residential mortgage loan or residential mortgage  
12       loan commitment.

13           (j) "Personal residence address" shall mean a street  
14       address and shall not include a post office box number.

15           (k) "Residential mortgage loan commitment" shall mean  
16       a contract for residential mortgage loan financing.

17           (l) "Party to a residential mortgage financing  
18       transaction" shall mean a borrower, lender, or loan broker  
19       in a residential mortgage financing transaction.

20           (m) "Payments" shall mean payment of all or any of the  
21       following: principal, interest and escrow reserves for  
22       taxes, insurance and other related reserves, and  
23       reimbursement for lender advances.

24           (n) "Commissioner" shall mean the Commissioner of  
25       Banks and Real Estate, except that, beginning on April 6,  
26       2009 (the effective date of Public Act 95-1047), all

1 references in this Act to the Commissioner of Banks and  
2 Real Estate are deemed, in appropriate contexts, to be  
3 references to the Secretary of Financial and Professional  
4 Regulation, or his or her designee, including the Director  
5 of the Division of Banking of the Department of Financial  
6 and Professional Regulation.

7 (n-1) "Director" shall mean the Director of the  
8 Division of Banking of the Department of Financial and  
9 Professional Regulation, except that, beginning on July  
10 31, 2009 (the effective date of Public Act 96-112), all  
11 references in this Act to the Director are deemed, in  
12 appropriate contexts, to be the Secretary of Financial and  
13 Professional Regulation, or his or her designee, including  
14 the Director of the Division of Banking of the Department  
15 of Financial and Professional Regulation.

16 (o) "Loan brokering", "brokering", or "brokerage  
17 service" shall mean the act of helping to obtain from  
18 another entity, for a borrower, a loan secured by  
19 residential real estate situated in Illinois or assisting  
20 a borrower in obtaining a loan secured by residential real  
21 estate situated in Illinois in return for consideration to  
22 be paid by either the borrower or the lender including,  
23 but not limited to, contracting for the delivery of  
24 residential mortgage loans to a third party lender and  
25 soliciting, processing, placing, or negotiating  
26 residential mortgage loans.

1           (p) "Loan broker" or "broker" shall mean a person,  
2           partnership, association, corporation, or limited  
3           liability company, other than those persons, partnerships,  
4           associations, corporations, or limited liability companies  
5           exempted from licensing pursuant to Section 1-4,  
6           subsection (d), of this Act, who performs the activities  
7           described in subsections (c), (o), and (yy) of this  
8           Section.

9           (q) "Servicing" shall mean the collection or  
10          remittance for or the right or obligation to collect or  
11          remit for any lender, noteowner, noteholder, or for a  
12          licensee's own account, of payments, interests, principal,  
13          and trust items such as hazard insurance and taxes on a  
14          residential mortgage loan in accordance with the terms of  
15          the residential mortgage loan; and includes loan payment  
16          follow-up, delinquency loan follow-up, loan analysis and  
17          any notifications to the borrower that are necessary to  
18          enable the borrower to keep the loan current and in good  
19          standing. "Servicing" includes management of third-party  
20          entities acting on behalf of a residential mortgage  
21          licensee for the collection of delinquent payments and the  
22          use by such third-party entities of said licensee's  
23          servicing records or information, including their use in  
24          foreclosure.

25          (r) "Full service office" shall mean an office,  
26          provided by the licensee and not subleased from the

1 licensee's employees, and staff in Illinois reasonably  
2 adequate to handle efficiently communications, questions,  
3 and other matters relating to any application for, or an  
4 existing home mortgage secured by residential real estate  
5 situated in Illinois with respect to which the licensee is  
6 brokering, funding originating, purchasing, or servicing.  
7 The management and operation of each full service office  
8 must include observance of good business practices such as  
9 proper signage; adequate, organized, and accurate books  
10 and records; ample phone lines, hours of business, staff  
11 training and supervision, and provision for a mechanism to  
12 resolve consumer inquiries, complaints, and problems. The  
13 Commissioner shall issue regulations with regard to these  
14 requirements and shall include an evaluation of compliance  
15 with this Section in his or her periodic examination of  
16 each licensee.

17 (s) "Purchasing" shall mean the purchase of  
18 conventional or government-insured mortgage loans secured  
19 by residential real estate situated in Illinois from  
20 either the lender or from the secondary market.

21 (t) "Borrower" shall mean the person or persons who  
22 seek the services of a loan broker, originator, or lender.

23 (u) "Originating" shall mean the issuing of  
24 commitments for and funding of residential mortgage loans.

25 (v) "Loan brokerage agreement" shall mean a written  
26 agreement in which a broker or loan broker agrees to do

1 either of the following:

2 (1) obtain a residential mortgage loan for the  
3 borrower or assist the borrower in obtaining a  
4 residential mortgage loan; or

5 (2) consider making a residential mortgage loan to  
6 the borrower.

7 (w) "Advertisement" shall mean the attempt by  
8 publication, dissemination, or circulation to induce,  
9 directly or indirectly, any person to enter into a  
10 residential mortgage loan agreement or residential  
11 mortgage loan brokerage agreement relative to a mortgage  
12 secured by residential real estate situated in Illinois.

13 (x) (Blank).

14 (y) "Government-insured mortgage loan" shall mean any  
15 mortgage loan made on the security of residential real  
16 estate insured by the Department of Housing and Urban  
17 Development or Farmers Home Loan Administration, or  
18 guaranteed by the Veterans Administration.

19 (z) "Annual audit" shall mean a certified audit of the  
20 licensee's books and records and systems of internal  
21 control performed by a certified public accountant in  
22 accordance with generally accepted accounting principles  
23 and generally accepted auditing standards.

24 (aa) "Financial institution" shall mean a savings and  
25 loan association, savings bank, credit union, or a bank  
26 organized under the laws of Illinois or a savings and loan

1 association, savings bank, credit union or a bank  
2 organized under the laws of the United States and  
3 headquartered in Illinois.

4 (bb) "Escrow agent" shall mean a third party,  
5 individual or entity charged with the fiduciary obligation  
6 for holding escrow funds on a residential mortgage loan  
7 pending final payout of those funds in accordance with the  
8 terms of the residential mortgage loan.

9 (cc) "Net worth" shall have the meaning ascribed  
10 thereto in Section 3-5 of this Act.

11 (dd) "Affiliate" shall mean:

12 (1) any entity that directly controls or is  
13 controlled by the licensee and any other company that  
14 is directly affecting activities regulated by this Act  
15 that is controlled by the company that controls the  
16 licensee;

17 (2) any entity:

18 (A) that is controlled, directly or  
19 indirectly, by a trust or otherwise, by or for the  
20 benefit of shareholders who beneficially or  
21 otherwise control, directly or indirectly, by  
22 trust or otherwise, the licensee or any company  
23 that controls the licensee; or

24 (B) a majority of the directors or trustees of  
25 which constitute a majority of the persons holding  
26 any such office with the licensee or any company

1           that controls the licensee;

2           (3) any company, including a real estate  
3           investment trust, that is sponsored and advised on a  
4           contractual basis by the licensee or any subsidiary or  
5           affiliate of the licensee.

6           (ee) "First tier subsidiary" shall be defined by  
7           regulation incorporating the comparable definitions used  
8           by the Office of the Comptroller of the Currency and the  
9           Illinois Commissioner of Banks and Real Estate.

10          (ff) "Gross delinquency rate" means the quotient  
11          determined by dividing (1) the sum of (i) the number of  
12          government-insured residential mortgage loans funded or  
13          purchased by a licensee in the preceding calendar year  
14          that are delinquent and (ii) the number of conventional  
15          residential mortgage loans funded or purchased by the  
16          licensee in the preceding calendar year that are  
17          delinquent by (2) the sum of (i) the number of  
18          government-insured residential mortgage loans funded or  
19          purchased by the licensee in the preceding calendar year  
20          and (ii) the number of conventional residential mortgage  
21          loans funded or purchased by the licensee in the preceding  
22          calendar year.

23          (gg) "Delinquency rate factor" means the factor set by  
24          rule of the Commissioner that is multiplied by the average  
25          gross delinquency rate of licensees, determined annually  
26          for the immediately preceding calendar year, for the

1 purpose of determining which licensees shall be examined  
2 by the Commissioner pursuant to subsection (b) of Section  
3 4-8 of this Act.

4 (hh) (Blank).

5 (ii) "Confidential supervisory information" means any  
6 report of examination, visitation, or investigation  
7 prepared by the Commissioner under this Act, any report of  
8 examination visitation, or investigation prepared by the  
9 state regulatory authority of another state that examines  
10 a licensee, any document or record prepared or obtained in  
11 connection with or relating to any examination,  
12 visitation, or investigation, and any record prepared or  
13 obtained by the Commissioner to the extent that the record  
14 summarizes or contains information derived from any  
15 report, document, or record described in this subsection.  
16 "Confidential supervisory information" does not include  
17 any information or record routinely prepared by a licensee  
18 and maintained in the ordinary course of business or any  
19 information or record that is required to be made publicly  
20 available pursuant to State or federal law or rule.

21 (jj) "Mortgage loan originator" means an individual  
22 who for compensation or gain or in the expectation of  
23 compensation or gain:

24 (i) takes a residential mortgage loan application;

25 or

26 (ii) offers or negotiates terms of a residential



1 mortgage loan.

2 "Mortgage loan originator" includes an individual  
3 engaged in loan modification activities as defined in  
4 subsection (yy) of this Section. A mortgage loan  
5 originator engaged in loan modification activities shall  
6 report those activities to the Department of Financial and  
7 Professional Regulation in the manner provided by the  
8 Department; however, the Department shall not impose a fee  
9 for reporting, nor require any additional qualifications  
10 to engage in those activities beyond those provided  
11 pursuant to this Act for mortgage loan originators.

12 "Mortgage loan originator" does not include an  
13 individual engaged solely as a loan processor or  
14 underwriter except as otherwise provided in subsection (d)  
15 of Section 7-1A of this Act.

16 "Mortgage loan originator" does not include a person  
17 or entity that only performs real estate brokerage  
18 activities and is licensed in accordance with the Real  
19 Estate License Act of 2000, unless the person or entity is  
20 compensated by a lender, a mortgage broker, or other  
21 mortgage loan originator, or by any agent of that lender,  
22 mortgage broker, or other mortgage loan originator.

23 "Mortgage loan originator" does not include a person  
24 or entity solely involved in extensions of credit relating  
25 to timeshare plans, as that term is defined in Section  
26 101(53D) of Title 11, United States Code.

1           (kk) "Depository institution" has the same meaning as  
2           in Section 3 of the Federal Deposit Insurance Act, and  
3           includes any credit union.

4           (ll) "Dwelling" means a residential structure or  
5           mobile home which contains one to 4 family housing units,  
6           or individual units of condominiums or cooperatives.

7           (mm) "Immediate family member" means a spouse, child,  
8           sibling, parent, grandparent, or grandchild, and includes  
9           step-parents, step-children, step-siblings, or adoptive  
10          relationships.

11          (nn) "Individual" means a natural person.

12          (oo) "Loan processor or underwriter" means an  
13          individual who performs clerical or support duties as an  
14          employee at the direction of and subject to the  
15          supervision and instruction of a person licensed, or  
16          exempt from licensing, under this Act. "Clerical or  
17          support duties" includes subsequent to the receipt of an  
18          application:

19                 (i) the receipt, collection, distribution, and  
20                 analysis of information common for the processing or  
21                 underwriting of a residential mortgage loan; and

22                 (ii) communicating with a consumer to obtain the  
23                 information necessary for the processing or  
24                 underwriting of a loan, to the extent that the  
25                 communication does not include offering or negotiating  
26                 loan rates or terms, or counseling consumers about

1 residential mortgage loan rates or terms. An  
2 individual engaging solely in loan processor or  
3 underwriter activities shall not represent to the  
4 public, through advertising or other means of  
5 communicating or providing information, including the  
6 use of business cards, stationery, brochures, signs,  
7 rate lists, or other promotional items, that the  
8 individual can or will perform any of the activities  
9 of a mortgage loan originator.

10 (pp) "Nationwide Multistate Licensing System and  
11 Registry" means a mortgage licensing system developed and  
12 maintained by the Conference of State Bank Supervisors and  
13 the American Association of Residential Mortgage  
14 Regulators for the licensing and registration of licensed  
15 mortgage loan originators.

16 (qq) "Nontraditional mortgage product" means any  
17 mortgage product other than a 30-year fixed rate mortgage.

18 (rr) "Person" means a natural person, corporation,  
19 company, limited liability company, partnership, or  
20 association.

21 (ss) "Real estate brokerage activity" means any  
22 activity that involves offering or providing real estate  
23 brokerage services to the public, including:

24 (1) acting as a real estate agent or real estate  
25 broker for a buyer, seller, lessor, or lessee of real  
26 property;

1           (2) bringing together parties interested in the  
2 sale, purchase, lease, rental, or exchange of real  
3 property;

4           (3) negotiating, on behalf of any party, any  
5 portion of a contract relating to the sale, purchase,  
6 lease, rental, or exchange of real property, other  
7 than in connection with providing financing with  
8 respect to any such transaction;

9           (4) engaging in any activity for which a person  
10 engaged in the activity is required to be registered  
11 or licensed as a real estate agent or real estate  
12 broker under any applicable law; or

13           (5) offering to engage in any activity, or act in  
14 any capacity, described in this subsection (ss).

15           (tt) "Registered mortgage loan originator" means any  
16 individual that:

17           (1) meets the definition of mortgage loan  
18 originator and is an employee of:

19                   (A) a depository institution;

20                   (B) a subsidiary that is:

21                           (i) owned and controlled by a depository  
22 institution; and

23                           (ii) regulated by a federal banking  
24 agency; or

25                   (C) an institution regulated by the Farm  
26 Credit Administration; and

1           (2) is registered with, and maintains a unique  
2           identifier through, the Nationwide Multistate  
3           Licensing System and Registry.

4           (uu) "Unique identifier" means a number or other  
5           identifier assigned by protocols established by the  
6           Nationwide Multistate Licensing System and Registry.

7           (vv) "Residential mortgage license" means a license  
8           issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

9           (wv) "Mortgage loan originator license" means a  
10          license issued pursuant to Section 7-1A, 7-3, or 7-6 of  
11          this Act.

12          (xx) "Secretary" means the Secretary of the Department  
13          of Financial and Professional Regulation, or a person  
14          authorized by the Secretary or by this Act to act in the  
15          Secretary's stead.

16          (yy) "Loan modification" means, for compensation or  
17          gain, either directly or indirectly offering or  
18          negotiating on behalf of a borrower or homeowner to adjust  
19          the terms of a residential mortgage loan in a manner not  
20          provided for in the original or previously modified  
21          mortgage loan.

22          (zz) "Short sale facilitation" means, for compensation  
23          or gain, either directly or indirectly offering or  
24          negotiating on behalf of a borrower or homeowner to  
25          facilitate the sale of residential real estate subject to  
26          one or more residential mortgage loans or debts

1           constituting liens on the property in which the proceeds  
2           from selling the residential real estate will fall short  
3           of the amount owed and the lien holders are contacted to  
4           agree to release their lien on the residential real estate  
5           and accept less than the full amount owed on the debt.

6           (aaa) "Bona fide nonprofit organization" means an  
7           organization that is described in Section 501(c)(3) of the  
8           Internal Revenue Code, is exempt from federal income tax  
9           under Section 501(a) of the Internal Revenue Code, does  
10          not operate in a commercial context, and does all of the  
11          following:

12                   (1) Promotes affordable housing or provides home  
13                   ownership education or similar services.

14                   (2) Conducts its activities in a manner that  
15                   serves public or charitable purposes.

16                   (3) Receives funding and revenue and charges fees  
17                   in a manner that does not create an incentive for  
18                   itself or its employees to act other than in the best  
19                   interests of its clients.

20                   (4) Compensates its employees in a manner that  
21                   does not create an incentive for its employees to act  
22                   other than in the best interests of its clients.

23                   (5) Provides to, or identifies for, the borrower  
24                   residential mortgage loans with terms favorable to the  
25                   borrower and comparable to residential mortgage loans  
26                   and housing assistance provided under government

1           housing assistance programs.

2           The Commissioner may define by rule and regulation any  
3 terms used in this Act for the efficient and clear  
4 administration of this Act.

5           (Source: P.A. 100-783, eff. 8-10-18; 100-851, eff. 8-14-18;  
6 100-1153, eff. 12-19-18; 101-81, eff. 7-12-19.)

7           Section 90. The Illinois Insurance Code is amended by  
8 changing Sections 2, 35A-5, 37, and 58 and the heading of  
9 Article III.5 and Sections 60a, 60b, 60c, 60d, 60e, 60f, 60g,  
10 60h, 60i, 60j, 63, 86, 87, 88, 103, 104, and 105 and the  
11 heading of Article VI and Sections 108, 109, 110, 111, 112,  
12 113, 113.1, 114, 115, 116, 117, 118, 119, 120, 123, 123.1,  
13 123.3, 123C-8, 126.1, 126.12, 126.25, 131.13, 132.3, 133, 136,  
14 141a, 144, 144.1, 146, 148, 154.5, 156, 156.1, 157, 161, 162,  
15 163, 164, 166, 169, 170, 173.1, 179A-5, and 179E-5 and the  
16 heading of Article XII and Sections 180, 185.1, 188, 188.1,  
17 197, 201, 223, 241, 292.1, 302.1, 308.1, 309.1, 310.1, 357.29,  
18 370, 404, 408, 412, 413, 415, 444, 444.1, 445, 448, 451,  
19 531.09, 531.11, 534.5, 543.1, and 1103 as follows:

20           (215 ILCS 5/2) (from Ch. 73, par. 614)

21           Sec. 2. General definitions.

22           In this Code, unless the context otherwise requires,

23           (a) "Director" means the Director of Insurance.

24           (b) "Department" means the Department of Insurance.

1 (c) "State" or "State of the United States" includes the  
2 District of Columbia and a territory or possession of the  
3 United States.

4 (d) "Country" or "Foreign Country" includes a state,  
5 province or political subdivision thereof.

6 (e) "Company" means an insurance or surety company and  
7 shall be deemed to include a corporation, company,  
8 partnership, association, society, order, individual or  
9 aggregation of individuals engaging in or proposing or  
10 attempting to engage in any kind of insurance or surety  
11 business, including the exchanging of reciprocal or  
12 inter-insurance contracts between individuals, partnerships  
13 and corporations.

14 (f) "Domestic Company" means a company incorporated or  
15 organized under the laws of this State.

16 (g) "Foreign Company" means a company incorporated or  
17 organized under the laws of any state of the United States  
18 other than this State.

19 (h) "Non-domestic ~~Alien~~ Company" means a company  
20 incorporated or organized under the laws of any country other  
21 than the United States.

22 (i) "Mutual Legal Reserve Life Company" means a mutual  
23 life company issuing contracts without contingent liability on  
24 the policyholder.

25 (j) "Assessment Legal Reserve Life Company" means a life  
26 company issuing contracts providing for contingent liability



1 on the policyholder.

2 (k) "Reciprocal" includes Inter-Insurance Exchange.

3 (l) "Person" includes an individual, aggregation of  
4 individuals, corporation, association and partnership.

5 (m) Personal pronouns include all genders, the singular  
6 includes the plural and the plural includes the singular.

7 (n) "Policy" means an insurance policy or contract and  
8 includes certificates of fraternal benefit societies,  
9 assessment companies, mutual benefit associations, and burial  
10 societies.

11 (o) "Policyholder" means a holder of an insurance policy  
12 or contract and includes holders of certificates of fraternal  
13 benefit societies, assessment companies, mutual benefit  
14 associations, and burial societies.

15 (p) "Articles of Incorporation" means the basic instrument  
16 of an incorporated company and all amendments thereto and  
17 includes "Charter," "Articles of Organization," "Articles of  
18 Reorganization," "Articles of Association," and "Deed of  
19 Settlement."

20 (q) "Officer" when used to refer to an officer of a company  
21 includes an attorney-in-fact for a reciprocal or Lloyds.

22 (Source: Laws 1937, p. 696.)

23 (215 ILCS 5/35A-5)

24 Sec. 35A-5. Definitions. As used in this Article, the  
25 terms listed in this Section have the meaning given herein.

1 "Adjusted RBC Report" means an RBC Report that has been  
2 adjusted by the Director in accordance with subsection (f) of  
3 Section 35A-10.

4 "Authorized control level RBC" means the number determined  
5 under the risk-based capital formula in accordance with the  
6 RBC Instructions.

7 "Company action level RBC" means the product of 2.0 and  
8 the insurer's authorized control level RBC.

9 "Corrective Order" means an order issued by the Director  
10 in accordance with Article XII 1/2 specifying corrective  
11 actions that the Director determines are required.

12 "Domestic insurer" means any insurance company domiciled  
13 in this State under Article II, Article III, Article III 1/2,  
14 or Article IV or a health organization as defined by this  
15 Article, except this shall include only those health  
16 maintenance organizations that are "domestic companies" in  
17 accordance with Section 5-3 of the Health Maintenance  
18 Organization Act and only those limited health service  
19 organizations that are "domestic companies" in accordance with  
20 Section 4003 of the Limited Health Service Organization Act.

21 "Fraternal benefit society" means any insurance company  
22 licensed under Article XVII of this Code.

23 "Foreign insurer" means any foreign or non-domestic ~~alien~~  
24 insurance company licensed under Article VI that is not  
25 domiciled in this State and any health maintenance  
26 organization that is not a "domestic company" in accordance

1 with Section 5-3 of the Health Maintenance Organization Act  
2 and any limited health service organization that is not a  
3 "domestic company" in accordance with Section 4003 of the  
4 Limited Health Service Organization Act.

5 "Health organization" means an entity operating under a  
6 certificate of authority issued pursuant to the Health  
7 Maintenance Organization Act, the Dental Service Plan Act, the  
8 Limited Health Service Organization Act, or the Voluntary  
9 Health Services Plans Act, unless the entity is otherwise  
10 defined as a "life, health, or life and health insurer"  
11 pursuant to this Act.

12 "Life, health, or life and health insurer" means an  
13 insurance company that has authority to transact the kinds of  
14 insurance described in either or both clause (a) or clause (b)  
15 of Class 1 of Section 4 or a licensed property and casualty  
16 insurer writing only accident and health insurance.

17 "Mandatory control level RBC" means the product of 0.70  
18 and the insurer's authorized control level RBC.

19 "NAIC" means the National Association of Insurance  
20 Commissioners.

21 "Negative trend" means, with respect to a life, health, or  
22 life and health insurer or a fraternal benefit society, a  
23 negative trend over a period of time, as determined in  
24 accordance with the trend test calculation included in the  
25 Life or Fraternal RBC Instructions.

26 "Property and casualty insurer" means an insurance company

1 that has authority to transact the kinds of insurance in  
2 either or both Class 2 or Class 3 of Section 4 or a licensed  
3 insurer writing only insurance authorized under clause (c) of  
4 Class 1, but does not include monoline mortgage guaranty  
5 insurers, financial guaranty insurers, and title insurers.

6 "RBC" means risk-based capital.

7 "RBC Instructions" means the RBC Report including  
8 risk-based capital instructions adopted by the NAIC as those  
9 instructions may be amended by the NAIC from time to time in  
10 accordance with the procedures adopted by the NAIC.

11 "RBC level" means an insurer's company action level RBC,  
12 regulatory action level RBC, authorized control level RBC, or  
13 mandatory control level RBC.

14 "RBC Plan" means a comprehensive financial plan containing  
15 the elements specified in subsection (b) of Section 35A-15.

16 "RBC Report" means the risk-based capital report required  
17 under Section 35A-10.

18 "Receivership" means conservation, rehabilitation, or  
19 liquidation under Article XIII.

20 "Regulatory action level RBC" means the product of 1.5 and  
21 the insurer's authorized control level RBC.

22 "Revised RBC Plan" means an RBC Plan rejected by the  
23 Director and revised by the insurer with or without the  
24 Director's recommendations.

25 "Total adjusted capital" means the sum of (1) an insurer's  
26 statutory capital and surplus and (2) any other items that the

1 RBC Instructions may provide.

2 (Source: P.A. 98-157, eff. 8-2-13.)

3 (215 ILCS 5/37) (from Ch. 73, par. 649)

4 (Section scheduled to be repealed on January 1, 2027)

5 Sec. 37. Name. The corporate name of any company organized  
6 under this Article shall contain the word "Mutual" and shall  
7 not be the same as, or deceptively similar to, the name of any  
8 domestic company, or of any foreign or non-domestic ~~alien~~  
9 company authorized to transact business in this State.

10 (Source: Laws 1937, p. 696.)

11 (215 ILCS 5/58) (from Ch. 73, par. 670)

12 (Section scheduled to be repealed on January 1, 2027)

13 Sec. 58. Governmental agencies and corporations may be  
14 members. Any government or governmental agency, state or  
15 political subdivision thereof, public or private corporation,  
16 board, association, estate, trustee or fiduciary in this State  
17 or elsewhere, may make application, enter into agreements for  
18 and hold policies or contracts in or with, and be a member of,  
19 any domestic, foreign or non-domestic ~~alien~~ mutual company  
20 subject to the provisions of this Code. Any officer,  
21 representative, trustee, receiver or legal representative of  
22 any such member or policyholder, shall be recognized as acting  
23 for or on its behalf for the purpose of such contract or  
24 membership, but shall not be personally liable upon such

1 contract by reason of acting in such representative capacity.

2 (Source: Laws 1937, p. 696.)

3 (215 ILCS 5/Art. III.5 heading)

4 ARTICLE III 1/2. NON-DOMESTIC ~~ALIEN~~ COMPANIES

5 (215 ILCS 5/60a) (from Ch. 73, par. 672a)

6 Sec. 60a. Non-domestic ~~Alien~~ companies; Illinois State of  
7 entry.

8 (1) A non-domestic ~~An alien~~ company may use Illinois as a  
9 state of entry to transact insurance in the United States by  
10 obtaining a certificate of authority pursuant to Section 111  
11 and maintaining in this State a deposit of assets in trust in  
12 accordance with the provisions of Section 60b.

13 (2) A United States branch of a non-domestic ~~an alien~~  
14 company that uses Illinois as a state of entry to transact  
15 insurance in the United States shall be considered a domestic  
16 company, and as such shall be subject to all applicable  
17 provisions of this Code. Transactions between the United  
18 States branch and the home office of a non-domestic ~~an alien~~  
19 company shall not be subject to the provisions of Section  
20 131.20 and subsection (1) of Section 131.20a, but remittances  
21 of profits of the United States branch to the home office of a  
22 non-domestic ~~an alien~~ company shall be considered dividends  
23 subject to the requirements of subsection (2) of Section  
24 131.20a.

1 (Source: P.A. 89-97, eff. 7-7-95.)

2 (215 ILCS 5/60b) (from Ch. 73, par. 672b)

3 Sec. 60b. Non-domestic ~~Alien~~ companies; Illinois trusteed  
4 assets.

5 (1) A non-domestic ~~An alien~~ company may not use Illinois  
6 as a state of entry to transact insurance in the United States  
7 unless it maintains in this State a deposit of assets in trust  
8 for the benefit of policyholders in the United States, which  
9 assets shall be its "Trusteed Assets". The United States  
10 branch of a non-domestic ~~an alien~~ company shall maintain  
11 Trusteed Assets at least equal to (a) the sum of (i) its  
12 minimum capital and surplus, and (ii) the amount of its  
13 liabilities to policyholders, net of reinsurance for which  
14 credit is allowed pursuant to Article XI, as reflected in its  
15 most recent financial statement on file with the Director,  
16 minus (b) the sum of (i) the amount of all of its general state  
17 deposits (including all interest accrued and due and payable  
18 to the holder of the deposit), (ii) the amount of its special  
19 state deposits (including all interest accrued and due and  
20 payable to the holder of the deposit), (iii) the amount of its  
21 reinsurance recoverable on paid losses (where such reinsurance  
22 is the type for which credit would be allowed pursuant to  
23 Article XI), (iv) the amounts of its notes and bills  
24 receivable, taken for premiums; (v) with respect to a company  
25 authorized to write the kinds of insurance specified in

1 Classes 2 and 3 of Section 4 of this Code, the amount of its  
2 agents' balances and uncollected premiums; and (vi) the amount  
3 of its funds held by or deposited with reinsureds.

4 (2) Only those assets that qualify as authorized  
5 investments as provided in Article VIII (and in Sections 131.2  
6 and 131.3) shall be included in a non-domestic ~~an alien~~  
7 company's Trusteed Assets.

8 (Source: P.A. 88-45; 89-97, eff. 7-7-95.)

9 (215 ILCS 5/60c) (from Ch. 73, par. 672c)

10 Sec. 60c. Requirements and contents of trust agreement.  
11 Trust agreements governing Trusteed Assets required by Section  
12 60b shall satisfy the following conditions:

13 (1) Legal title to the Trusteed Assets shall be vested in  
14 the trustee or trustees, and their successors lawfully  
15 appointed, in trust for the benefit and security of  
16 policyholders of the non-domestic ~~alien~~ company in the United  
17 States.

18 (2) The agreement shall provide for substitution of a new  
19 trustee or trustees, subject to the Director's approval.

20 (3) All Trusteed Assets shall at all times be maintained  
21 as a trust fund separate and distinct from all other assets.

22 (4) The trustee or trustees shall maintain a record at all  
23 times sufficient to identify the assets of the trust.

24 (5) Withdrawal of or from the Trusteed Assets shall be  
25 made only as provided in Section 60d.



1 (Source: P.A. 85-1373.)

2 (215 ILCS 5/60d) (from Ch. 73, par. 672d)

3 Sec. 60d. Withdrawal of Trusteed Assets. (1) The trust  
4 agreement shall provide that no withdrawals of Trusteed Assets  
5 shall be made by the non-domestic ~~alien~~ company or permitted  
6 by the trustee or trustees without the prior approval of the  
7 Director, except as follows:

8 (a) Any or all income, earnings, dividends, or interest  
9 accumulations of the Trusteed Assets may be paid over to the  
10 United States branch of the non-domestic ~~alien~~ company upon  
11 request of the company or its manager, provided that no  
12 withdrawal shall be made that reduces the Trusteed Assets  
13 below the amount required by Section 60b.

14 (b) For the purpose of substituting other assets  
15 authorized for investment by Article VIII and at least equal  
16 in value (as reflected in the most recent financial statement  
17 on file with the Director) to those being withdrawn, if such  
18 withdrawal is requested in writing by the non-domestic ~~alien~~  
19 company's (i) United States manager or (ii) other United  
20 States representative pursuant to general or specific written  
21 authority previously given or delegated by the non-domestic  
22 ~~alien~~ company's board of directors or other similar governing  
23 body, and a copy of such authority has been filed with the  
24 trustee or trustees.

25 (c) For the purpose of making deposits required by law in

1 any state for the protection of the non-domestic ~~alien~~  
2 company's policyholders in the United States. The trustee or  
3 trustees shall transfer any assets so withdrawn, and in the  
4 amount so required to be deposited in the other state,  
5 directly to the depository required to receive such deposit in  
6 such other state.

7 (d) For the payment of obligations due from the United  
8 States branch of the non-domestic ~~alien~~ company to  
9 policyholders in the United States, provided that no  
10 withdrawal shall be made that reduces the Trusteed Assets  
11 below the amount required by Section 60b.

12 (e) For the purpose of withdrawing any amount of the  
13 Trusteed Assets in excess of the amount required by Section  
14 60b, as determined by the non-domestic ~~alien~~ company's then  
15 most current annual statement on file with the Director.

16 (f) For the purpose of transferring the Trusteed Assets to  
17 an appointed liquidator, conservator, or rehabilitator  
18 pursuant to the order of a court of competent jurisdiction.

19 (2) If at any time the non-domestic ~~alien~~ company becomes  
20 insolvent, or if its Trusteed Assets are less than required  
21 under Section 60b, the Director shall in writing order the  
22 trustee to suspend the right of the non-domestic ~~alien~~ company  
23 or any other person to withdraw assets as otherwise authorized  
24 under paragraphs (a), (b), (c), (d) and (e) of subsection (1);  
25 and the trustee shall comply with such order until otherwise  
26 ordered by the Director.

1 (Source: P.A. 85-1373.)

2 (215 ILCS 5/60e) (from Ch. 73, par. 672e)

3 Sec. 60e. Domestication of Non-domestic ~~Alien~~ Company;  
4 definitions. As used in Sections 60e through 60i:

5 (1) "Domestication" means the reorganization of the United  
6 States branch of a non-domestic ~~an alien~~ company as the result  
7 of which a domestic company shall succeed to all the business  
8 and assets and assume all the liabilities of the United States  
9 branch of the non-domestic ~~alien~~ company.

10 (2) "United States branch" means the business unit through  
11 which business is transacted within the United States by a  
12 non-domestic ~~an alien~~ company and the assets and liabilities  
13 of such insurer within the United States pertaining to such  
14 business.

15 (3) "Domestic Company" means a stock or mutual insurer  
16 incorporated under the laws of this State.

17 (Source: P.A. 85-1373.)

18 (215 ILCS 5/60f) (from Ch. 73, par. 672f)

19 Sec. 60f. Domestication procedure. (1) Upon compliance  
20 with Sections 60e through 60i, any non-domestic ~~alien~~ company  
21 authorized to do business in this State may, with the prior  
22 written approval of the Director, domesticate its United  
23 States branch by entering into an agreement in writing with a  
24 domestic company providing for the acquisition by the domestic

1 company of all of the assets and the assumption of all of the  
2 liabilities of the United States branch.

3 (2) The acquisition of assets and assumption of  
4 liabilities of the United States branch by the domestic  
5 company shall be effected by filing with the Director an  
6 instrument of transfer and assumption in form satisfactory to  
7 the Director and executed by the non-domestic ~~alien~~ company  
8 and the domestic company.

9 (Source: P.A. 85-1373.)

10 (215 ILCS 5/60g) (from Ch. 73, par. 672g)

11 Sec. 60g. Domestication agreement; authorization;  
12 execution. (1) The domestication agreement referred to in  
13 Section 60f shall be authorized, adopted, approved, signed,  
14 and acknowledged by the non-domestic ~~alien~~ company in  
15 accordance with the laws of the country under which it is  
16 organized.

17 (2) In the case of a domestic company, the domestication  
18 agreement shall be approved, adopted, and authorized by its  
19 board of directors and executed by its president or any vice  
20 president and attested by its secretary or assistant secretary  
21 under its corporate seal.

22 (Source: P.A. 85-1373.)

23 (215 ILCS 5/60h) (from Ch. 73, par. 672h)

24 Sec. 60h. Director's approval of domestication agreement.

1 An executed counterpart of the domestication agreement,  
2 together with certified copies of the corporate proceedings of  
3 the domestic company and the non-domestic ~~alien~~ company,  
4 approving, adopting and authorizing the execution of the  
5 domestication agreement, shall be submitted to the Director  
6 for approval. The Director shall thereupon consider the  
7 agreement, and, if the Director finds that the same is in  
8 accordance with the provisions hereof and that the interests  
9 of policyholders of the United States branch of the  
10 non-domestic ~~alien~~ insurer and of the domestic company are not  
11 materially adversely affected, the Director shall approve the  
12 domestication agreement and authorize the consummation thereof  
13 in compliance with the provisions of Section 60i. The Director  
14 shall approve or disapprove the domestication agreement within  
15 60 days after it is submitted to the Director.

16 (Source: P.A. 85-1373.)

17 (215 ILCS 5/60i) (from Ch. 73, par. 672i)

18 Sec. 60i. Consummation of domestication; transfer of  
19 assets and deposits. (1) Upon the filing with the Director of a  
20 certified copy of the instrument of transfer and assumption  
21 pursuant to which a domestic company succeeds to the business  
22 and assets of the United States branch of a non-domestic ~~an~~  
23 ~~alien~~ company and assumes all its liabilities, the  
24 domestication of the United States branch shall be deemed to  
25 be effective; and thereupon all the rights, franchises, and

1 interests of the United States branch in and to every species  
2 of property, real, personal, and mixed, and things in actions  
3 thereunder belonging shall be deemed as transferred to and  
4 vested in the domestic company, and simultaneously therewith  
5 the domestic company shall be deemed to have assumed all of the  
6 liabilities of the United States branch. The domestic company  
7 shall be considered as having the age as the oldest of the 2  
8 parties to the domestication agreement for purposes of  
9 complying with the requirements of laws relating to age of  
10 company.

11 (2) All deposits of the United States branch held by the  
12 Director, or by state officers or other state regulatory  
13 agencies pursuant to requirements of state laws, shall be  
14 deemed to be held as security for the satisfaction by the  
15 domestic company of all liabilities to policyholders within  
16 the United States assumed from the United States branch; and  
17 such deposits shall be deemed to be assets of the domestic  
18 company and shall be reported as such in the annual financial  
19 statements and other reports which the domestic company may be  
20 required to file. Upon the ultimate release by any such state  
21 officer or agency of any such deposits, the securities and  
22 cash constituting such released deposit shall be delivered and  
23 paid over to the domestic company as the lawful successor in  
24 interest to the United States branch.

25 (3) Contemporaneously with the consummation of the  
26 domestication of the United States branch, the Director shall

1 direct the trustee, if any, of the U. S. branch's Trusteed  
2 Assets to transfer and deliver to the domestic company all  
3 assets, if any, held by such trustee.

4 (Source: P.A. 85-1373.)

5 (215 ILCS 5/60j) (from Ch. 73, par. 672j)

6 Sec. 60j. Trustees of non-domestic ~~alien~~ companies. (1)  
7 The directors of a non-domestic ~~an alien~~ company may appoint  
8 citizens or corporations of the United States as its trustees  
9 to hold funds and assets in trust for the benefit of the  
10 policyholders and creditors of the company in the United  
11 States. A certified copy of the record of such appointment and  
12 of the deed of trust, approved by the Director, shall be filed  
13 with him.

14 (2) The Director may examine such trustee and any officers  
15 and agents, books and papers thereof, with respect to the  
16 affairs of such non-domestic ~~alien~~ company in the same manner  
17 as he may examine officers, agents, books, papers and affairs  
18 of companies.

19 (3) The funds and assets so held by such trustees shall,  
20 with the deposits otherwise made by the United States branch  
21 of the non-domestic ~~alien~~ company in the United States  
22 together with loans in connection with its policies to  
23 policyholders, and all other funds and assets held by the  
24 United States branch of the non-domestic ~~alien~~ company in the  
25 United States, constitute the assets of the company for the

1 purpose of making its financial statements required by this  
2 Code. For purposes of making financial statements required by  
3 this Code, the liabilities of a non-domestic ~~an alien~~ company  
4 shall be limited to only those liabilities incurred in  
5 connection with its United States business.

6 (4) In applying the risk limitations as provided in  
7 Section 144 or any limit on premium volume, the Director shall  
8 calculate such limitations based solely on the non-domestic  
9 ~~alien~~ company's assets in the United States that, pursuant to  
10 subsection (3) of this Section, constitute the assets of the  
11 company for purposes of making its financial statements  
12 required by this Code and its surplus as regards policyholders  
13 as reflected in the most recent financial statement on file  
14 with the Director.

15 (Source: P.A. 85-1373.)

16 (215 ILCS 5/63) (from Ch. 73, par. 675)

17 (Section scheduled to be repealed on January 1, 2027)

18 Sec. 63. Name. The name or designation under which  
19 contracts are to be exchanged shall include the words  
20 "Reciprocal" or "Inter-Insurance Exchange" or be supplemented  
21 by the following words immediately below the name or  
22 designation under which such contracts are exchanged: "A  
23 Reciprocal" or "An Inter-Insurance Exchange." Such name or  
24 designation shall not be the same as or deceptively similar to  
25 the name or designation adopted by any other domestic company



1 or any foreign or non-domestic ~~alien~~ company authorized to  
2 transact business in this State.

3 (Source: Laws 1937, p. 696.)

4 (215 ILCS 5/86) (from Ch. 73, par. 698)

5 (Section scheduled to be repealed on January 1, 2027)

6 Sec. 86. Scope of Article.

7 (1) This Article applies to all groups including  
8 incorporated and individual unincorporated underwriters  
9 transacting an insurance business in this State through an  
10 attorney-in-fact under the name Lloyds or under a Lloyds plan  
11 of operation. Groups that meet the requirements of subsection  
12 (3) are referred to in this Code as "Lloyds", and incorporated  
13 and individual unincorporated underwriters are referred to as  
14 "underwriters".

15 (2) As used in this Code:

16 "Domestic Lloyds" means a Lloyds having its home office in  
17 this State.

18 "Foreign Lloyds" means a Lloyds having its home office in  
19 any state of the United States other than this State.

20 "Non-domestic ~~Alien~~ Lloyds" means a Lloyds having its home  
21 office or principal place of business in any country other  
22 than the United States.

23 (3) A domestic Lloyds must: (i) be established pursuant to  
24 a statute or written charter; (ii) provide for governance by a  
25 board of directors or similar body; and (iii) establish and

1 monitor standards of solvency of its underwriters. A foreign  
2 or non-domestic ~~alien~~ Lloyds must be subject to requirements  
3 of its state or country of domicile. Those requirements must  
4 be substantially similar to those required of domestic Lloyds.  
5 Domestic, foreign, and non-domestic ~~alien~~ Lloyds shall not be  
6 subject to Section 144 of this Code.

7 (4) All foreign and non-domestic ~~alien~~ entities and  
8 individuals transacting an insurance business as domestic,  
9 foreign, or non-domestic ~~alien~~ Lloyds shall notify the  
10 Director and the Secretary of State under the provisions of  
11 this Article, shall be regulated exclusively by the Director,  
12 and shall not be required to obtain a certificate of authority  
13 from the Secretary of State pursuant to any other law of this  
14 State so long as they solely transact business as a domestic,  
15 foreign, or non-domestic ~~alien~~ Lloyds. Upon notification, the  
16 Secretary of State may require submission of additional  
17 information to determine whether a foreign or non-domestic  
18 ~~alien~~ individual or entity is transacting business solely as a  
19 domestic, foreign, or non-domestic ~~alien~~ Lloyds.

20 (Source: P.A. 100-863, eff. 8-14-18.)

21 (215 ILCS 5/87) (from Ch. 73, par. 699)

22 (Section scheduled to be repealed on January 1, 2027)

23 Sec. 87. Certificate of authority. It shall be unlawful  
24 for any domestic, foreign or non-domestic ~~alien~~ Lloyds to  
25 transact business in this State unless it has first obtained

1 and has in force a certificate of authority issued by the  
2 Director. All certificates of authority issued under the  
3 provisions of this Article shall terminate on the thirtieth  
4 day of June next following the date of issuance and may be  
5 renewed upon compliance with this Code.

6 (Source: Laws 1937, p. 696.)

7 (215 ILCS 5/88) (from Ch. 73, par. 700)

8 (Section scheduled to be repealed on January 1, 2027)

9 Sec. 88. Name. The name of any Lloyds authorized to  
10 transact business under this Article shall not be the same as,  
11 or deceptively similar to, the name of any domestic company or  
12 of any foreign or non-domestic ~~alien~~ company authorized to  
13 transact business in this State.

14 (Source: Laws 1937, p. 696.)

15 (215 ILCS 5/103) (from Ch. 73, par. 715)

16 (Section scheduled to be repealed on January 1, 2027)

17 Sec. 103. Non-domestic ~~Alien~~ Lloyds.

18 (1) Each non-domestic ~~alien~~ Lloyds authorized to transact  
19 business in this State shall

20 (a) maintain in this State or any other state of the  
21 United States in which they are authorized to transact  
22 business, cash or securities of a character conformable to  
23 the requirements of Article VIII of this Code for domestic  
24 companies at least equal at all times to the minimum of

1 admitted assets required by this Article for a domestic  
2 Lloyds doing the same kind or kinds of business;

3 (b) make deposits of underwriters in this State in  
4 accordance with the requirements imposed upon domestic  
5 Lloyds;

6 (c) file with the Director an authenticated copy of  
7 its power of attorney and an authenticated copy of the  
8 trust agreement or other agreement under which deposits  
9 made by underwriters in this State are held;

10 (d) notify the Director forthwith of any amendment to  
11 its power of attorney, deposit agreement or other  
12 documents by filing with the Director an authenticated  
13 copy of such document as amended; and

14 (e) notify the Director forthwith of any change in its  
15 name or change of attorney-in-fact or change of address of  
16 its attorney-in-fact.

17 (2) A non-domestic ~~An alien~~ Lloyds shall not establish  
18 branches under other or different names or titles.

19 (3) There shall be filed with the Director by the  
20 attorney-in-fact for such Lloyds, who or which shall be a  
21 resident person or corporation of this State, at the time of  
22 filing the annual statement, or more often if required by the  
23 Director, a verified statement setting forth

24 (a) the names and addresses of all underwriters of  
25 such Lloyds; and

26 (b) a description of the cash and securities deposited

1 in trust by each underwriter.

2 (4) Additional underwriters may join and be included in  
3 any such Lloyds subject to such conditions and requirements as  
4 may from time to time be imposed by such Lloyds and upon  
5 meeting the requirements of this Section, such additional  
6 underwriters who may so join such Lloyds shall be bound by the  
7 documents on file with the Director in the same manner as  
8 though they had personally executed the same and shall have  
9 the same rights, powers and duties as all other underwriters  
10 of such Lloyds. The attorney-in-fact authorized by the  
11 underwriters to act for them shall thereafter be the  
12 attorney-in-fact for such additional underwriters to the  
13 extent of the power of attorney or other document or  
14 authorization by such underwriters to the attorney-in-fact.  
15 (Source: P.A. 90-794, eff. 8-14-98.)

16 (215 ILCS 5/104) (from Ch. 73, par. 716)

17 (Section scheduled to be repealed on January 1, 2027)

18 Sec. 104. Policy forms. Every policy issued in this State  
19 by any domestic, foreign or non-domestic ~~alien~~ Lloyds shall  
20 have printed upon its face and back the name of such Lloyds,  
21 the name and address of its attorney-in-fact in this State or  
22 agent for service of process in this State, and in type not  
23 smaller than ten point the words "Not Incorporated."

24 (Source: Laws 1937, p. 696.)

1 (215 ILCS 5/105) (from Ch. 73, par. 717)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 105. Director as agent; service of process.

4 (1) The attorney-in-fact of every Lloyds transacting  
5 business in this State shall file with the Director a duly  
6 executed instrument whereby such Lloyds shall appoint and  
7 constitute the Director, his successor or successors in  
8 office, the true and lawful agent of such Lloyds upon whom all  
9 lawful process in any action or legal proceeding against such  
10 Lloyds may be served, and shall agree that any lawful process  
11 against such Lloyds which may be served upon said agent shall  
12 be of the same force and validity as if served upon the  
13 attorney-in-fact, and that the authority thereof shall  
14 continue in force irrevocably so long as any liability of such  
15 Lloyds in this State shall remain outstanding.

16 (2) In any suit instituted against any domestic, foreign  
17 or non-domestic ~~alien~~ Lloyds transacting business in this  
18 State, it shall not be necessary to name the underwriters as  
19 parties defendant, but such Lloyds may be named as the party  
20 defendant in any such suit and service may be had upon all the  
21 underwriters by service upon the last appointed  
22 attorney-in-fact or by service upon the Director, and not  
23 otherwise. Any such suit may be brought in the county in which  
24 the cause of action arises or in which the claimant resides.  
25 When such process is served upon the Director as agent to  
26 accept service, duplicate copies of such process shall be

1 delivered to him and he shall immediately forward one copy of  
2 each such process to the last appointed attorney-in-fact by  
3 certified or registered mail, postage prepaid, giving the day  
4 and hour of such service.

5 (Source: P.A. 88-535.)

6 (215 ILCS 5/Art. VI heading)

7 ARTICLE VI. FOREIGN OR NON-DOMESTIC ~~ALIEN~~ COMPANIES

8 (Article scheduled to be repealed on January 1, 2027)

9 (215 ILCS 5/108) (from Ch. 73, par. 720)

10 (Section scheduled to be repealed on January 1, 2027)

11 Sec. 108. Companies that may be admitted to do business.

12 (1) Upon complying with the provisions of this Article, a  
13 foreign or non-domestic ~~alien~~ company organized as a stock  
14 company, mutual company, reciprocal, Lloyds or fraternal  
15 benefit society may be admitted to transact in this State the  
16 kind or kinds of business which a domestic company similarly  
17 organized may be authorized to transact under this Code. Any  
18 certificate of authority issued to a non-domestic ~~an alien~~  
19 Lloyds shall be subject to all of the provisions of Section  
20 103.

21 (2) No foreign or non-domestic ~~alien~~ mutual benefit  
22 society or burial society shall hereafter be admitted to  
23 transact business in this State.

24 (3) No foreign or non-domestic ~~alien~~ company shall

1 transact in this State any insurance business not classified  
2 under Section 4.

3 (Source: P.A. 82-498.)

4 (215 ILCS 5/109) (from Ch. 73, par. 721)

5 (Section scheduled to be repealed on January 1, 2027)

6 Sec. 109. Application for certificate of authority.

7 (1) A foreign or non-domestic ~~alien~~ company in order to  
8 procure a certificate of authority to transact business in  
9 this State shall make application therefor to the Director.  
10 The application shall set forth:

11 (a) the name of the company, and the state or country  
12 under the laws of which it is organized or authorized;

13 (b) the title of the Act under or by which it was  
14 incorporated or organized, the date of its incorporation  
15 or organization and, if a corporation, the period of its  
16 duration;

17 (c) the class or classes of insurance business, as  
18 provided in Section 4, in which it proposes to engage in  
19 this State, and the kinds of insurances in each class it  
20 proposes to write in this State;

21 (d) if a life company, that it is not engaged in any  
22 state in practices which, if engaged in in this State,  
23 would constitute a violation of Section 237;

24 (e) whether or not it was authorized to transact  
25 business in this State during any part of the 3-year



1 period prior to its application and, if so, for what  
2 period;

3 (f) whether or not it survives or was formed by a  
4 merger, consolidation, reorganization, or reincorporation  
5 effected within 3 years prior to its application and, if  
6 so, whether and for what period or periods any of the  
7 companies that are parties to the merger, consolidation,  
8 reorganization, or reincorporation were authorized to  
9 transact business in this State within the 3-year period  
10 prior to its application; and

11 (g) such additional information as the Director may  
12 require to enable the Director to determine whether the  
13 company is entitled to a certificate of authority to  
14 transact business in this State and to determine and  
15 assess the taxes, fees and charges payable as in this Code  
16 prescribed.

17 (2) Such application shall be made on forms prescribed and  
18 furnished by the Director and shall be executed by the company  
19 by its president or a vice-president or executive officer  
20 corresponding thereto, and verified by such officer, and if a  
21 corporation, the corporate seal shall be thereto affixed,  
22 attested by its secretary or other proper officer.

23 (Source: P.A. 90-655, eff. 7-30-98.)

24 (215 ILCS 5/110) (from Ch. 73, par. 722)

25 (Section scheduled to be repealed on January 1, 2027)

1           Sec. 110. Delivery to director of application and  
2 documents. There shall be delivered to the Director

3           (a) the application of the company for a certificate  
4 of authority;

5           (b) a copy of its articles of incorporation or  
6 articles of association as amended, duly certified by the  
7 proper officer of the state or country under whose laws  
8 the company is organized or incorporated, or if a  
9 reciprocal or Lloyds the power of attorney of the  
10 attorney-in-fact;

11           (c) if a non-domestic ~~an alien~~ company, a copy of the  
12 appointment and authority of its United States manager,  
13 certified by a proper officer of the company;

14           (d) a copy of its by-laws or regulations, and if a  
15 fraternal benefit society, a copy of its constitution,  
16 certified by its secretary or officer corresponding  
17 thereto;

18           (e) the instrument authorizing service of process on  
19 the Director required by section 112;

20           (f) a statement of its financial condition and  
21 business as of the end of the preceding calendar year  
22 complying as to form, content and verification with the  
23 requirements of this Code for annual statements, or a  
24 financial statement as of such later date as the Director  
25 may require;

26           (g) a copy of the last report of examination certified

1 to by an insurance commissioner or other proper  
2 supervisory official; and

3 (h) a certificate from the proper official of the  
4 state or country wherein it is incorporated or organized  
5 that it is duly incorporated or organized and is  
6 authorized to write the kind or kinds of insurance which  
7 it proposes to write in this State.

8 (Source: Laws 1965, p. 422.)

9 (215 ILCS 5/111) (from Ch. 73, par. 723)

10 (Section scheduled to be repealed on January 1, 2027)

11 Sec. 111. Conditions of issuance of certificate of  
12 authority.

13 (1) Before a certificate of authority to transact business  
14 in this State is issued to a foreign or non-domestic ~~alien~~  
15 company, such company shall satisfy the Director that:

16 (a) the company is duly organized under the laws of  
17 the state or country under whose laws it professes to be  
18 organized and authorized to do the business it is  
19 transacting or proposes to transact;

20 (b) its name is not the same as, or deceptively  
21 similar to, the name of any domestic company, or of any  
22 foreign or non-domestic ~~alien~~ company authorized to  
23 transact business in this State;

24 (c) if a company transacting business of the kind or  
25 kinds enumerated in Class 1 of Section 4, it is not

1           engaging in practices in any state which if engaged in  
2           this State, would constitute a violation of Section 237;  
3           and it is not transacting any kinds of business other than  
4           those enumerated in Class 1 of Section 4;

5           (d) if a stock company, it has a paid up capital and  
6           surplus at least equal to the capital and original surplus  
7           required by this Code for a domestic company doing the  
8           same kind or kinds of business or, if a mutual company or  
9           reciprocal, it has a surplus and provision for contingent  
10          liability of policyholders, at least equal to the original  
11          surplus and provision for contingent liability of  
12          policyholders required for a similar domestic company  
13          doing the same kind or kinds of business, or, if a  
14          fraternal benefit society, it meets the requirements  
15          prescribed in this Code for the organization of a domestic  
16          company or society, or if a Lloyds it meets the  
17          requirements of Article V;

18          (e) its funds are invested in accordance with the laws  
19          of its domicile; and

20          (f) in the case of a stock company its minimum capital  
21          and surplus and required reserves, or in the case of a  
22          mutual company or a reciprocal proposing to issue policies  
23          without contingent liability, its minimum surplus and  
24          required reserves, or in the case of any other company,  
25          all its funds, are invested in securities or property  
26          which afford a degree of financial security equal to that

1 required for similar domestic companies, provided that  
2 this clause shall not be construed as requiring the  
3 application of limitations relating either to the kind or  
4 amount of securities prescribed by this Code for the  
5 investments of domestic companies.

6 (2) In determining whether a non-domestic ~~an alien~~ company  
7 complies with the provisions of subsection (1) of this section  
8 the Director shall consider only business transacted in the  
9 United States, only the assets described in Section 60j and  
10 only liabilities in connection with its United States  
11 business.

12 (3) Before a certificate of authority is issued to a  
13 foreign or non-domestic ~~alien~~ company, other than a Lloyds, it  
14 shall deposit with the Director securities which are  
15 authorized investments for similar domestic companies under  
16 Section 126.11A(1), 126.11A(2), 126.24A(1), or 126.24A(2) of  
17 the amount, if any, required of a domestic company similarly  
18 organized and doing the same kind or kinds of business; or in  
19 lieu of such deposit such foreign or non-domestic ~~alien~~  
20 company shall satisfy the Director that it has on deposit with  
21 an official of a state of the United States or a depository  
22 designated or authorized for such purpose by such official,  
23 authorized by the law of such state to accept such deposit,  
24 securities of at least a like amount, for the benefit and  
25 security of all creditors, policyholders and policy  
26 obligations of such company.

1           (4) Before issuing a certificate of authority to a foreign  
2 or non-domestic ~~alien~~ company, the Director may cause an  
3 examination to be made of the condition and affairs of such  
4 company.

5           (Source: P.A. 90-418, eff. 8-15-97; 90-794, eff. 8-14-98.)

6           (215 ILCS 5/112) (from Ch. 73, par. 724)

7           (Section scheduled to be repealed on January 1, 2027)

8           Sec. 112. Service of process - Director as attorney.

9           (1) Every foreign or non-domestic ~~alien~~ company desiring  
10 to transact business in this State shall file with the  
11 Director a duly executed instrument whereby the company shall  
12 appoint and constitute the Director and his successor or  
13 successors in office the true and lawful attorney of such  
14 company upon whom all lawful process in any action or legal  
15 proceeding against it may be served and shall agree that any  
16 such lawful process against it which may be served upon its  
17 said attorney as provided in this section shall be of the same  
18 force and validity as if served upon the company and that the  
19 authority thereof shall continue in force irrevocably so long  
20 as any liability of the company in the State shall remain  
21 outstanding.

22           (2) Process authorized by such instrument or by any  
23 similar instrument heretofore executed shall be served by  
24 delivering to and leaving with the Director duplicate copies  
25 of such process with payment of the fee prescribed by this

1 Code, and the service thereof upon such attorney shall be  
2 deemed service upon the company. The Director shall forthwith  
3 forward one copy of each such process by certified or  
4 registered mail prepaid to the company, or in the case of a  
5 non-domestic ~~an alien~~ company, to the United States Manager or  
6 last appointed United States general agent of the company,  
7 giving the day and the hour of such service. Service of such  
8 process shall not be complete until the copy thereof has been  
9 so mailed and received by the company, and the certified  
10 receipt or registry receipt shall be prima facie evidence of  
11 the completion of such service. Service of process on a  
12 reciprocal or Lloyds shall be governed by sections 77 and 105  
13 respectively.

14 (Source: P.A. 83-598.)

15 (215 ILCS 5/113) (from Ch. 73, par. 725)

16 (Section scheduled to be repealed on January 1, 2027)

17 Sec. 113. When certificate of authority to issue. When a  
18 foreign or non-domestic ~~alien~~ company has complied with the  
19 requirements of this Article and all other requirements  
20 imposed on such company by existing laws and has paid the  
21 taxes, fees and charges imposed by law, and the operational  
22 history of the company when reviewed in conjunction with its  
23 loss experience, the kinds and nature of risks insured, the  
24 financial condition of the company and its ownership and the  
25 ratio of annual premium volume to incurred acquisition

1 expenses and to its policyholders' surplus indicates a  
2 condition such that the expanded operation of the company in  
3 this State will not create a condition which might be  
4 hazardous to its policyholders, creditors or the general  
5 public, the Director must file in his office the documents  
6 delivered to him and must issue to the company a certificate of  
7 authority to transact in this State the kind or kinds of  
8 business specified therein. Such certificate shall expire on  
9 the 30th day of June of the calendar year succeeding the  
10 calendar year in which such certificate is issued.

11 (Source: P.A. 77-1513.)

12 (215 ILCS 5/113.1) (from Ch. 73, par. 725.1)

13 (Section scheduled to be repealed on January 1, 2027)

14 Sec. 113.1. Effect of acceptance of certificate of  
15 authority.

16 (1) No foreign or non-domestic ~~alien~~ company which accepts  
17 a certificate of authority or renewal certificate of authority  
18 to transact in this State any insurance business as described  
19 in Section 4 of this Code shall transfer by sale,  
20 contribution, merger, consolidation, reinsurance or otherwise,  
21 its direct policy obligations under insurance contracts with  
22 Illinois policyholders unless:

23 a. the transfer is made to a company authorized to  
24 transact in this State the type of insurance business  
25 transferred; or



1           b. the transferring company gives 30 days prior  
2 written notice to each policyholder to be transferred  
3 stating that the insurance contract and the company's  
4 liabilities thereunder are to be transferred to a  
5 specified insurer which is not subject to regulation by  
6 the Illinois Insurance Department or the administrative  
7 requirements of the Illinois Insurance Code; and

8           c. the unauthorized company to which the insurance  
9 business is to be transferred makes and maintains a  
10 special deposit with the Director for the protection and  
11 benefit of all Illinois policyholders of such unauthorized  
12 company, in assets acceptable to the Director and having a  
13 fair market value not less than the required statutory  
14 reserves for the Illinois insurance business to be  
15 transferred.

16           (2) Any and all transfers resulting in the violation of  
17 this Section shall be construed as a violation of all  
18 applicable provisions of Article VII of this Code; including,  
19 but not limited to, Section 121-4 providing for liability to  
20 insureds for claims or insured losses not honored by the  
21 unauthorized insurer.

22           (3) Unless permitted by and obtained in compliance with  
23 this Section, or specifically authorized by another provision  
24 of this Code, it shall be unlawful for any unauthorized  
25 company to obtain as direct insurer any insurance contracts  
26 written in this State.

1 (Source: P.A. 86-753.)

2 (215 ILCS 5/114) (from Ch. 73, par. 726)

3 (Section scheduled to be repealed on January 1, 2027)

4 Sec. 114. Renewal of certificate of authority.

5 (1) The Director shall renew for one year the certificate  
6 of authority of a foreign or non-domestic ~~alien~~ company on the  
7 first day of July of the calendar year following the calendar  
8 year in which it is admitted to transact business in this State  
9 and annually thereafter, without application by the company,  
10 upon payment of the annual privilege tax imposed by this Code,  
11 if any, provided the Director is satisfied that

12 (a) none of the facts specified in this article as  
13 grounds for revoking a certificate of authority exists;  
14 and

15 (b) the company is complying with the conditions for  
16 admission in respect to capital, contingent liability, the  
17 investment of its assets or the maintenance of deposits in  
18 this or another state and maintains the surplus which  
19 similar domestic companies transacting the same kind or  
20 kinds of business are required to maintain.

21 (2) Except in case of nonpayment of taxes, the Director  
22 shall give notice of his intention to refuse to renew the  
23 certificate of authority of a foreign or non-domestic ~~alien~~  
24 company and the grounds therefor at least twenty days before  
25 the end of the term for which the existing certificate was

1 issued, and, the company shall be given an opportunity for a  
2 hearing before the end of such term.

3 (3) In the event that a company admitted to transact  
4 business in this State prior to the effective date of this Code  
5 has been and is transacting in this State or in any other state  
6 or country the kind or kinds of business enumerated in Class 1  
7 of Section 4 and in addition thereto any of the kinds of  
8 business not enumerated in such class, the Director may for a  
9 period of three years renew annually its certificate of  
10 authority to transact such kinds of business. At the end of  
11 such three year period or at the end of any extended period as  
12 herein provided for, the Director may extend the period during  
13 which the certificate of authority of such company may be  
14 renewed annually, upon a showing by the company at a hearing  
15 before the Director that

16 (a) it has made reasonable progress in the  
17 discontinuance of kinds of business other than those  
18 enumerated in Class 1 of Section 4; and

19 (b) complete and immediate discontinuance of such  
20 kinds of business would result in undue loss to the  
21 company and the policyholders would suffer materially  
22 thereby; or

23 (c) there are other reasons for such extension deemed  
24 by the Director to be good and sufficient. The extension  
25 herein provided for shall be for such period as the  
26 Director may deem proper on the showing made, but the

1 total of such extended periods shall not exceed three  
2 years.

3 (Source: P.A. 82-498.)

4 (215 ILCS 5/115) (from Ch. 73, par. 727)

5 (Section scheduled to be repealed on January 1, 2027)

6 Sec. 115. Amended certificate of authority.

7 (1) In the event that a foreign or non-domestic ~~alien~~  
8 company authorized to transact business in this State changes  
9 its name or desires to transact in this State a kind or kinds  
10 of business other than those it is then authorized to  
11 transact, it shall file with the Director an application for  
12 an amended certificate of authority.

13 (2) Such application shall comply as to form and manner of  
14 execution with the requirements of this Article for an  
15 original application and shall set forth the name of the  
16 company, the respects in which the company desires its  
17 certificate of authority amended, and such other information  
18 as is necessary or appropriate to enable the Director to  
19 determine whether such an amended certificate of authority  
20 should be issued.

21 (3) The Director shall issue such amended certificate if  
22 he is satisfied that

23 (a) the company might lawfully be authorized to  
24 transact the kind or kinds of business it desires to  
25 transact if application for such authority were made in an

1 original application; and

2 (b) the conditions provided for in Section 111 are  
3 complied with.

4 (Source: Laws 1937, p. 696.)

5 (215 ILCS 5/116) (from Ch. 73, par. 728)

6 (Section scheduled to be repealed on January 1, 2027)

7 Sec. 116. Amendments to articles of incorporation.

8 Whenever the articles of incorporation or articles of  
9 association of a foreign or non-domestic ~~alien~~ company  
10 authorized to transact business in this State shall be  
11 amended, such company shall, within thirty days after the  
12 effective date of such amendment, file with the Director a  
13 copy thereof duly authenticated by the proper officer of the  
14 state or country under the laws of which such company is  
15 organized. The filing of such copy shall not of itself enlarge  
16 the authority of the company in the transaction of business in  
17 this State, nor authorize such company to transact business in  
18 this State under any other name than the name set forth in its  
19 certificate of authority.

20 (Source: Laws 1937, p. 696.)

21 (215 ILCS 5/117) (from Ch. 73, par. 729)

22 (Section scheduled to be repealed on January 1, 2027)

23 Sec. 117. Merger or consolidation.

24 (1) Whenever a foreign or non-domestic ~~alien~~ company

1 authorized to transact business in this State shall be the  
2 surviving company of a statutory merger permitted by the laws  
3 of the state or country under which it is organized, and such  
4 merger is not subject to the provisions of Article X; it shall  
5 forthwith file with the Director

6 (a) copies of the agreement and certificate of merger  
7 duly authenticated by the proper officer of the state or  
8 country under the laws of which such statutory merger was  
9 effected; and

10 (b) if any of the companies party to such merger were  
11 not admitted to transact business in this State, a  
12 statement of the financial condition and business of each  
13 of such companies, as of the end of the preceding calendar  
14 year complying as to form, content and verification with  
15 the requirements of this Code for annual statements, or a  
16 financial statement as of such later date as the Director  
17 may require.

18 (2) It shall not be necessary for such surviving company  
19 to procure a new certificate of authority to transact business  
20 in this State nor an amended certificate unless the name of  
21 such company be changed thereby or unless the company desires  
22 to transact in this State a kind or kinds of business other  
23 than those which it is then authorized to transact.

24 (3) Whenever a foreign or non-domestic ~~alien~~ company  
25 authorized to transact business in this State shall be a party  
26 to a statutory merger and such company shall not be the

1 surviving company, or if such foreign or non-domestic ~~alien~~  
2 company shall be a party to a consolidation, then the  
3 certificate of authority of such foreign or non-domestic ~~alien~~  
4 company shall terminate upon such merger or consolidation, and  
5 the surviving company, if not previously authorized to  
6 transact business in this State, or the new company, in the  
7 case of consolidation, shall be subject to the same  
8 requirements for admission to transact business in this State  
9 as any other foreign or non-domestic ~~alien~~ company.

10 (Source: Laws 1937, p. 696.)

11 (215 ILCS 5/118) (from Ch. 73, par. 730)

12 (Section scheduled to be repealed on January 1, 2027)

13 Sec. 118. Withdrawal from the State.

14 (1) Any foreign or non-domestic ~~alien~~ company admitted to  
15 do business in this State may withdraw from this State by  
16 filing with the Director a statement of withdrawal, signed and  
17 verified by a president, vice-president or an executive  
18 officer corresponding thereto, or in the case of a reciprocal  
19 or Lloyds, by the attorney-in-fact, and setting forth

20 (a) that the company surrenders its authority to  
21 transact business in this State and returns for  
22 cancellation its certificate of authority;

23 (b) except in the case of a reciprocal or Lloyds, that  
24 the withdrawal of the company from this State has been  
25 duly authorized by the board of directors, trustees or

1 other governing body of such company; and

2 (c) a postoffice address to which the Director may  
3 mail a copy of any process against the withdrawing company  
4 that may be served upon him.

5 (2) Upon the filing of such statement together with its  
6 certificate of authority with the Director and payment of any  
7 taxes or charges that may be due, the Director shall cancel the  
8 certificate of authority and return the cancelled certificate  
9 to the company. The authority of the company to transact  
10 business in this State shall thereupon cease.

11 (Source: Laws 1937, p. 696.)

12 (215 ILCS 5/119) (from Ch. 73, par. 731)

13 (Section scheduled to be repealed on January 1, 2027)

14 Sec. 119. Revocation and suspension of certificate of  
15 authority.

16 (1) The Director may revoke or suspend the certificate of  
17 authority of a foreign or non-domestic ~~alien~~ company or may by  
18 order require such insurance company to pay to the people of  
19 the State of Illinois a penalty in a sum not exceeding \$500,  
20 and upon the failure of such insurance company to pay such  
21 penalty within 20 days after the mailing of such order,  
22 postage prepaid, certified or registered, and addressed to the  
23 last known place of business of such insurance company, unless  
24 such order is stayed by an order of a court of competent  
25 jurisdiction, the Director of Insurance may revoke or suspend



1 the license of such insurance company for any period of time up  
2 to, but not exceeding a period of, 2 years whenever he finds  
3 that such company

4 (a) is insolvent;

5 (b) fails to comply with the requirements for  
6 admission in respect to capital, contingent liability, the  
7 investment of its assets or the maintenance of deposits in  
8 this or another state or fails to maintain the surplus  
9 which similar domestic companies transacting the same kind  
10 or kinds of business are required to maintain;

11 (c) is in such a financial condition that its further  
12 transaction of business in this State would be hazardous  
13 to policyholders and creditors in this State and to the  
14 public;

15 (d) has refused or neglected to pay a valid final  
16 judgment against such company within 30 days after the  
17 rendition of such judgment;

18 (e) has violated any law of this State or has in this  
19 State violated its charter or exceeded its corporate  
20 powers;

21 (f) has refused to submit its books, papers, accounts,  
22 records, or affairs to the reasonable inspection or  
23 examination of the Director, his actuaries, deputies or  
24 examiners;

25 (g) has an officer who has refused upon reasonable  
26 demand to be examined under oath touching its affairs;

1           (h) fails to file its annual statement within 30 days  
2 after the date when it is required by law to file such  
3 statement;

4           (i) fails to file with the Director a copy of an  
5 amendment to its charter or articles of association within  
6 30 days after the effective date of such amendment;

7           (j) fails to file with the Director copies of the  
8 agreement and certificate of merger and the financial  
9 statements of the merged companies, if required, within 30  
10 days after the effective date of the merger;

11           (k) fails to pay any fees, taxes or charges prescribed  
12 by this Code within 30 days after they are due and payable;  
13 provided, however, that in case of objection or legal  
14 contest the company shall not be required to pay the tax  
15 until 30 days after final disposition of the objection or  
16 legal contest.

17           (l) fails to file any report or reports for the  
18 purpose of enabling the Director to compute the taxes to  
19 be paid by such company within 30 days after the date when  
20 it is required by law to file such report or reports;

21           (m) has had its corporate existence dissolved or its  
22 certificate of authority revoked in the state in which it  
23 was organized; or

24           (n) has had all its risks reinsured in their entirety  
25 in another company.

26           (2) Except for the grounds stated in clauses (a), (c) or

1 (k) of subsection (1) of this section the Director shall not  
2 revoke or suspend the certificate of authority of a foreign or  
3 non-domestic ~~alien~~ company until he has given the company at  
4 least twenty days' notice of the revocation or suspension and  
5 of the grounds therefor and has afforded the company an  
6 opportunity for a hearing.

7 (Source: P.A. 83-598.)

8 (215 ILCS 5/120) (from Ch. 73, par. 732)

9 (Section scheduled to be repealed on January 1, 2027)

10 Sec. 120. Withdrawal of deposits. When a foreign or  
11 non-domestic ~~alien~~ company has withdrawn from this State or  
12 has had its certificate of authority to transact business in  
13 this State revoked and such company desires to withdraw any  
14 deposit made in this State pursuant to this Code, the Director  
15 shall upon the application of the company and at its expense,  
16 give notice of such intention to the insurance commissioner or  
17 other proper supervisory official of each state or country  
18 where it appears from information on file with the Director,  
19 the company is authorized to transact business, and shall  
20 publish notice of such intention in a newspaper of general  
21 circulation in this State once a week for four consecutive  
22 weeks. After such notice and publication the Director shall  
23 deliver to such company or its assigns the securities so  
24 deposited when he is satisfied upon examination and  
25 investigation made by him, or under his authority, and upon

1 the oaths of the president and secretary or other chief  
2 officers of the company that all debts and liabilities of  
3 every kind due and to become due which the deposit was made to  
4 secure have been paid or otherwise extinguished.

5 (Source: Laws 1937, p. 696.)

6 (215 ILCS 5/123) (from Ch. 73, par. 735)

7 Sec. 123. Service of process upon an unauthorized foreign  
8 or non-domestic ~~alien~~ company.

9 (1) The purpose of this Section is to subject unauthorized  
10 foreign and non-domestic ~~alien~~ companies to the jurisdiction  
11 of courts of this State in actions by or on behalf of insureds,  
12 reinsureds, or beneficiaries under insurance or reinsurance  
13 contracts. The Legislature declares that it is a subject of  
14 concern that many residents of this State or corporations  
15 authorized to do business in this State hold policies of  
16 insurance or reinsurance issued by companies not authorized to  
17 do business in this State, thus presenting to such residents  
18 or corporations authorized to do business in this State the  
19 often insuperable obstacle of resorting to distant forums for  
20 the purpose of asserting legal rights under such policies. In  
21 furtherance of such State interest, the Legislature herein  
22 provides a method of substituted service of process upon such  
23 companies and declares that in so doing it exercises its power  
24 to protect its residents and corporations authorized to do  
25 business in this State and to define, for the purpose of this

1 statute, what constitutes doing business in this State, and  
2 also exercises powers and privileges available to the State by  
3 virtue of Public Law 15, 79th Congress of the United States,  
4 Chapter 20, 1st. Sess., S. 340, as amended, which declares  
5 that the business of insurance and every person engaged  
6 therein shall be subject to the laws of the several states.

7 (2) Any of the following acts in this State, effected by  
8 mail or otherwise, by an unauthorized foreign or non-domestic  
9 ~~alien~~ company: (a) the issuance or delivery of contracts of  
10 insurance or reinsurance to residents of this State or to  
11 corporations authorized to do business therein, (b) the  
12 solicitation of applications for such contracts, (c) the  
13 collection of premiums, membership fees, assessments or other  
14 considerations for such contracts, or (d) any other  
15 transaction of business, is equivalent to and shall constitute  
16 an appointment by such company, of the Director and his or her  
17 successor or successors in office, to be its true and lawful  
18 attorney upon whom may be served all lawful process in any  
19 action or proceeding against it, arising out of such policy or  
20 contract of insurance or reinsurance, and the acts shall be a  
21 signification of its agreement that any such process against  
22 it which is so served shall be of the same legal force and  
23 validity as if served upon the company.

24 (3) Service of such process shall be made by delivering  
25 and leaving with the Director a copy thereof and the payment to  
26 the Director of the fee prescribed by this Code. The Director

1 shall keep a record of all process so served upon him or her.  
2 Such process shall be sufficient service upon such foreign or  
3 non-domestic ~~alien~~ company provided notice of such service and  
4 a copy of the process are, within 10 days thereafter, sent by  
5 certified or registered mail by the plaintiff's attorney of  
6 record to the defendant at the last known principal place of  
7 business of the defendant, and the defendant's receipt and the  
8 plaintiff's attorney's affidavit of compliance herewith are  
9 filed with the Clerk of the Court in which such action is  
10 pending on or before the return date of the process or within  
11 such further time as the court may allow.

12 (4) Service of process in any such action against any such  
13 company shall in addition to the mode hereinabove described be  
14 valid and legal if served upon any person within this State  
15 who, in this State on behalf of such company, is

16 (a) soliciting insurance or reinsurance, or

17 (b) making, issuing, or delivering any policies or  
18 contracts of insurance or reinsurance, or

19 (c) collecting or receiving any premium, membership  
20 fee, assessment or other consideration for insurance or  
21 reinsurance, or

22 (d) in any manner aiding or assisting in doing any of  
23 the things enumerated in clauses (a), (b), or (c) of this  
24 subsection; and a copy of such process is within 10 days  
25 thereafter sent by certified or registered mail by the  
26 plaintiff's attorney of record to the defendant at the

1 last known principal place of business of the defendant  
2 and the defendant's receipt and the plaintiff's attorney's  
3 affidavit of compliance herewith are filed with the clerk  
4 of the court in which such action is pending on or before  
5 the return date of the process or within such further time  
6 as the court may allow.

7 (5) Before any unauthorized foreign or non-domestic ~~alien~~  
8 company shall file or cause to be filed any pleading in any  
9 action or proceeding, including any arbitration, instituted  
10 against it, such unauthorized company shall either (1) deposit  
11 with the clerk of the court in which such action or proceeding  
12 is pending or with the clerk of the court in the jurisdiction  
13 in which the arbitration is pending cash or securities or file  
14 with such clerk a bond with good and sufficient sureties, to be  
15 approved by the court, in an amount to be fixed by the court  
16 sufficient to secure the payment of any final judgment which  
17 may be rendered in such action, proceeding, or arbitration; or  
18 (2) where the unauthorized company continues to transact the  
19 business of insurance by issuing new contracts of insurance or  
20 reinsurance, procure a certificate of authority to transact  
21 the business of insurance in this State.

22 The court in any action or proceeding, in which service is  
23 made in the manner provided in subsections (3) or (4) may, in  
24 its discretion, order such postponement as may be necessary to  
25 afford the defendant reasonable opportunity to comply with the  
26 provisions of this subsection and to defend such action.

1           Nothing in this Section is to be construed to prevent an  
2           unauthorized foreign or non-domestic ~~alien~~ company from filing  
3           a motion to quash process or to set aside service thereof made  
4           in the manner provided in subsections (3) or (4) on the ground  
5           either (a) that such unauthorized company has not done any of  
6           the acts enumerated in subsection (2) or (b) that the person on  
7           whom service was made pursuant to subsection (4) was not doing  
8           any of the acts therein enumerated.

9           (6) In any action against an unauthorized foreign or  
10          non-domestic ~~alien~~ company upon a contract of insurance or  
11          reinsurance issued or delivered in this State to a resident  
12          thereof or to a corporation authorized to do business therein,  
13          if the company has failed for 30 days after demand prior to the  
14          commencement of the action to make payment in accordance with  
15          the terms of the contract, and it appears to the court that  
16          such refusal was vexatious and without reasonable cause, the  
17          court may allow to the plaintiff a reasonable attorney fee and  
18          include such fee in any judgment that may be rendered in such  
19          action. Such fee shall not exceed 12-1/2 per cent of the amount  
20          which the court or jury finds the plaintiff is entitled to  
21          recover against the insurer, but in no event shall such fee be  
22          less than \$25. Failure of a company to defend any such action  
23          shall be deemed prima facie evidence that its failure to make  
24          payment was vexatious and without reasonable cause.

25          (7) No plaintiff shall be entitled to a judgment by  
26          default under this Section until the expiration of 30 days



1 from the date of the filing of the affidavit of compliance.

2 (8) The provisions of this Section shall not apply to any  
3 action or proceeding against any unauthorized foreign or  
4 non-domestic ~~alien~~ company arising out of any contract of  
5 direct insurance

6 (a) effected in accordance with Section 445, or

7 (b) covering ocean marine, aircraft, railway insurance  
8 risks, or

9 (c) against legal liability arising out of the  
10 ownership, operation or maintenance of any property having  
11 a permanent situs outside this State, or

12 (d) against loss of or damage to any property having a  
13 permanent situs outside this State,

14 where such contract of insurance contains a provision  
15 designating the Director and his or her successor or  
16 successors in office or a bona fide resident of Illinois to be  
17 the true and lawful attorney of such non-admitted insurer upon  
18 whom may be served all lawful process in any action or  
19 proceeding arising out of any such contract of insurance or  
20 where the insurer enters a general appearance in any such  
21 action or proceeding.

22 (9) Nothing in this Section contained shall limit or  
23 affect the right to serve any process, notice or demand  
24 required or permitted by law to be served upon any company in  
25 any other manner now or hereafter permitted by law.

26 (Source: P.A. 90-53, eff. 7-3-97.)

1 (215 ILCS 5/123.1) (from Ch. 73, par. 735.1)

2 Sec. 123.1. Service of process upon unauthorized insurers  
3 for false advertising.

4 (1) (a) The purpose of this Act is to subject to the  
5 jurisdiction of the Director of Insurance of this State and to  
6 the jurisdiction of the courts of this State insurers not  
7 authorized to transact business in this State which place in  
8 or send into this State any false advertising designed to  
9 induce residents of this State to purchase insurance from  
10 insurers not authorized to transact business in this State.  
11 The Legislature declares it is in the interest of the citizens  
12 of this State who purchase insurance from insurers which  
13 solicit insurance business in this State in the manner set  
14 forth in the preceding sentence that such insurers be subject  
15 to the provisions of this Act. In furtherance of such state  
16 interest, the Legislature herein provides a method of  
17 substituted service of process upon such insurers and declares  
18 that in so doing, it exercises its power to protect its  
19 residents and also exercises powers and privileges available  
20 to the State by virtue of Public Law 15, 79th Congress of the  
21 United States, Chapter 20, 1st Session, S. 340, which declares  
22 that the business of insurance and every person engaged  
23 therein shall be subject to the laws of the several states; the  
24 authority provided herein to be in addition to any existing  
25 powers of this State.

1 (b) The provisions of this Section shall be liberally  
2 construed.

3 (2) No unauthorized foreign or non-domestic ~~alien~~ insurer  
4 of the kind described in subsection (1) shall make, issue,  
5 circulate or cause to be made, issued or circulated, to  
6 residents of this State any estimate, illustration, circular,  
7 pamphlet, or letter, or cause to be made in any newspaper,  
8 magazine or other publication or over any radio or television  
9 station, any announcement or statement to such residents  
10 misrepresenting its financial condition or the terms of any  
11 contracts issued or to be issued or the benefits or advantages  
12 promised thereby, or the dividends or share of the surplus to  
13 be received thereon in violation of Article XXVI, and whenever  
14 the Director shall have reason to believe that any such  
15 insurer is engaging in such unlawful advertising, it shall be  
16 his duty to give notice of such fact by certified or registered  
17 mail to such insurer and to the insurance supervisory official  
18 of the domiciliary state of such insurer. For the purpose of  
19 this Section the domiciliary state of a non-domestic ~~an alien~~  
20 insurer shall be deemed to be the state of entry or the state  
21 of the principal office in the United States.

22 (3) If after thirty days following the giving of the  
23 notice mentioned in subsection (2) such insurer has failed to  
24 cease making, issuing, or circulating such false  
25 misrepresentations or causing the same to be made, issued or  
26 circulated in this State, and if the Director has reason to

1 believe that a proceeding by him in respect to such matters  
2 would be to the interest of the public, and that such insurer  
3 is issuing or delivering contracts of insurance to residents  
4 of this State or collecting premiums on such contracts or  
5 doing any of the acts enumerated in subsection (4), he shall  
6 take action against such insurer under Article XXVI.

7 (4) (a) Any of the following acts in this State, effected  
8 by mail or otherwise, by any such unauthorized foreign or  
9 non-domestic ~~alien~~ insurer:

10 (i) the issuance or delivery of contracts or insurance  
11 to residents of this State; or

12 (ii) the solicitation of applications for such  
13 contracts; or

14 (iii) the collection of premiums, membership fees,  
15 assessments or other considerations for such contracts; or

16 (iv) any other transaction of insurance business;

17 is equivalent to and shall constitute an appointment by such  
18 insurer of the Director and his successor or successors in  
19 office, to be its true and lawful attorney, upon whom may be  
20 served all statements of charges, notices and lawful process  
21 in any proceeding instituted in respect to the  
22 misrepresentations set forth in subsection (2) hereof under  
23 the provisions of Article XXVI, or in any action, suit or  
24 proceeding for the recovery of any penalty therein provided,  
25 and any such act shall be signification of its agreement that  
26 such service of statement of charges, notices or process is of

1 the same legal force and validity as personal service of such  
2 statement of charges, notices or process in this State, upon  
3 such insurer.

4 (b) Service of a statement of charges and notices under  
5 Article XXVI shall be made by any deputy or employee of the  
6 Department of Insurance delivering to and leaving with the  
7 Director or some person in apparent charge of his office, two  
8 copies thereof. Service of process issued by any court in any  
9 action, suit or proceeding to collect any penalty under  
10 Article XXVI provided, shall be made by delivering and leaving  
11 with the Director, or some person in apparent charge of his  
12 office, two copies thereof. The Director shall forthwith cause  
13 to be mailed by certified or registered mail one of the copies  
14 of such statement of charges, notices or process to the  
15 defendant at its last known principal place of business, and  
16 shall keep a record of all statements of charges, notices and  
17 process so served. Such service of statement of charges,  
18 notices or process shall be sufficient provided they shall  
19 have been so mailed and the defendant's receipt or receipt  
20 issued by the post office with which the letter is certified or  
21 registered, showing the name of the sender of the letter and  
22 the name and address of the person to whom the letter is  
23 addressed, and the affidavit of the person mailing such letter  
24 showing a compliance herewith are filed with the Director in  
25 the case of any statement of charges or notices, or with the  
26 clerk of the court in which such action is pending in the case

1 of any process, on or before the date the defendant is required  
2 to appear or within such further time as may be allowed.

3 (c) Service of statement of charges, notices and process  
4 in any such proceeding, action or suit shall in addition to the  
5 manner provided in paragraph (b) of this subsection be valid  
6 if served upon any person within this State who on behalf of  
7 such insurer is

8 (i) soliciting insurance; or

9 (ii) making, issuing or delivering any policies or  
10 contracts of insurance; or

11 (iii) collecting or receiving in this State any  
12 premium, membership fee, assessment or other consideration  
13 for insurance; or

14 (iv) in any manner aiding or assisting in doing any of  
15 the things enumerated in clauses (i), (ii) or (iii) of  
16 this paragraph;

17 and a copy of such statement of charges, notices or process is  
18 sent within ten days thereafter by certified or registered  
19 mail by or on behalf of the Director to the defendant at the  
20 last known principal place of business of the defendant, and  
21 the defendant's receipt, or the receipt issued by the post  
22 office with which the letter is certified or registered,  
23 showing the name of the sender of the letter, the name and  
24 address of the person to whom the letter is addressed, and the  
25 affidavit of the person mailing the same showing a compliance  
26 herewith, are filed with the Director in the case of any

1 statement of charges or notices, or with the clerk of the court  
2 in which such action is pending in the case of any process, on  
3 or before the date the defendant is required to appear or  
4 within such further time as the court may allow.

5 (d) No cease or desist order or judgment by default under  
6 this section shall be entered until the expiration of thirty  
7 days from the date of the filing of the affidavit of  
8 compliance.

9 (e) Service of process and notice under the provisions of  
10 this section shall be in addition to all other methods of  
11 service provided by law, and nothing in this section shall  
12 limit or prohibit the right to serve any statement of charges,  
13 notices or process upon any insurer in any other manner now or  
14 hereafter permitted by law.

15 (5) When used in this Act, "residents" shall mean and  
16 include person, partnership or corporation, domestic,  
17 non-domestic, ~~alien~~ or foreign.

18 (Source: P.A. 83-598.)

19 (215 ILCS 5/123.3) (from Ch. 73, par. 735.3)

20 Sec. 123.3. Insurance Sales by Companies in Hazardous  
21 Financial Condition Prohibited. Notwithstanding any other  
22 provision of this Code, no unauthorized foreign or  
23 non-domestic ~~alien~~ company officer, director, trustee, agent  
24 or employee of such company may renew, issue, or deliver or  
25 cause to be renewed, issued or delivered any policy, contract,

1 or certificate of insurance for which a premium is charged or  
2 collected if the Director of Insurance has found that such  
3 company is in a hazardous financial condition and such  
4 officer, director, trustee, agent or employee is aware of such  
5 finding.

6 If upon request of the Director, such company officer,  
7 director, trustee or employee is unable or unwilling to submit  
8 to the Director a copy of such unauthorized company's most  
9 recent financial statement, such unwillingness or inability  
10 shall be deemed prima facie evidence of a hazardous financial  
11 condition.

12 However, a finding of hazardous financial condition does  
13 not prevent the issuance or renewal of a policy when an insured  
14 or owner exercises an option granted to him under an existing  
15 policy to obtain new, renewed or converted insurance coverage.

16 Any company officer, director, trustee, agent, or employee  
17 of such company violating this Section shall be guilty of a  
18 Class A misdemeanor.

19 (Source: P.A. 85-1139.)

20 (215 ILCS 5/123C-8) (from Ch. 73, par. 735C-8)

21 (Section scheduled to be repealed on January 1, 2027)

22 Sec. 123C-8. Merger, consolidation, plans of exchange and  
23 reorganization.

24 A. The provisions of Article X shall apply to captive  
25 insurance companies; provided, however, that:



1           (1) if the surviving or new company is to be a domestic  
2 captive insurance company,

3           (a) the Director shall, in determining whether  
4 such company meets the requirements set forth in  
5 paragraph (b) of subsection (2) of Section 162, refer  
6 only to the provisions of this Article VIIC and the  
7 other provisions of Article X;

8           (b) the Director shall, in determining whether  
9 such company meets the requirements of Sections 123C-3  
10 and 123C-4, take into account the capital and surplus  
11 of the company to be merged into the domestic captive  
12 insurance company or the companies to be consolidated  
13 into the domestic captive insurance company (but any  
14 approval by the Director of such merger or  
15 consolidation shall be contingent upon the receipt of  
16 such capital and surplus by the domestic captive  
17 insurance company and satisfactory evidence thereof  
18 being presented to the Director);

19           (c) notwithstanding the provisions of paragraph  
20 (c) of subsection (1) of Section 166, such surviving  
21 or new company shall have all of the rights,  
22 privileges, immunities and powers and shall be subject  
23 to all of the duties and liabilities granted or  
24 imposed by this Article VIIC (and not by the entire  
25 Code); and

26           (2) in the event that such merger or consolidation is

1 to be effected in conjunction with the formation and  
2 licensing of a new domestic captive insurance company in  
3 this State, the Director shall follow procedures for the  
4 contemporaneous and expeditious review of the materials  
5 presented to the Director for his approval of such  
6 formation, licensing and merger or consolidation.

7 B. (1) Any domestic, foreign or non-domestic ~~alien~~ stock  
8 company, mutual company, or reciprocal company, authorized or  
9 which may be authorized to do business in this State, may  
10 reorganize as a domestic captive insurance company under the  
11 laws of this State, by complying with the provisions of  
12 Article XII. Domestic companies are hereby authorized to  
13 reorganize as domestic captive insurance companies.

14 (2) In the event that such reorganization is to be  
15 effected in conjunction with the formation and licensing  
16 of a new captive insurance company in this State, the  
17 Director shall follow procedures for the contemporaneous  
18 and expeditious review of the materials presented to the  
19 Director for his approval of such formation, licensing and  
20 reorganization.

21 (Source: P.A. 85-131.)

22 (215 ILCS 5/126.1)

23 Sec. 126.1. Purpose and scope.

24 A. Purpose. The purpose of this Article is to protect the  
25 interests of insureds by promoting insurer solvency and

1 financial strength. This will be accomplished through the  
2 application of investment standards that facilitate a  
3 reasonable balance of the following objectives:

4 (1) To preserve principal;

5 (2) To assure reasonable diversification as to type of  
6 investment, issuer and credit quality; and

7 (3) To allow insurers to allocate investments in a  
8 manner consistent with principles of prudent investment  
9 management to achieve an adequate return so that  
10 obligations to insureds are adequately met and financial  
11 strength is sufficient to cover reasonably foreseeable  
12 contingencies.

13 B. Scope. This Article shall apply only to investments and  
14 investment practices of domestic insurers and United States  
15 branches of non-domestic ~~alien~~ insurers entered through this  
16 State. This Article shall not apply to separate accounts of an  
17 insurer except to the extent that the provisions of Article  
18 XIV 1/2 so provide.

19 (Source: P.A. 90-418, eff. 8-15-97.)

20 (215 ILCS 5/126.12)

21 Sec. 126.12. Insurer investment pools.

22 A. An insurer may acquire investments in investment pools  
23 that:

24 (1) Invest only in:

25 (a) Obligations that are rated 1 or 2 by the SVO or

1 have an equivalent of an SVO 1 or 2 rating (or, in the  
2 absence of a 1 or 2 rating or equivalent rating, the  
3 issuer has outstanding obligations with an SVO 1 or 2  
4 or equivalent rating) by a nationally recognized  
5 statistical rating organization recognized by the SVO  
6 and have:

7 (i) A remaining maturity of 397 days or less  
8 or a put that entitles the holder to receive the  
9 principal amount of the obligation which put may  
10 be exercised through maturity at specified  
11 intervals not exceeding 397 days; or

12 (ii) A remaining maturity of 3 years or less  
13 and a floating interest rate that resets no less  
14 frequently than quarterly on the basis of a  
15 current short-term index (federal funds, prime  
16 rate, treasury bills, London InterBank Offered  
17 Rate (LIBOR) or commercial paper) and is subject  
18 to no maximum limit, if the obligations do not  
19 have an interest rate that varies inversely to  
20 market interest rate changes;

21 (b) Government money market mutual funds or class  
22 one money market mutual funds; or

23 (c) Securities lending, repurchase, and reverse  
24 repurchase transactions that meet all the requirements  
25 of Section 126.16, except the quantitative limitations  
26 of Section 126.16D; or

1           (2) Invest only in investments which an insurer may  
2           acquire under this Article, if the insurer's proportionate  
3           interest in the amount invested in these investments when  
4           combined with amount of such investments made directly or  
5           indirectly through an investment subsidiary or other  
6           insurer investment pool permitted under this subsection  
7           A(2) does not exceed the applicable limits of this Article  
8           for such investments.

9           B. For an investment in an investment pool to be qualified  
10          under this Article, the investment pool shall not:

11           (1) Acquire securities issued, assumed, guaranteed or  
12           insured by the insurer or an affiliate of the insurer;

13           (2) Borrow or incur any indebtedness for borrowed  
14           money, except for securities lending and reverse  
15           repurchase transactions that meet the requirements of  
16           Section 126.16 except the quantitative limitations of  
17           Section 126.16D; or

18           (3) Acquire an investment if, as a result of such  
19           transaction, the aggregate value of securities then loaned  
20           or sold to, purchased from or invested in any one business  
21           entity under this Section would exceed 10% of the total  
22           assets of the investment pool.

23          C. The limitations of Section 126.10A shall not apply to  
24          an insurer's investment in an investment pool, however an  
25          insurer shall not acquire an investment in an investment pool  
26          under this Section if, as a result of and after giving effect

1 to the investment, the aggregate amount of investments then  
2 held by the insurer under this Section:

3 (1) In all investment pools investing in investments  
4 permitted under subsection A(2) of this Section would  
5 exceed 25% of its admitted assets; or

6 (2) In all investment pools would exceed 35% of its  
7 admitted assets.

8 D. For an investment in an investment pool to be qualified  
9 under this Article, the manager of the investment pool shall:

10 (1) Be organized under the laws of the United States  
11 or a state and designated as the pool manager in a pooling  
12 agreement;

13 (2) Be the insurer, an affiliated insurer or a  
14 business entity affiliated with the insurer, a qualified  
15 bank, a business entity registered under the Investment  
16 Advisers Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended  
17 or, in the case of a reciprocal insurer or interinsurance  
18 exchange, its attorney-in-fact, or in the case of a United  
19 States branch of a non-domestic ~~an alien~~ insurer, its  
20 United States manager or an affiliate or subsidiary of its  
21 United States manager;

22 (3) Be responsible for the compilation and maintenance  
23 of detailed accounting records setting forth:

24 (a) The cash receipts and disbursements reflecting  
25 each participant's proportionate investment in the  
26 investment pool;

1 (b) A complete description of all underlying  
2 assets of the investment pool (including amount,  
3 interest rate, maturity date (if any) and other  
4 appropriate designations); and

5 (c) Other records which, on a daily basis, allow  
6 third parties to verify each participant's investment  
7 in the investment pool; and

8 (4) Maintain the assets of the investment pool in one  
9 or more accounts, in the name of or on behalf of the  
10 investment pool, under a custody agreement with a  
11 qualified bank. The custody agreement shall:

12 (a) State and recognize the claims and rights of  
13 each participant;

14 (b) Acknowledge that the underlying assets of the  
15 investment pool are held solely for the benefit of  
16 each participant in proportion to the aggregate amount  
17 of its investments in the investment pool; and

18 (c) Contain an agreement that the underlying  
19 assets of the investment pool shall not be commingled  
20 with the general assets of the custodian qualified  
21 bank or any other person.

22 E. The pooling agreement for each investment pool shall be  
23 in writing and shall provide that:

24 (1) An insurer and its affiliated insurers or, in the  
25 case of an investment pool investing solely in investments  
26 permitted under subsection A(1) of this Section, the

1 insurer and its subsidiaries, affiliates or any pension or  
2 profit sharing plan of the insurer, its subsidiaries and  
3 affiliates or, in the case of a United States branch of a  
4 non-domestic ~~an alien~~ insurer, affiliates or subsidiaries  
5 of its United States manager, shall, at all times, hold  
6 100% of the interests in the investment pool;

7 (2) The underlying assets of the investment pool shall  
8 not be commingled with the general assets of the pool  
9 manager or any other person;

10 (3) In proportion to the aggregate amount of each pool  
11 participant's interest in the investment pool:

12 (a) Each participant owns an undivided interest in  
13 the underlying assets of the investment pool; and

14 (b) The underlying assets of the investment pool  
15 are held solely for the benefit of each participant;

16 (4) A participant, or in the event of the  
17 participant's insolvency, bankruptcy or receivership, its  
18 trustee, receiver or other successor-in-interest, may  
19 withdraw all or any portion of its investment from the  
20 investment pool under the terms of the pooling agreement;

21 (5) Withdrawals may be made on demand without penalty  
22 or other assessment on any business day, but settlement of  
23 funds shall occur within a reasonable and customary period  
24 thereafter not to exceed 10 business days. Distributions  
25 under this paragraph shall be calculated in each case net  
26 of all then applicable fees and expenses of the investment



1 pool. The pooling agreement shall provide that the pool  
2 manager shall distribute to a participant, at the  
3 discretion of the pool manager:

4 (a) In cash, the then fair market value of the  
5 participant's pro rata share of each underlying asset  
6 of the investment pool;

7 (b) In kind, a pro rata share of each underlying  
8 asset; or

9 (c) In a combination of cash and in kind  
10 distributions, a pro rata share in each underlying  
11 asset; and

12 (6) The pool manager shall make the records of the  
13 investment pool available for inspection by the Director.

14 F. Except for the formation of the investment pool,  
15 transactions and between a domestic insurer and an affiliated  
16 insurer investment pool shall not be subject to the  
17 requirements of Section 131.20a of this Code.

18 (Source: P.A. 100-201, eff. 8-18-17.)

19 (215 ILCS 5/126.25)

20 Sec. 126.25. Insurer investment pools.

21 A. An insurer may acquire investments in investment pools  
22 that:

23 (1) Invest only in:

24 (a) Obligations that are rated 1 or 2 by the SVO or  
25 have an equivalent of an SVO 1 or 2 rating (or, in the

1 absence of a 1 or 2 rating or equivalent rating, the  
2 issuer has outstanding obligations with an SVO 1 or 2  
3 or equivalent rating) by a nationally recognized  
4 statistical rating organization recognized by the SVO  
5 and have:

6 (i) A remaining maturity of 397 days or less  
7 or a put that entitles the holder to receive the  
8 principal amount of the obligation which put may  
9 be exercised through maturity at specified  
10 intervals not exceeding 397 days; or

11 (ii) A remaining maturity of 3 years or less  
12 and a floating interest rate that resets no less  
13 frequently than quarterly on the basis of a  
14 current short-term index (federal funds, prime  
15 rate, treasury bills, London InterBank Offered  
16 Rate (LIBOR) or commercial paper) and is subject  
17 to no maximum limit, if the obligations do not  
18 have an interest rate that varies inversely to  
19 market interest rate changes;

20 (b) Government money market mutual funds or class  
21 one money market mutual funds; or

22 (c) Securities lending, repurchase, and reverse  
23 repurchase, transactions that meet all the  
24 requirements of Section 126.29, except the  
25 quantitative limitations of Section 126.29D; or

26 (2) Invest only in investments which an insurer may

1           acquire under this Article, if the insurer's proportionate  
2           interest in the amount invested in these investments when  
3           combined with amounts of such investments made directly or  
4           indirectly through an investment subsidiary or other  
5           insurer investment pool permitted under this subsection  
6           A(2) does not exceed the applicable limits of this Article  
7           for such investments.

8           B. For an investment in an investment pool to be qualified  
9           under this Article, the investment pool shall not:

10           (1) Acquire securities issued, assumed, guaranteed, or  
11           insured by the insurer or an affiliate of the insurer;

12           (2) Borrow or incur any indebtedness for borrowed  
13           money, except for securities lending and reverse  
14           repurchase transactions that meet the requirements of  
15           Section 126.29 except the quantitative limitations of  
16           Section 126.29D; or

17           (3) Acquire an investment if, as a result of such  
18           transaction, the aggregate value of securities then loaned  
19           or sold to, purchased from or invested in any one business  
20           entity under this Section would exceed 10% of the total  
21           assets of the investment pool.

22           C. The limitations of Section 126.23A shall not apply to  
23           an insurer's investment in an investment pool, however an  
24           insurer shall not acquire an investment in an investment pool  
25           under this Section if, as a result of and after giving effect  
26           to the investment, the aggregate amount of investments then

1 held by the insurer under this Section:

2 (1) In all investment pools investing in investments  
3 permitted under subsection A(2) of this Section would  
4 exceed 25% of its admitted assets; or

5 (2) In all investment pools would exceed 40% of its  
6 admitted assets.

7 D. For an investment in an investment pool to be qualified  
8 under this Article, the manager of the investment pool shall:

9 (1) Be organized under the laws of the United States  
10 or a state and designated as the pool manager in a pooling  
11 agreement;

12 (2) Be the insurer, an affiliated insurer or a  
13 business entity affiliated with the insurer, a qualified  
14 bank, a business entity registered under the Investment  
15 Advisers Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended  
16 or, in the case of a reciprocal insurer or interinsurance  
17 exchange, its attorney-in-fact, or in the case of a United  
18 States branch of a non-domestic ~~an alien~~ insurer, its  
19 United States manager or an affiliate or subsidiary of its  
20 United States manager;

21 (3) Be responsible for the compilation and maintenance  
22 of detailed accounting records setting forth:

23 (a) The cash receipts and disbursements reflecting  
24 each participant's proportionate investment in the  
25 investment pool;

26 (b) A complete description of all underlying

1 assets of the investment pool (including amount,  
2 interest rate, maturity date (if any) and other  
3 appropriate designations); and

4 (c) Other records which, on a daily basis, allow  
5 third parties to verify each participant's investment  
6 in the investment pool; and

7 (4) Maintain the assets of the investment pool in one  
8 or more accounts, in the name of or on behalf of the  
9 investment pool, under a custody agreement with a  
10 qualified bank. The custody agreement shall:

11 (a) State and recognize the claims and rights of  
12 each participant;

13 (b) Acknowledge that the underlying assets of the  
14 investment pool are held solely for the benefit of  
15 each participant in proportion to the aggregate amount  
16 of its investments in the investment pool; and

17 (c) Contain an agreement that the underlying  
18 assets of the investment pool shall not be commingled  
19 with the general assets of the custodian qualified  
20 bank or any other person.

21 E. The pooling agreement for each investment pool shall be  
22 in writing and shall provide that:

23 (1) An insurer and its affiliated insurers or, in the  
24 case of an investment pool investing solely in investments  
25 permitted under subsection A(1) of this Section, the  
26 insurer and its subsidiaries, affiliates or any pension or

1 profit sharing plan of the insurer, its subsidiaries and  
2 affiliates or, in the case of a United States branch of a  
3 non-domestic ~~an alien~~ insurer, affiliates or subsidiaries  
4 of its United States manager, shall, at all times, hold  
5 100% of the interests in the investment pool;

6 (2) The underlying assets of the investment pool shall  
7 not be commingled with the general assets of the pool  
8 manager or any other person;

9 (3) In proportion to the aggregate amount of each pool  
10 participant's interest in the investment pool:

11 (a) Each participant owns an undivided interest in  
12 the underlying assets of the investment pool; and

13 (b) The underlying assets of the investment pool  
14 are held solely for the benefit of each participant;

15 (4) A participant, or in the event of the  
16 participant's insolvency, bankruptcy or receivership, its  
17 trustee, receiver or other successor-in-interest, may  
18 withdraw all or any portion of its investment from the  
19 investment pool under the terms of the pooling agreement;

20 (5) Withdrawals may be made on demand without penalty  
21 or other assessment on any business day, but settlement of  
22 funds shall occur within a reasonable and customary period  
23 thereafter not to exceed 10 business days. Distributions  
24 under this paragraph shall be calculated in each case net  
25 of all then applicable fees and expenses of the investment  
26 pool. The pooling agreement shall provide that the pool

1 manager shall distribute to a participant, at the  
2 discretion of the pool manager:

3 (a) In cash, the then fair market value of the  
4 participant's pro rata share of each underlying asset  
5 of the investment pool;

6 (b) In kind, a pro rata share of each underlying  
7 asset; or

8 (c) In a combination of cash and in kind  
9 distributions, a pro rata share in each underlying  
10 asset; and

11 (6) The pool manager shall make the records of the  
12 investment pool available for inspection by the Director.

13 F. Except for the formation of the investment pool,  
14 transactions between a domestic insurer and an affiliated  
15 insurer investment pool shall not be subject to the  
16 requirements of Section 131.20a of this Code.

17 (Source: P.A. 100-201, eff. 8-18-17.)

18 (215 ILCS 5/131.13) (from Ch. 73, par. 743.13)

19 Sec. 131.13. Registration of companies. Every company  
20 which is authorized to do business in this State and which is a  
21 member of an insurance holding company system must register  
22 with the Director, except a foreign or non-domestic ~~alien~~  
23 company subject to registration requirements and standards  
24 adopted by statute or regulation in the jurisdiction of its  
25 domicile which are substantially similar to those contained in

1 this section and Sections 131.14 through 131.20a. Any company  
2 which is subject to registration under this section must  
3 register within 60 days after the effective date of this  
4 Article or 15 days after it becomes subject to registration,  
5 whichever is later, unless the Director for good cause shown  
6 extends the time for registration, and then within such  
7 extended time. The Director may require any authorized company  
8 which is a member of a holding company system which is not  
9 subject to registration under this section to furnish a copy  
10 of the registration statement or other information filed by  
11 such company with the insurance regulatory authority of its  
12 domiciliary jurisdiction.

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

14 (215 ILCS 5/132.3) (from Ch. 73, par. 744.3)

15 Sec. 132.3. Authority, scope, and scheduling of  
16 examinations.

17 (a) The Director or any of his examiners may conduct an  
18 examination of any company as often as the Director, in his  
19 sole discretion, deems appropriate, but shall, at a minimum,  
20 conduct an examination of every insurer authorized or licensed  
21 in this State not less frequently than once every 5 years. In  
22 scheduling and determining the nature, scope, and frequency of  
23 the examinations, the Director shall consider the results of  
24 financial statement analyses and ratios, changes in management  
25 or ownership, actuarial opinions, reports of independent



1 certified public accountants and other criteria set forth in  
2 the Examiners' Handbook adopted by the National Association of  
3 Insurance Commissioners and in effect when the Director  
4 exercises discretion under this subsection.

5 (b) For purposes of completing an examination of any  
6 company, the Director may examine or investigate any person,  
7 or the business of any person, insofar as the examination or  
8 investigation is, in the sole discretion of the Director,  
9 necessary or material to the examination of the company.

10 (c) In lieu of an examination of any foreign or  
11 non-domestic ~~alien~~ insurer authorized or licensed in this  
12 State, the Director may accept an examination report on the  
13 company as prepared by the insurance department for the  
14 company's state of domicile or port-of-entry state until  
15 January 1, 1994. Thereafter, those reports may only be  
16 accepted if (1) the insurance department was at the time of the  
17 examination accredited under the National Association of  
18 Insurance Commissioners' Financial Regulation Standards and  
19 Accreditation Program, (2) the examination is performed under  
20 the supervision of an accredited insurance department or with  
21 the participation of one or more examiners who are employed by  
22 an accredited state insurance department, and who, after a  
23 review of the examination work papers and report, state under  
24 oath that the examination was performed in a manner consistent  
25 with the standards and procedures required by their insurance  
26 department, or (3) the Director otherwise determines that the

1 examination was performed in a manner substantially similar to  
2 the standards and procedures required by Sections 132.1  
3 through 132.6 of this Code.

4 (Source: P.A. 89-97, eff. 7-7-95.)

5 (215 ILCS 5/133) (from Ch. 73, par. 745)

6 Sec. 133. Books, records, accounts and vouchers.

7 (1) Every domestic company shall keep its books, records,  
8 documents, accounts and vouchers in such manner that its  
9 financial condition, affairs and operations can be ascertained  
10 and so that its financial statements filed with the Director  
11 can be readily verified and its compliance with the law  
12 determined and may cause any or all such books, records,  
13 documents, accounts and vouchers to be photographed or  
14 reproduced on film. Any such photographs, microphotographs,  
15 optical imaging, or film reproductions of any original books,  
16 records, documents, accounts and vouchers shall for all  
17 purposes be considered the same as the originals thereof and a  
18 transcript, exemplification or certified copy of any such  
19 photograph, microphotograph, optical imaging, or film  
20 reproduction shall for all purposes be deemed to be a  
21 transcript, exemplification or certified copy of the original.  
22 Any original so reproduced may thereafter be disposed of or  
23 destroyed if provision is made for preserving and examining  
24 such reproductions.

25 (2) All such original books, records, documents, accounts

1 and vouchers, or such reproductions thereof, of the home  
2 office of any domestic company or of any principal United  
3 States office of a foreign or non-domestic ~~alien~~ company  
4 located in this State shall be preserved and kept available in  
5 this State for the purpose of examination and until authority  
6 to destroy or otherwise dispose of such records is secured  
7 from the Director. Such original records may, however, be kept  
8 and maintained outside this State if, according to a plan  
9 adopted by the company's board of directors and approved by  
10 the Director, it maintains suitable records in lieu thereof.  
11 Every domestic company shall keep its securities within the  
12 State of Illinois except where:

13 (a) on deposit with other states of the United States  
14 of America, or political subdivision thereof; or

15 (b) on deposit with foreign countries where the  
16 company is licensed to transact an insurance business; or

17 (c) where requisite for the normal transaction of the  
18 company's business and approved by the Director.

19 (3) Any domestic company may maintain with a corporation,  
20 qualified to administer trusts in this State under the  
21 Corporate Fiduciary Act and that has an office in this State at  
22 which the account is maintained, for its securities, a limited  
23 agency, custodial or depository account, or other type of  
24 account for the safekeeping of those securities, collecting  
25 the income from those securities and providing supportive  
26 accounting services relating to such safekeeping and

1 collection, provided, the domestic company maintains full  
2 investment discretion over those securities. Such a  
3 corporation in safekeeping such securities shall have all the  
4 powers, rights, duties and responsibilities as it has for  
5 holding securities in its fiduciary accounts under the  
6 Securities in Fiduciary Accounts Act.

7 (4) Any director, officer, agent or employee of any  
8 company who destroys any such books, records or documents  
9 without the authority of the Director in violation of this  
10 section or who fails to keep the books, records, documents,  
11 accounts and vouchers required by this section shall be guilty  
12 of a business offense and shall be fined not more than  
13 \$5000.00.

14 (Source: P.A. 88-364; 89-437, eff. 12-15-95.)

15 (215 ILCS 5/136) (from Ch. 73, par. 748)

16 Sec. 136. Annual statement.

17 (1) Every company authorized to do business in this State  
18 or accredited by this State shall submit to the Director by  
19 March 1st in each year its financial statement for the year  
20 ending December 31st immediately preceding in such manner and  
21 in such form as prescribed by the Director, which shall  
22 conform substantially to the form of statement adopted by the  
23 National Association of Insurance Commissioners. Unless the  
24 Director provides otherwise, the annual statement is to be  
25 prepared in accordance with the annual statement instructions

1 and the Accounting Practices and Procedures Manual adopted by  
2 the National Association of Insurance Commissioners. The  
3 Director shall have power to make such modifications and  
4 additions in this form as he may deem desirable or necessary to  
5 ascertain the condition and affairs of the company. The  
6 Director shall have authority to extend the time for filing  
7 any statement by any company for reasons which he considers  
8 good and sufficient. In every statement the admitted assets  
9 shall be shown at the actual values as of the last day of the  
10 preceding year, in accordance with Section 126.7. The  
11 statement shall be verified by oaths of the president and  
12 secretary of the company or, in their absence, by 2 other  
13 principal officers. In addition, any company may be required  
14 by the Director, when he considers that action to be necessary  
15 and appropriate for the protection of policyholders,  
16 creditors, shareholders, or claimants, to file, within 60 days  
17 after mailing to the company a notice that such is required, a  
18 supplemental summary statement as of the last day of any  
19 calendar month occurring during the 100 days next preceding  
20 the mailing of such notice designated by him on forms  
21 prescribed and furnished by the Director. The Director may  
22 require supplemental summary statements to be certified by an  
23 independent actuary deemed competent by the Director or by an  
24 independent certified public accountant.

25 (2) The statement of a non-domestic ~~an alien~~ company shall  
26 embrace only its condition and transactions in the United

1 States and shall be verified by the oaths of its resident  
2 manager or principal representative in the United States,  
3 except that in the case of any life company organized under the  
4 laws of Canada or any province thereof, the statement may be  
5 verified by the oaths of any of its principal officers  
6 designated for that purpose by its board of directors.

7 (3) For the information of the public generally the  
8 Director shall cause an abstract of the information contained  
9 in the annual statement to be made available to the public as  
10 soon as practicable after filing with the Department, by  
11 printing those abstracts in pamphlet tabular form for free  
12 general distribution by the Department, or by such other  
13 publication in the city of Springfield or in the city of  
14 Chicago as may be reasonably necessary more fully to inform  
15 the public of the financial condition of companies transacting  
16 business in this State.

17 (4) Each domestic, foreign, and non-domestic ~~alien~~ insurer  
18 authorized to do business in this State or accredited by this  
19 State shall participate in the National Association of  
20 Insurance Commissioners' Insurance Regulatory Information  
21 System, including the payment of all fees and charges of the  
22 system. Each company shall, on or before March 1 of each year,  
23 file with the National Association of Insurance Commissioners  
24 a copy of its annual financial statement along with any  
25 additional filings prescribed by the Director for the  
26 preceding year. The statement filed with the National

1 Association of Insurance Commissioners shall be in the same  
2 format and scope as that required by this Code and shall  
3 include a signed jurat page and actuarial certification. Any  
4 amendments and addendums to the annual statement shall also be  
5 filed with the National Association of Insurance  
6 Commissioners. Each company shall also file with the National  
7 Association of Insurance Commissioners annual and quarterly  
8 financial statement information in computer readable format as  
9 required by the Insurance Regulatory Information System.  
10 Failure of a company to file financial statement information  
11 in computer readable format shall subject the company to the  
12 provisions of Section 139.

13 (5) All financial analysis ratios and examination synopsis  
14 concerning insurance companies that are submitted to the  
15 Director by the National Association of Insurance  
16 Commissioners' Insurance Regulatory Information System are  
17 confidential and may not be disclosed by the Director.

18 (6) Every property and casualty insurance company doing  
19 business in this State, unless otherwise exempted by the  
20 Director, shall annually submit the opinion of an appointed  
21 actuary entitled "Statement of Actuarial Opinion". This  
22 opinion shall be filed in accordance with the appropriate  
23 National Association of Insurance Commissioners Property and  
24 Casualty Annual Statement Instructions.

25 (a) Every property and casualty insurance company  
26 domiciled in this State that is required to submit a

1 Statement of Actuarial Opinion shall annually submit an  
2 Actuarial Opinion Summary, written by the company's  
3 appointed actuary. This Actuarial Opinion Summary shall be  
4 filed in accordance with the appropriate National  
5 Association of Insurance Commissioners Property and  
6 Casualty Annual Statement Instructions and shall be  
7 considered as a document supporting the Actuarial Opinion  
8 required in this subsection (6). Each foreign and  
9 non-domestic ~~alien~~ property and casualty company  
10 authorized to do business in this State shall provide the  
11 Actuarial Opinion Summary upon request.

12 (b) An Actuarial Report and underlying workpapers as  
13 required by the appropriate National Association of  
14 Insurance Commissioners Property and Casualty Annual  
15 Statement Instructions shall be prepared to support each  
16 Actuarial Opinion. If the insurance company fails to  
17 provide a supporting Actuarial Report or workpapers at the  
18 request of the Director or the Director determines that  
19 the supporting Actuarial Report or workpapers provided by  
20 the insurance company is otherwise unacceptable to the  
21 Director, the Director may engage a qualified actuary at  
22 the expense of the company to review the opinion and the  
23 basis for the opinion and prepare the supporting Actuarial  
24 Report or workpapers.

25 (c) The appointed actuary shall not be liable for  
26 damages to any person (other than the insurance company



1 and the Director) for any act, error, omission, decision,  
2 or conduct with respect to the actuary's opinion, except  
3 in cases of fraud or willful misconduct on the part of the  
4 appointed actuary.

5 (d) The Statement of Actuarial Opinion shall be  
6 provided with the Annual Statement in accordance with the  
7 appropriate National Association of Insurance  
8 Commissioners Property and Casualty Annual Statement  
9 Instructions and shall be treated as a public document.

10 Documents, materials, or other information in the  
11 possession or control of the Director that are considered  
12 an Actuarial Report, workpapers, or Actuarial Opinion  
13 Summary provided in support of the opinion, and any other  
14 material provided by the company to the Director in  
15 connection with the Actuarial Report, workpapers or  
16 Actuarial Opinion Summary, must be given confidential  
17 treatment, are not subject to subpoena, and may not be  
18 made public by the Director or any other persons. This  
19 paragraph (d) shall not be construed to limit the  
20 Director's authority to release the documents to the  
21 Actuarial Board for Counseling and Discipline (ABCD), so  
22 long as the material is required for the purpose of  
23 professional disciplinary proceedings and that the ABCD  
24 establishes procedures satisfactory to the Director for  
25 preserving the confidentiality of the documents, nor shall  
26 this paragraph (d) be construed to limit the Director's

1 authority to use the documents, materials or other  
2 information in furtherance of any regulatory or legal  
3 action brought as part of the Director's official duties.  
4 Neither the Director nor any person who received  
5 documents, materials, or other information while acting  
6 under the authority of the Director shall be permitted or  
7 required to testify in any private civil action concerning  
8 any confidential documents, materials, or information  
9 subject to this subsection (6). Except where another  
10 provision of this Code expressly prohibits a disclosure of  
11 confidential information to the specific officials or  
12 organizations described in this subsection, the Director  
13 may:

14 (i) share documents, materials, or other  
15 information, including the confidential and privileged  
16 documents, materials or information subject to this  
17 paragraph (d) with the insurance department of any  
18 other state or country or with law enforcement  
19 officials of this or any other state or agency of the  
20 federal government at any time, as long as the agency  
21 or office receiving the document, material, or other  
22 information agrees in writing to hold it confidential  
23 and in a manner consistent with this Code;

24 (ii) receive documents, materials, or information,  
25 including otherwise confidential and privileged  
26 documents, materials, or information, from the

1 National Association of Insurance Commissioners and  
2 its affiliates and subsidiaries, and from regulatory  
3 and law enforcement officials of other foreign or  
4 domestic jurisdictions, and shall maintain as  
5 confidential or privileged any document, material, or  
6 information received with notice or the understanding  
7 that it is confidential or privileged under the laws  
8 of the jurisdiction that is the source of the  
9 document, material, or information; and

10 (iii) enter into agreements governing sharing and  
11 use of information consistent with paragraph (d).

12 (e) No waiver of any applicable privilege or claim of  
13 confidentiality in the documents, materials or information  
14 shall occur as a result of disclosure to the Director  
15 under this Section or as a result of sharing as authorized  
16 in subparagraphs (i), (ii), and (iii) of paragraph (d) of  
17 subsection (6) of this Section. All 2008 Annual  
18 Statements, which are filed in 2009, and all subsequent  
19 Annual Statement filings shall be done in accordance with  
20 subsection (6) of this Section.

21 (Source: P.A. 96-145, eff. 8-7-09; 97-486, eff. 1-1-12.)

22 (215 ILCS 5/141a) (from Ch. 73, par. 753a)

23 Sec. 141a. Managing general agents and retrospective  
24 compensation agreements.

25 (a) As used in this Section, the following terms have the

1 following meanings:

2 "Actuary" means a person who is a member in good standing  
3 of the American Academy of Actuaries.

4 "Gross direct written premium" means direct premium  
5 including policy and membership fees, net of returns and  
6 cancellations, and prior to any cessions.

7 "Insurer" means any person duly licensed in this State as  
8 an insurance company pursuant to Articles II, III, III 1/2,  
9 IV, V, VI, and XVII of this Code.

10 "Managing general agent" means any person, firm,  
11 association, or corporation, either separately or together  
12 with affiliates, that:

13 (1) manages all or part of the insurance business of  
14 an insurer (including the management of a separate  
15 division, department, or underwriting office), and

16 (2) acts as an agent for the insurer whether known as a  
17 managing general agent, manager, or other similar term,  
18 and

19 (3) with or without the authority produces, directly  
20 or indirectly, and underwrites:

21 (A) within any one calendar quarter, an amount of  
22 gross direct written premium equal to or more than 5%  
23 of the policyholders' surplus as reported in the  
24 insurer's last annual statement, or

25 (B) within any one calendar year, an amount of  
26 gross direct written premium equal to or more than 8%

1 of the policyholders' surplus as reported in the  
2 insurer's last annual statement, and either

3 (4) has the authority to bind the company in  
4 settlement of individual claims in amounts in excess of  
5 \$500, or

6 (5) has the authority to negotiate reinsurance on  
7 behalf of the insurer.

8 Notwithstanding the provisions of items (1) through (5),  
9 the following persons shall not be considered to be managing  
10 general agents for the purposes of this Code:

11 (1) An employee of the insurer;

12 (2) A U.S. manager of the United States branch of a  
13 non-domestic ~~an alien~~ insurer;

14 (3) An underwriting manager who, pursuant to a  
15 contract meeting the standards of Section 141.1 manages  
16 all or part of the insurance operations of the insurer, is  
17 affiliated with the insurer, subject to Article VIII 1/2,  
18 and whose compensation is not based on the volume of  
19 premiums written;

20 (4) The attorney or the attorney in fact authorized  
21 and acting for or on behalf of the subscriber  
22 policyholders of a reciprocal or inter-insurance exchange,  
23 under the terms of the subscription agreement, power of  
24 attorney, or policy of insurance or the attorney in fact  
25 for any Lloyds organization licensed in this State.

26 "Retrospective compensation agreement" means any

1 arrangement, agreement, or contract having as its purpose the  
2 actual or constructive retention by the insurer of a fixed  
3 proportion of the gross premiums, with the balance of the  
4 premiums, retained actually or constructively by the agent or  
5 the producer of the business, who assumes to pay therefrom all  
6 losses, all subordinate commission, loss adjustment expenses,  
7 and his profit, if any, with other provisions of the  
8 arrangement, agreement, or contract being auxiliary or  
9 incidental to that purpose.

10 "Underwrite" means to accept or reject risk on behalf of  
11 the insurer.

12 (b) Licensure of managing general agents.

13 (1) No person, firm, association, or corporation shall  
14 act in the capacity of a managing general agent with  
15 respect to risks located in this State for an insurer  
16 licensed in this State unless the person is a licensed  
17 producer or a registered firm in this State under Article  
18 XXXI of this Code or a licensed third party administrator  
19 in this State under Article XXXI 1/4 of this Code.

20 (2) No person, firm, association, or corporation shall  
21 act in the capacity of a managing general agent with  
22 respect to risks located outside this State for an insurer  
23 domiciled in this State unless the person is a licensed  
24 producer or a registered firm in this State under Article  
25 XXXI of this Code or a licensed third party administrator  
26 in this State under Article XXXI 1/4 of this Code.

1           (3) The managing general agent must provide a surety  
2           bond for the benefit of the insurer in an amount equal to  
3           the greater of \$100,000 or 5% of the gross direct written  
4           premium underwritten by the managing general agent on  
5           behalf of the insurer. The bond shall provide for a  
6           discovery period and prior notification of cancellation in  
7           accordance with the rules of the Department unless  
8           otherwise approved in writing by the Director.

9           (4) The managing general agent must maintain an errors  
10          and omissions policy for the benefit of the insurer with  
11          coverage in an amount equal to the greater of \$1,000,000  
12          or 5% of the gross direct written premium underwritten by  
13          the managing general agent on behalf of the insurer.

14          (5) Evidence of the existence of the bond and the  
15          errors and omissions policy must be made available to the  
16          Director upon his request.

17          (c) No person, firm, association, or corporation acting in  
18          the capacity of a managing general agent shall place business  
19          with an insurer unless there is in force a written contract  
20          between the parties that sets forth the responsibilities of  
21          each party, that, if both parties share responsibility for a  
22          particular function, specifies the division of responsibility,  
23          and that contains the following minimum provisions:

24                (1) The insurer may terminate the contract for cause  
25                upon written notice to the managing general agent. The  
26                insurer may suspend the underwriting authority of the

1 managing general agent during the pendency of any dispute  
2 regarding the cause for termination.

3 (2) The managing general agent shall render accounts  
4 to the insurer detailing all transactions and remit all  
5 funds due under the contract to the insurer on not less  
6 than a monthly basis.

7 (3) All funds collected for the account of an insurer  
8 shall be held by the managing general agent in a fiduciary  
9 capacity in a bank that is a federally or State chartered  
10 bank and that is a member of the Federal Deposit Insurance  
11 Corporation. This account shall be used for all payments  
12 on behalf of the insurer; however, the managing general  
13 agent shall not have authority to draw on any other  
14 accounts of the insurer. The managing general agent may  
15 retain no more than 3 months estimated claims payments and  
16 allocated loss adjustment expenses.

17 (4) Separate records of business written by the  
18 managing general agent will be maintained. The insurer  
19 shall have access to and the right to copy all accounts and  
20 records related to its business in a form usable by the  
21 insurer, and the Director shall have access to all books,  
22 bank accounts, and records of the managing general agent  
23 in a form usable to the Director.

24 (5) The contract may not be assigned in whole or part  
25 by the managing general agent.

26 (6) The managing general agent shall provide to the



1 company audited financial statements required under  
2 paragraph (1) of subsection (d).

3 (7) That appropriate underwriting guidelines be  
4 followed, which guidelines shall stipulate the following:

5 (A) the maximum annual premium volume;

6 (B) the basis of the rates to be charged;

7 (C) the types of risks that may be written;

8 (D) maximum limits of liability;

9 (E) applicable exclusions;

10 (F) territorial limitations;

11 (G) policy cancellation provisions; and

12 (H) the maximum policy period.

13 (8) The insurer shall have the right to: (i) cancel or  
14 nonrenew any policy of insurance subject to applicable  
15 laws and regulations concerning those actions; and (ii)  
16 require cancellation of any subproducer's contract after  
17 appropriate notice.

18 (9) If the contract permits the managing general agent  
19 to settle claims on behalf of the insurer:

20 (A) all claims must be reported to the company in a  
21 timely manner.

22 (B) a copy of the claim file must be sent to the  
23 insurer at its request or as soon as it becomes known  
24 that the claim:

25 (i) has the potential to exceed an amount  
26 determined by the company;

1 (ii) involves a coverage dispute;  
2 (iii) may exceed the managing general agent's  
3 claims settlement authority;  
4 (iv) is open for more than 6 months; or  
5 (v) is closed by payment of an amount set by  
6 the company.

7 (C) all claim files will be the joint property of  
8 the insurer and the managing general agent. However,  
9 upon an order of liquidation of the insurer, the files  
10 shall become the sole property of the insurer or its  
11 estate; the managing general agent shall have  
12 reasonable access to and the right to copy the files on  
13 a timely basis.

14 (D) any settlement authority granted to the  
15 managing general agent may be terminated for cause  
16 upon the insurer's written notice to the managing  
17 general agent or upon the termination of the contract.  
18 The insurer may suspend the settlement authority  
19 during the pendency of any dispute regarding the cause  
20 for termination.

21 (10) Where electronic claims files are in existence,  
22 the contract must address the timely transmission of the  
23 data.

24 (11) If the contract provides for a sharing of interim  
25 profits by the managing general agent and the managing  
26 general agent has the authority to determine the amount of

1 the interim profits by establishing loss reserves,  
2 controlling claim payments, or by any other manner,  
3 interim profits will not be paid to the managing general  
4 agent until one year after they are earned for property  
5 insurance business and until 5 years after they are earned  
6 on casualty business and in either case, not until the  
7 profits have been verified.

8 (12) The managing general agent shall not:

9 (A) Bind reinsurance or retrocessions on behalf of  
10 the insurer, except that the managing general agent  
11 may bind facultative reinsurance contracts under  
12 obligatory facultative agreements if the contract with  
13 the insurer contains reinsurance underwriting  
14 guidelines including, for both reinsurance assumed and  
15 ceded, a list of reinsurers with which automatic  
16 agreements are in effect, the coverages and amounts or  
17 percentages that may be reinsured, and commission  
18 schedules.

19 (B) Appoint any producer without assuring that the  
20 producer is lawfully licensed to transact the type of  
21 insurance for which he is appointed.

22 (C) Without prior approval of the insurer, pay or  
23 commit the insurer to pay a claim over a specified  
24 amount, net of reinsurance, that shall not exceed 1%  
25 of the insurer's policyholders' surplus as of December  
26 31 of the last completed calendar year.

1           (D) Collect any payment from a reinsurer or commit  
2           the insurer to any claim settlement with a reinsurer  
3           without prior approval of the insurer. If prior  
4           approval is given, a report must be promptly forwarded  
5           to the insurer.

6           (E) Permit its subproducer to serve on its board  
7           of directors.

8           (F) Employ an individual who is also employed by  
9           the insurer.

10          (13) The contract may not be written for a term of  
11          greater than 5 years.

12          (d) Insurers shall have the following duties:

13           (1) The insurer shall have on file the managing  
14           general agent's audited financial statements as of the end  
15           of the most recent fiscal year prepared in accordance with  
16           Generally Accepted Accounting Principles. The insurer  
17           shall notify the Director if the auditor's opinion on  
18           those statements is other than an unqualified opinion.  
19           That notice shall be given to the Director within 10 days  
20           of receiving the audited financial statements or becoming  
21           aware that such opinion has been given.

22           (2) If a managing general agent establishes loss  
23           reserves, the insurer shall annually obtain the opinion of  
24           an actuary attesting to the adequacy of loss reserves  
25           established for losses incurred and outstanding on  
26           business produced by the managing general agent, in

1 addition to any other required loss reserve certification.

2 (3) The insurer shall periodically (at least  
3 semiannually) conduct an on-site review of the  
4 underwriting and claims processing operations of the  
5 managing general agent.

6 (4) Binding authority for all reinsurance contracts or  
7 participation in insurance or reinsurance syndicates shall  
8 rest with an officer of the insurer, who shall not be  
9 affiliated with the managing general agent.

10 (5) Within 30 days of entering into or terminating a  
11 contract with a managing general agent, the insurer shall  
12 provide written notification of the appointment or  
13 termination to the Director. Notices of appointment of a  
14 managing general agent shall include a statement of duties  
15 that the applicant is expected to perform on behalf of the  
16 insurer, the lines of insurance for which the applicant is  
17 to be authorized to act, and any other information the  
18 Director may request.

19 (6) An insurer shall review its books and records each  
20 quarter to determine if any producer has become a managing  
21 general agent. If the insurer determines that a producer  
22 has become a managing general agent, the insurer shall  
23 promptly notify the producer and the Director of that  
24 determination, and the insurer and producer must fully  
25 comply with the provisions of this Section within 30 days  
26 of the notification.

1           (7) The insurer shall file any managing general agent  
2 contract for the Director's approval within 45 days after  
3 the contract becomes subject to this Section. Failure of  
4 the Director to disapprove the contract within 45 days  
5 shall constitute approval thereof. Upon expiration of the  
6 contract, the insurer shall submit the replacement  
7 contract for approval. Contracts filed under this Section  
8 shall be exempt from filing under Sections 141, 141.1 and  
9 131.20a.

10           (8) An insurer shall not appoint to its board of  
11 directors an officer, director, employee, or controlling  
12 shareholder of its managing general agents. This provision  
13 shall not apply to relationships governed by Article VIII  
14 1/2 of this Code.

15           (e) The acts of a managing general agent are considered to  
16 be the acts of the insurer on whose behalf it is acting. A  
17 managing general agent may be examined in the same manner as an  
18 insurer.

19           (f) Retrospective compensation agreements for business  
20 written under Section 4 of this Code in Illinois and outside of  
21 Illinois by an insurer domiciled in this State must be filed  
22 for approval. The standards for approval shall be as set forth  
23 under Section 141 of this Code.

24           (g) Unless specifically required by the Director, the  
25 provisions of this Section shall not apply to arrangements  
26 between a managing general agent not underwriting any risks

1 located in Illinois and a foreign insurer domiciled in an NAIC  
2 accredited state that has adopted legislation substantially  
3 similar to the NAIC Managing General Agents Model Act. "NAIC  
4 accredited state" means a state or territory of the United  
5 States having an insurance regulatory agency that maintains an  
6 accredited status granted by the National Association of  
7 Insurance Commissioners.

8 (h) If the Director determines that a managing general  
9 agent has not materially complied with this Section or any  
10 regulation or order promulgated hereunder, after notice and  
11 opportunity to be heard, the Director may order a penalty in an  
12 amount not exceeding \$100,000 for each separate violation and  
13 may order the revocation or suspension of the producer's  
14 license. If it is found that because of the material  
15 noncompliance the insurer has suffered any loss or damage, the  
16 Director may maintain a civil action brought by or on behalf of  
17 the insurer and its policyholders and creditors for recovery  
18 of compensatory damages for the benefit of the insurer and its  
19 policyholders and creditors or other appropriate relief. This  
20 subsection (h) shall not be construed to prevent any other  
21 person from taking civil action against a managing general  
22 agent.

23 (i) If an Order of Rehabilitation or Liquidation is  
24 entered under Article XIII and the receiver appointed under  
25 that Order determines that the managing general agent or any  
26 other person has not materially complied with this Section or

1 any regulation or Order promulgated hereunder and the insurer  
2 suffered any loss or damage therefrom, the receiver may  
3 maintain a civil action for recovery of damages or other  
4 appropriate sanctions for the benefit of the insurer.

5 Any decision, determination, or order of the Director  
6 under this subsection shall be subject to judicial review  
7 under the Administrative Review Law.

8 Nothing contained in this subsection shall affect the  
9 right of the Director to impose any other penalties provided  
10 for in this Code.

11 Nothing contained in this subsection is intended to or  
12 shall in any manner limit or restrict the rights of  
13 policyholders, claimants, and auditors.

14 (j) A domestic company shall not during any calendar year  
15 write, through a managing general agent or managing general  
16 agents, premiums in an amount equal to or greater than its  
17 capital and surplus as of the preceding December 31st unless  
18 the domestic company requests in writing the Director's  
19 permission to do so and the Director has either approved the  
20 request or has not disapproved the request within 45 days  
21 after the Director received the request.

22 No domestic company with less than \$5,000,000 of capital  
23 and surplus may write any business through a managing general  
24 agent unless the domestic company requests in writing the  
25 Director's permission to do so and the Director has either  
26 approved the request or has not disapproved the request within



1 45 days after the Director received the request.

2 (Source: P.A. 93-32, eff. 7-1-03.)

3 (215 ILCS 5/144) (from Ch. 73, par. 756)

4 Sec. 144. Limitation of risk.

5 (1) No company authorized to transact any of the kind of  
6 business enumerated in Classes 2 and 3 of Section 4 in this  
7 State may expose itself to any loss on any one risk or hazard  
8 to an amount exceeding 10% of its admitted assets in excess of  
9 its liabilities excluding, in the case of a stock company, its  
10 capital stock liability. No portion of any such risk or hazard  
11 which has been reinsured in a domestic or an approved foreign  
12 or non-domestic ~~alien~~ company, in accordance with this Code,  
13 shall be included in determining the limitation of risk  
14 prescribed herein.

15 (2) Any company transacting the kind of business  
16 enumerated in clause (g) of Class 2 of Section 4 may expose  
17 itself to a risk or hazard in excess of the amount prescribed  
18 in subsection (1) if it is protected in excess of that amount  
19 by the following:

20 (a) The co-suretyship of such a company similarly  
21 authorized; or

22 (b) By deposit with it in pledge or conveyance to it in  
23 trust for its protection of property; or

24 (c) By conveyance or mortgage for its protection; or

25 (d) In case a suretyship obligation was made on behalf

1 or on account of a fiduciary holding property in a trust  
2 capacity, by deposit or other disposition of a portion of  
3 the property so held in trust that no future sale,  
4 mortgage, pledge or other disposition can be made thereof  
5 without the consent of such company except by a judgment  
6 or order of a court of competent jurisdiction.

7 (3) A company designated in subsection (2) may also  
8 execute transportation or warehouse bonds for United States  
9 Internal Revenue taxes to an amount equal to 50% of its capital  
10 and surplus. When the penalty of the suretyship obligation  
11 exceeds the amount of a judgment described therein as appealed  
12 from and thereby secured, or exceeds the amount of the subject  
13 matter in controversy or of the estate in the custody of the  
14 fiduciary for the performance of whose duties it is  
15 conditioned, the bond may be executed if the actual amount of  
16 the judgment or the subject matter in controversy or estate  
17 not subject to supervision or control of the surety is not in  
18 excess of such limitation. When the penalty of the suretyship  
19 obligation executed for the performance of a contract exceeds  
20 the contract price, the latter shall be taken as the basis for  
21 estimating the limit of risk within the meaning of this  
22 Section.

23 (4) Whenever the ratio of the annual premium volume in  
24 proportion to the policyholder surplus of any company  
25 transacting the kinds of business authorized in Class 2 and  
26 Class 3 of Section 4 when reviewed in conjunction with the

1 kinds and nature of risks insured, the financial condition of  
2 the company and its ownership including but not limited to the  
3 liquidity of assets, relationship of surplus to liabilities  
4 and adequacy of outstanding loss reserves, creates a condition  
5 such that the further assumption of risks might be hazardous  
6 to policyholders, creditors or the general public, then the  
7 Director may order such company to take one or more of the  
8 following steps:

9 (a) to reduce the loss exposure by reinsurance;

10 (b) to reduce the volume of new business being  
11 accepted;

12 (c) to suspend the writing of new business for a  
13 period not to exceed 3 months;

14 (d) to increase and maintain the company's surplus by  
15 a contribution to surplus which will raise the surplus for  
16 such a period of time and by such an amount as the Director  
17 may deem necessary and essential; or

18 (e) to reduce general or acquisition expenses by  
19 specified methods.

20 (f) (Blank).

21 (5) The provisions of this Section do not apply to  
22 domestic, foreign, and non-domestic ~~alien~~ Lloyds.

23 The company may, within 10 days after receipt of an Order  
24 of the Director under this Section, request that the Director  
25 hold a hearing to determine whether the Order of the Director  
26 should be modified in any way. A request for a hearing by a

1 company under this Section stays any Order of the Director  
2 entered under this Section until such time as the Director has  
3 entered an Order pursuant to the hearing.

4 (Source: P.A. 89-97, eff. 7-7-95; 90-794, eff. 8-14-98.)

5 (215 ILCS 5/144.1) (from Ch. 73, par. 756.1)

6 Sec. 144.1. Insurance Sales by Insolvent or Impaired  
7 Companies Prohibited.) (1) Unless allowed by the Director, no  
8 foreign or non-domestic ~~alien~~ company officer, director,  
9 trustee, agent, or employee of such company may renew, issue  
10 or deliver or cause to be renewed, issued or delivered, any  
11 policy, contract or certificate of insurance in this State,  
12 nor may any domestic company, officer, director, trustee,  
13 agent or employee of such company renew, issue or deliver or  
14 cause to be renewed, issued or delivered, any policy, contract  
15 or certificate of insurance, for which a premium is charged or  
16 collected, when the company writing such insurance is  
17 insolvent or impaired and the fact of such insolvency or  
18 impairment is known to the company officer, director, trustee,  
19 agent or employee of such company. A company is impaired when  
20 its assets are less than its capital, minimum required surplus  
21 and all liabilities.

22 However, the existence of an impairment does not prevent  
23 the issuance or renewal of a policy when an insured or owner  
24 exercises an option granted to him under an existing policy to  
25 obtain new, renewed or converted insurance coverage.

1           (2) Any company officer, director, trustee, agent, or  
2 employee of such company violating this Section shall be  
3 guilty of a Class A misdemeanor.

4           (Source: P.A. 82-498.)

5           (215 ILCS 5/146) (from Ch. 73, par. 758)  
6           Sec. 146. Withdrawal of deposits.

7           (1) The Director shall at any time upon request release to  
8 a company any portion of its deposit which is not required as a  
9 compliance with the conditions of this Code.

10          (2) When all of the business of a company has been  
11 reinsured in accordance with this Code and the assets thereof  
12 by contract assigned to another company, the Director may  
13 deliver to the reinsured company or to its assigns under the  
14 contract of reinsurance after one year from the effective date  
15 of such reinsurance contract, all the securities deposited by  
16 the reinsured company upon compliance with the following  
17 conditions:

18          (a) The reinsuring company under the reinsurance contract  
19 has assumed all liabilities of every kind due and to become due  
20 which the deposit of the reinsured company was made to secure  
21 or adequate provision has been made therefor;

22          (b) The said reinsuring company shall have and maintain a  
23 deposit in this State or with the department or official  
24 charged with the duty of supervising the business of insurance  
25 in the state where it is incorporated or, if a non-domestic an

1 ~~alien~~ company, where it is entered, in securities authorized  
2 by this Code as lawful investments of the company and in an  
3 amount and value not less than the deposit formerly required  
4 of the reinsured company by this Code; and

5 (c) The deposit of the said reinsuring company shall be  
6 such that it will subsist for the security of all the  
7 obligations of the reinsuring company.

8 (Source: Laws 1937, p. 696.)

9 (215 ILCS 5/148) (from Ch. 73, par. 760)

10 Sec. 148. Contents of advertisements as to financial  
11 condition.

12 (1) No company authorized to do business in this State  
13 shall cause to be inserted in any newspaper, periodical,  
14 magazine or other publication, any advertisement purporting to  
15 set forth in figures its financial standing unless the figures  
16 exhibited in such advertisement correspond to the figures  
17 contained in the next preceding verified statement made to the  
18 Director and unless there is set forth either

19 (a) the total amount of the capital actually paid in, the  
20 total value of the admitted assets owned, the total amount of  
21 the liabilities, including therein the reserves required by  
22 law and the amount of the net surplus of assets over  
23 liabilities actually available for the payment of losses and  
24 claims and held for the protection of policyholders; or

25 (b) the capital paid in or the surplus, separately or

1 combined.

2 (2) No non-domestic ~~alien~~ company authorized to do  
3 business in this State shall cause to be inserted in any  
4 newspaper, periodical or magazine any advertisement purporting  
5 to set forth in figures its financial standing, unless the  
6 figures exhibited in such advertisement correspond to the  
7 figures contained in the next preceding verified statement  
8 made to the Director by the United States Branch of such  
9 company and unless there is set forth the total amount of the  
10 capital and assets held by its United States Branch, the total  
11 amount of its liabilities, including therein the reserves  
12 required by law and the total amount of the net surplus of  
13 assets over all liabilities actually available for the payment  
14 of losses and claims and held for the protection of its  
15 policyholders in the United States; provided that any life  
16 company organized under the laws of the Dominion of Canada or  
17 any province thereof may use in its advertising a statement of  
18 its total business and condition in all countries if such  
19 statement is accompanied by a statement showing the amount of  
20 its total assets and total liabilities in the United States,  
21 corresponding to the figures contained in the next preceding  
22 statement of such company filed with the Director.

23 (3) Any company violating any provision of this section,  
24 and any officer or director thereof knowingly participating in  
25 or abetting such violation, shall be guilty of a business  
26 offense and shall be required to pay a penalty of not less than

1 five hundred dollars nor more than one thousand dollars, to be  
2 recovered in the name of the People of the State of Illinois by  
3 the State's Attorney of the county in which the violation  
4 occurs and the penalty so recovered shall be paid into the  
5 county treasury.

6 (Source: P.A. 77-2699.)

7 (215 ILCS 5/154.5) (from Ch. 73, par. 766.5)

8 Sec. 154.5. Improper Claims Practices) It is an improper  
9 claims practice for any domestic, foreign or non-domestic  
10 ~~alien~~ company transacting business in this State to commit any  
11 of the acts contained in Section 154.6 if:

12 (a) it is committed knowingly in violation of this Act or  
13 any rules promulgated hereunder; or

14 (b) It has been committed with such frequency to indicate  
15 a persistent tendency to engage in that type of conduct.

16 (Source: P.A. 80-926.)

17 (215 ILCS 5/156) (from Ch. 73, par. 768)

18 Sec. 156. Merger and consolidation permitted.

19 (a) Upon complying with the provisions of this article,  
20 any domestic company, except a Lloyds, is hereby authorized  
21 and empowered to merge or consolidate with any domestic  
22 company or with any foreign or non-domestic ~~alien~~ company,  
23 except a Lloyds if the surviving company meets the  
24 requirements for authorization to engage in the insurance



1 business in this state and, if such merger or consolidation is  
2 authorized by the laws of the state or country under which such  
3 foreign or non-domestic ~~alien~~ company is incorporated or  
4 organized.

5 (b) The Director may permit the formation of a domestic  
6 stock company that is established for the sole purpose of  
7 merging or consolidating with an existing stock company  
8 simultaneously with the effectiveness of a division authorized  
9 by this Code. Upon request of the dividing company, the  
10 Director may waive the requirements of Section 131.8 of this  
11 Code. Each domestic stock company formed under this subsection  
12 shall be deemed to exist before a merger and division under  
13 this Section becomes effective, but solely for the purpose of  
14 being a party to such merger and division. The Director shall  
15 not require that such domestic stock company be licensed to  
16 transact insurance business in this state before such merger  
17 and division. All insurance policies, annuities, or  
18 reinsurance agreements allocated to such domestic stock  
19 company shall become the obligation of the domestic stock  
20 company that survives the merger simultaneously with the  
21 effectiveness of the merger and division. The plan of merger  
22 or consolidation shall be deemed to have been authorized and  
23 approved by such domestic stock company if the dividing  
24 company authorized and approved such plan. The certificate of  
25 merger shall state that it was approved by the domestic stock  
26 company formed under this subsection.

1 (Source: P.A. 100-1118, eff. 11-27-18.)

2 (215 ILCS 5/156.1) (from Ch. 73, par. 768.1)

3 Sec. 156.1. Acquisition by exchange of stock permitted.  
4 Any domestic stock insurance company may adopt a plan of  
5 exchange of the outstanding stock of its stockholders for the  
6 consideration herein designated to be paid or provided by a  
7 corporation which acquires such stock, in the manner provided  
8 in this Article.

9 The plan of exchange may provide that the acquiring  
10 corporation, as consideration for the stock of the domestic  
11 corporation, (1) transfer shares of its stock, or (2) transfer  
12 other securities issued by it, or (3) pay cash therefor, or (4)  
13 pay or provide other consideration, or (5) pay or provide any  
14 combination of the foregoing types of consideration.

15 "Acquiring corporation", as used in this Article, means  
16 any stock insurance corporation incorporated under this Code  
17 or under prior laws of this State relating to the  
18 incorporation of domestic insurance corporations; any stock  
19 corporation incorporated under the "Business Corporation Act  
20 of 1983" or under prior laws of this State authorizing the  
21 establishment of business corporations; and any foreign or  
22 non-domestic ~~alien~~ stock corporation qualified to do business  
23 in Illinois and registered by the corporation department; and  
24 any foreign or non-domestic ~~alien~~ stock insurance company  
25 authorized to do business in Illinois.

1 (Source: P.A. 83-1362.)

2 (215 ILCS 5/157) (from Ch. 73, par. 769)

3 Sec. 157. Powers of company not enlarged.

4 Nothing in this article contained shall be construed to  
5 authorize any company to engage in any kind of insurance  
6 business not authorized by its articles of incorporation nor  
7 to authorize any foreign or non-domestic ~~alien~~ company to  
8 engage in any kind of insurance business in this State not  
9 covered by its certificate of authority to do business in this  
10 State.

11 (Source: Laws 1937, p. 696.)

12 (215 ILCS 5/161) (from Ch. 73, par. 773)

13 Sec. 161. Approval and execution of agreement or plan of  
14 exchange by foreign or non-domestic ~~alien~~ company.

15 In the event that a foreign or non-domestic ~~alien~~ company  
16 is a party to the agreement of merger or consolidation or plan  
17 of exchange, the agreement or plan shall be executed by the  
18 proper officers of such foreign or non-domestic ~~alien~~ company  
19 when they are duly authorized thereto by such action on the  
20 part of the directors, shareholders, members, or policyholders  
21 of such foreign or non-domestic ~~alien~~ company as may be  
22 required by the laws of the domiciliary state or country of  
23 such foreign or non-domestic ~~alien~~ company.

24 (Source: Laws 1967, p. 2406.)

1 (215 ILCS 5/162) (from Ch. 73, par. 774)

2 Sec. 162. Certificate of Merger or Consolidation or Plan  
3 of Exchange and Certificate of Approval.

4 (1) Upon the execution of an agreement of merger or  
5 consolidation or plan of exchange, there shall be delivered to  
6 the Director:

7 (a) two duplicate originals of the agreement or plan;

8 (b) affidavits of officers of each of the companies  
9 setting forth the facts necessary to show that all  
10 requirements of law with respect to notices to persons  
11 entitled to vote have been complied with;

12 (c) certificates of the secretaries or assistant  
13 secretaries or corresponding officers of each of the  
14 companies, in case of a merger or consolidation, or of the  
15 company to be acquired in case of a plan of exchange,  
16 certifying to the number of shares, if any, outstanding,  
17 the number of shares voted for and against such agreement  
18 or plan, and further in the case of a merger or  
19 consolidation (1) the number of policyholders represented  
20 at the meeting at which the agreement was considered, and  
21 (2) the number of votes cast by policyholders for and  
22 against such agreement or (3) in the case of a fraternal  
23 benefit society, the number of delegates of the supreme  
24 legislative or governing body, and the number of votes  
25 cast by the delegates for and against the agreement;

1 (d) the certificates required by Section 171;

2 (e) if the surviving or new company is a domestic  
3 company and any foreign or non-domestic ~~alien~~ company is a  
4 party to the merger or consolidation and the laws of the  
5 state or country under which such foreign or non-domestic  
6 ~~alien~~ company is incorporated require approval of the  
7 merger or consolidation by an official of such state or  
8 country, a certificate of approval of such official; and

9 (f) in case of consolidation where the new company is  
10 a foreign or non-domestic ~~alien~~ company, an instrument  
11 appointing the Director and his or her successor or  
12 successors in office, the attorney of such company for  
13 service of process, containing the same provisions and  
14 having the same effect as the instrument required of a  
15 foreign or non-domestic ~~alien~~ company in order to be  
16 admitted to transact business in this State.

17 In addition, the Director shall be provided, in  
18 substantially the same form, the information required under  
19 Article VIII 1/2 of this Code.

20 (2) In case the surviving or new company is a domestic  
21 company, if the Director finds that:

22 (a) the agreement of merger or consolidation is in  
23 accordance with the provisions of this Article and not  
24 inconsistent with the laws and the Constitutions of this  
25 State and the United States;

26 (b) the surviving or new company has complied with all

1 applicable provisions of this Code;

2 (c) no reasonable objection exists to such merger or  
3 consolidation; and

4 (d) the standards established under Article VIII 1/2  
5 are satisfied;

6 he or she shall approve the agreement. The provisions of any  
7 law with reference to age limits and medical examination shall  
8 be inoperative in so far as agreements of merger or  
9 consolidation are concerned. If the agreement of merger or  
10 consolidation be approved by the Director, he or she shall  
11 file the affidavits and certificates and one of the duplicate  
12 originals of the agreement in his or her office, endorse upon  
13 the other duplicate original his or her approval thereof, and  
14 deliver it, together with a certificate of merger or  
15 consolidation, as the case may be, to the surviving or new  
16 company. In the case of a consolidation, the Director shall  
17 also issue a certificate of authority to the new company.

18 (3) In case the surviving or new company is a foreign or  
19 non-domestic ~~alien~~ company, if the Director finds that:

20 (a) the agreement of merger or consolidation is in  
21 accordance with the provisions of this Article and not  
22 inconsistent with the laws and the Constitutions of this  
23 State and the United States;

24 (b) the agreement of merger or consolidation provides  
25 for the assumption by the new or surviving company of all  
26 the liabilities and obligations of the companies parties

1 to the merger or consolidation and otherwise affords  
2 proper protection for creditors and policyholders and that  
3 such provisions are not inconsistent with the laws of the  
4 state or country of incorporation of such new or surviving  
5 company;

6 (c) the surviving or new company has complied with all  
7 applicable provisions of this Code;

8 (d) no reasonable objection exists to such merger or  
9 consolidation; and

10 (e) the standards established under Article VIII 1/2  
11 are satisfied;

12 he or she shall approve the agreement. If the agreement be  
13 approved by the Director, he or she shall file the affidavits  
14 and certificates and one of the duplicate originals of the  
15 agreement in his or her office, endorse upon the other  
16 duplicate original his or her approval thereof, and deliver  
17 it, together with a certificate of approval of the merger or  
18 consolidation, as the case may be, to the surviving or new  
19 company.

20 (4) In the case of a plan of exchange, if the Director  
21 finds that the parties to the exchange have established that:

22 (a) the plan, if effective, will not tend adversely to  
23 affect the financial stability or management of any  
24 domestic company which is a party thereto or the general  
25 capacity or intention to continue the safe and prudent  
26 transaction of the insurance business of such domestic

1 company or companies;

2 (b) the interests of the policyholders and  
3 shareholders of each domestic insurance company which is a  
4 party to the plan are protected;

5 (c) the competence, experience and integrity of those  
6 persons who would control the operation of the domestic  
7 company are such as to be in the best interests of the  
8 policyholders of such company to permit such exchange;

9 (d) the terms and conditions of the plan are fair and  
10 reasonable; and

11 (e) the standards established under Article VIII 1/2  
12 are satisfied;

13 he or she shall approve the plan of exchange. If the plan of  
14 exchange be approved by the Director, he or she shall file the  
15 affidavits and certificates and one of the duplicate originals  
16 of the plan of exchange in his or her office, endorse upon the  
17 other duplicate original his or her approval thereof, and  
18 deliver it, together with a certificate of approval of the  
19 plan of exchange to the domestic company.

20 (5) If the Director refuses to approve the agreement of  
21 merger or consolidation, or plan of exchange, notice of such  
22 refusal, assigning the reasons therefor, shall be given in  
23 writing by the Director to each of the companies party  
24 thereto, within 60 days from the date of the delivery of such  
25 agreements or plan to him or her, and he or she shall grant any  
26 of such companies a hearing upon request. The hearing shall be



1 held within 30 days of the Director's receipt of request for  
2 hearing. All persons to whom it is proposed to issue  
3 securities in such agreements or exchange shall have a right  
4 to appear. Within 30 days after the close of the hearing the  
5 Director shall approve or disapprove or place conditions  
6 precedent upon his or her approval of the merger or  
7 consolidation or plan by issuing a written order stating his  
8 or her determination and the reasons therefor.

9 (Source: P.A. 90-381, eff. 8-14-97.)

10 (215 ILCS 5/163) (from Ch. 73, par. 775)

11 Sec. 163. Date merger or consolidation or plan of exchange  
12 effected.

13 (1) If the surviving or new company is a domestic company,  
14 the merger or consolidation is effected upon the issuance of  
15 the certificate of merger or the certificate of consolidation,  
16 as the case may be.

17 (2) If the surviving or new company is a foreign or  
18 non-domestic ~~alien~~ company and the Director has issued a  
19 certificate of approval of the merger or consolidation, the  
20 date upon which the merger or consolidation is effected shall  
21 be determined by the laws of the state or country of  
22 incorporation or organization of the surviving or new company.  
23 However, the merger or consolidation shall in no event become  
24 effective in this State until a certificate of merger or  
25 consolidation, as the case may be, or other evidence that the

1 merger or consolidation is effected is issued by the proper  
2 official of the state or country of incorporation or  
3 organization of the surviving or new company and is filed with  
4 and approved by the Director.

5 (3) Notice of adoption of the plan and the approval  
6 thereof by the Director shall be delivered or mailed to each  
7 shareholder of record of the domestic insurance company to be  
8 acquired who was entitled to vote thereon and an affidavit of  
9 the secretary or assistant secretary of such company or of an  
10 officer of the company's transfer agent that such notice was  
11 given shall be filed with the Director. The plan shall become  
12 effective 10 days after receipt of the affidavit by the  
13 Director. A plan of exchange may be abandoned pursuant to any  
14 provisions for abandonment contained therein at any time,  
15 provided that notice of such abandonment shall be delivered or  
16 mailed to each such stockholder and filed with the Director  
17 prior to the termination of such 10 day period.

18 (Source: Laws 1967, p. 2406.)

19 (215 ILCS 5/164) (from Ch. 73, par. 776)

20 Sec. 164. Removal of property of domestic, merged or  
21 consolidated company from this State.

22 (1) If the surviving or new company shall be a foreign or  
23 non-domestic ~~alien~~ company, no property of the domestic merged  
24 or consolidated company shall be removed from this State by  
25 reason of such merger or consolidation, prior to, nor shall

1 title to such property vest in the surviving or new company  
2 until, the merger or consolidation shall become effective in  
3 this State as provided in section 163.

4 (2) Any director or officer of any domestic company  
5 removing or permitting the removal of any property of company  
6 from this State in violation of this section, shall be guilty  
7 of a Class A misdemeanor.

8 (Source: P.A. 77-2699.)

9 (215 ILCS 5/166) (from Ch. 73, par. 778)

10 Sec. 166. Effect of merger or consolidation.

11 (1) If the surviving or new company is a domestic company,  
12 when such merger or consolidation has been effected

13 (a) the several companies parties to the agreement of  
14 merger or consolidation shall be a single company, which, in  
15 the case of a merger, shall be that company designated in the  
16 agreement of merger as the surviving company, and in the case  
17 of a consolidation, shall be the new company provided for in  
18 the agreement of consolidation;

19 (b) the separate existence of all of the companies parties  
20 to the agreement of merger or consolidation, except the  
21 surviving company in the case of a merger, shall cease;

22 (c) such surviving or new company shall have all of the  
23 rights, privileges, immunities and powers and shall be subject  
24 to all of the duties and liabilities granted or imposed by this  
25 Code;

1           (d) such surviving or new company shall thereupon and  
2 thereafter possess all the rights, privileges, immunities,  
3 powers and franchises of a public as well as of a private  
4 nature, of each of the companies so merged or consolidated;  
5 and all property, real, personal and mixed, and all debts due  
6 on whatever account, including subscriptions to shares,  
7 assessments payable from members or policyholders, and all  
8 other choses in action and all and every other interest of, or  
9 belonging to or due to, each of the companies so merged or  
10 consolidated shall be deemed to be transferred to and vested  
11 in such surviving or new company without further act or deed;  
12 and the title to any real estate, or any interest therein,  
13 under the laws of this State vested in any of such companies  
14 shall not revert or be in any way impaired by reason of such  
15 merger or consolidation;

16           (e) such surviving or new company shall thenceforth be  
17 responsible and liable for all the liabilities and obligations  
18 of each of the companies so merged or consolidated; any claim  
19 existing or action or proceeding pending by or against any of  
20 such companies may be prosecuted to judgment as if such merger  
21 or consolidation had not taken place, or such surviving or new  
22 company may be substituted in its place; neither the rights of  
23 creditors nor any liens upon the property of any of such  
24 companies shall be impaired by such merger or consolidation,  
25 but such liens shall be limited to the property upon which they  
26 were liens immediately prior to the time of such merger or

1 consolidation, unless otherwise provided in the agreement of  
2 merger or consolidation; and

3 (f) in case of a merger, the articles of incorporation of  
4 the surviving company shall be supplanted and superseded to  
5 the extent, if any, that any provision or provisions of such  
6 articles shall be restated in the agreement of merger as  
7 provided in section 158, and such articles of incorporation,  
8 shall be deemed to be thereby and to that extent amended; in  
9 case of a consolidation, the statements set forth in the  
10 agreement of consolidation as provided in section 158 shall be  
11 deemed to be articles of incorporation of the new company  
12 formed by such consolidation.

13 (2) If the surviving or new company is a foreign or  
14 non-domestic ~~alien~~ company, when such merger or consolidation  
15 has become effective in this State

16 (a) the effect of the merger or consolidation shall be  
17 determined by the law of the state of incorporation or  
18 organization of such company;

19 (b) the separate existence of all domestic companies  
20 parties to the plan of merger or consolidation shall cease;

21 (c) all property, real, personal, and mixed, and all debts  
22 due on whatever account including subscriptions to shares,  
23 assessments payable from members or policyholders and all  
24 other choses in action and all and every other interest of or  
25 belonging to and due to each of the companies so merged or  
26 consolidated shall be taken and deemed to be transferred to

1 and vested in such surviving or new company without further  
2 act or deed, and the title to any real estate, or any interest  
3 therein, shall not revert or be in any way impaired by reason  
4 of such merger or consolidation.

5 (3) In the event of a merger or consolidation under this  
6 article, the surviving company or the consolidated company  
7 shall be considered as having the age of the oldest company  
8 which is a party to such merger or consolidation for the  
9 purpose of complying with requirements of the laws relating to  
10 age of company.

11 (Source: Laws 1937, p. 696.)

12 (215 ILCS 5/169) (from Ch. 73, par. 781)

13 Sec. 169. Rights of dissenting shareholders and  
14 policyholders of foreign or non-domestic ~~alien~~ company.

15 The rights of any dissenting shareholder, member or  
16 policyholder of any foreign or non-domestic ~~alien~~ company  
17 party to a merger or consolidation, shall be those afforded to  
18 such shareholder, member, or policyholder by the laws of the  
19 domiciliary state or country of such foreign or non-domestic  
20 ~~alien~~ company.

21 (Source: Laws 1937, p. 696.)

22 (215 ILCS 5/170) (from Ch. 73, par. 782)

23 Sec. 170. Transfer of deposits.

24 (1) If the surviving or new company shall be a foreign or

1 non-domestic ~~alien~~ company and the laws of the state or  
2 country under which such surviving or new company is  
3 incorporated or organized shall require the maintenance with  
4 any official of such State or country of a deposit of the legal  
5 reserve on any policies, then the Director is authorized to  
6 deliver to the proper custodian of such deposits of such state  
7 or country any deposits theretofore made with the Director  
8 pertaining to policies of any of the merged or consolidated  
9 companies. If the surviving or new company shall be a domestic  
10 company into which has been merged or consolidated a foreign  
11 or non-domestic ~~alien~~ company incorporated or organized in a  
12 state or country the laws of which require the maintenance  
13 with an official of a deposit of the legal reserve on any  
14 policies, then the Director is hereby authorized to receive  
15 from such official any deposit theretofore made with such  
16 official pertaining to the policies of any of the merged or  
17 consolidated companies.

18 (2) Any surviving or new company shall, within 60 days  
19 after the transfer of such deposit, notify the holder of every  
20 policy secured by such transferred deposit, that the transfer  
21 has been made. The president or vice-president and secretary  
22 or assistant secretary of such company, or the executive  
23 officers corresponding thereto, shall within 30 days  
24 thereafter, file with the Director an affidavit of the fact  
25 that due notice to policyholders, as provided for herein, has  
26 been given. If a surviving or new company shall be a foreign or

1 non-domestic ~~alien~~ company, the Director shall require from  
2 such company, before transferring any deposit to any official  
3 of the state or country under the laws of which such foreign or  
4 non-domestic ~~alien~~ company is incorporated or organized, a  
5 written agreement that notice of such transfer will be given  
6 to policyholders and that an affidavit with regard to such  
7 notice will be furnished to the Director as in this section  
8 provided.

9 (3) In the event any deposit is to be maintained in this  
10 State by reason of this section, the amount thereof from time  
11 to time for each such policy shall be at least equal to the  
12 amount which would be required in the state where such deposit  
13 was theretofore maintained under the provisions of the law of  
14 such state in effect on the date the merger or consolidation  
15 was effected. The deposits so maintained in this State shall  
16 consist of securities of the kinds authorized for investment  
17 by Article VIII of this Code.

18 (Source: Laws 1959, p. 1431.)

19 (215 ILCS 5/173.1) (from Ch. 73, par. 785.1)

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

21 Sec. 173.1. Credit allowed a domestic ceding insurer.

22 (1) Except as otherwise provided under Article VIII 1/2 of  
23 this Code and related provisions of the Illinois  
24 Administrative Code, credit for reinsurance shall be allowed a  
25 domestic ceding insurer as either an admitted asset or a



1 deduction from liability on account of reinsurance ceded only  
2 when the reinsurer meets the requirements of paragraph (A) or  
3 (B) or (B-5) or (C) or (C-5) or (D) of this subsection (1).  
4 Credit shall be allowed under paragraph (A), (B), or (B-5) of  
5 this subsection (1) only as respects cessions of those kinds  
6 or classes of business in which the assuming insurer is  
7 licensed or otherwise permitted to write or assume in its  
8 state of domicile, or in the case of a U.S. branch of a  
9 non-domestic ~~an alien~~ assuming insurer, in the state through  
10 which it is entered and licensed to transact insurance or  
11 reinsurance. Credit shall be allowed under paragraph (B-5) or  
12 (C) of this subsection (1) only if the applicable requirements  
13 of paragraph (E) of this subsection (1) have been satisfied.

14 (A) Credit shall be allowed when the reinsurance is  
15 ceded to an assuming insurer that is authorized in this  
16 State to transact the types of insurance ceded and has at  
17 least \$5,000,000 in capital and surplus.

18 (B) Credit shall be allowed when the reinsurance is  
19 ceded to an assuming insurer that is accredited as a  
20 reinsurer in this State. An accredited reinsurer is one  
21 that:

22 (1) files with the Director evidence of its  
23 submission to this State's jurisdiction;

24 (2) submits to this State's authority to examine  
25 its books and records;

26 (3) is licensed to transact insurance or

1 reinsurance in at least one state, or in the case of a  
2 U.S. branch of a non-domestic ~~an alien~~ assuming  
3 insurer is entered through and licensed to transact  
4 insurance or reinsurance in at least one state;

5 (4) files annually with the Director a copy of its  
6 annual statement filed with the insurance department  
7 of its state of domicile and a copy of its most recent  
8 audited financial statement; and

9 (5) maintains a surplus as regards policyholders  
10 in an amount that is not less than \$20,000,000 and  
11 whose accreditation has been approved by the Director.

12 (B-5) (1) Credit shall be allowed when the reinsurance  
13 is ceded to an assuming insurer that is domiciled in, or in  
14 the case of a U.S. branch of a non-domestic ~~an alien~~  
15 assuming insurer is entered through, a state that employs  
16 standards regarding credit for reinsurance substantially  
17 similar to those applicable under this Code and the  
18 assuming insurer or U.S. branch of a non-domestic ~~an alien~~  
19 assuming insurer:

20 (a) maintains a surplus as regards policyholders  
21 in an amount not less than \$20,000,000; and

22 (b) submits to the authority of this State to  
23 examine its books and records.

24 (2) The requirement of item (a) of subparagraph (1) of  
25 paragraph (B-5) of this subsection (1) does not apply to  
26 reinsurance ceded and assumed pursuant to pooling

1 arrangements among insurers in the same holding company  
2 system.

3 (C)(1) Credit shall be allowed when the reinsurance  
4 is ceded to an assuming insurer that maintains a trust  
5 fund in a qualified United States financial institution,  
6 as defined in paragraph (B) of subsection (3) of this  
7 Section, for the payment of the valid claims of its United  
8 States policyholders and ceding insurers, their assigns  
9 and successors in interest. The assuming insurer shall  
10 report to the Director information substantially the same  
11 as that required to be reported on the NAIC annual and  
12 quarterly financial statement by authorized insurers and  
13 any other financial information that the Director deems  
14 necessary to determine the financial condition of the  
15 assuming insurer and the sufficiency of the trust fund.  
16 The assuming insurer shall provide or make the information  
17 available to the ceding insurer. The assuming insurer may  
18 decline to release trade secrets or commercially sensitive  
19 information that would qualify as exempt from disclosure  
20 under the Freedom of Information Act. The Director shall  
21 also make the information publicly available, subject only  
22 to such reasonable objections as might be raised to a  
23 request pursuant to the Freedom of Information Act, as  
24 determined by the Director. The assuming insurer shall  
25 submit to examination of its books and records by the  
26 Director and bear the expense of examination.

1           (2) (a) Credit for reinsurance shall not be granted  
2 under this subsection unless the form of the trust and any  
3 amendments to the trust have been approved by:

4                   (i) the regulatory official of the state where the  
5 trust is domiciled; or

6                   (ii) the regulatory official of another state who,  
7 pursuant to the terms of the trust instrument, has  
8 accepted principal regulatory oversight of the trust.

9           (b) The form of the trust and any trust amendments  
10 also shall be filed with the regulatory official of every  
11 state in which the ceding insurer beneficiaries of the  
12 trust are domiciled. The trust instrument shall provide  
13 that contested claims shall be valid and enforceable upon  
14 the final order of any court of competent jurisdiction in  
15 the United States. The trust shall vest legal title to its  
16 assets in its trustees for the benefit of the assuming  
17 insurer's United States policyholders and ceding insurees  
18 and their assigns and successors in interest. The trust  
19 and the assuming insurer shall be subject to examination  
20 as determined by the Director.

21           (c) The trust shall remain in effect for as long as the  
22 assuming insurer has outstanding obligations due under the  
23 reinsurance agreements subject to the trust. No later than  
24 February 28 of each year the trustee of the trust shall  
25 report to the Director in writing the balance of the trust  
26 and a list of the trust's investments at the preceding

1 year-end and shall certify the date of termination of the  
2 trust, if so planned, or certify that the trust will not  
3 expire prior to the next following December 31.

4 No later than February 28 of each year, the assuming  
5 insurer's chief executive officer or chief financial  
6 officer shall certify to the Director that the trust fund  
7 contains funds in an amount not less than the assuming  
8 insurer's liabilities (as reported to the assuming insurer  
9 by its cedent) attributable to reinsurance ceded by U.S.  
10 ceding insurers, and in addition, a trustee surplus of no  
11 less than \$20,000,000. In the event that item (a-5) of  
12 subparagraph (3) of this paragraph (C) applies to the  
13 trust, the assuming insurer's chief executive officer or  
14 chief financial officer shall then certify to the Director  
15 that the trust fund contains funds in an amount not less  
16 than the assuming insurer's liabilities (as reported to  
17 the assuming insurer by its cedent) attributable to  
18 reinsurance ceded by U.S. ceding insurers and, in  
19 addition, a reduced trustee surplus of not less than the  
20 amount that has been authorized by the regulatory  
21 authority having principal regulatory oversight of the  
22 trust.

23 (d) No later than February 28 of each year, an  
24 assuming insurer that maintains a trust fund in accordance  
25 with this paragraph (C) shall provide or make available,  
26 if requested by a beneficiary under the trust fund, the

1 following information to the assuming insurer's U.S.  
2 ceding insurers or their assigns and successors in  
3 interest:

4 (i) a copy of the form of the trust agreement and  
5 any trust amendments to the trust agreement pertaining  
6 to the trust fund;

7 (ii) a copy of the annual and quarterly financial  
8 information, and its most recent audited financial  
9 statement provided to the Director by the assuming  
10 insurer, including any exhibits and schedules thereto;

11 (iii) any financial information provided to the  
12 Director by the assuming insurer that the Director has  
13 deemed necessary to determine the financial condition  
14 of the assuming insurer and the sufficiency of the  
15 trust fund;

16 (iv) a copy of any annual and quarterly financial  
17 information provided to the Director by the trustee of  
18 the trust fund maintained by the assuming insurer,  
19 including any exhibits and schedules thereto;

20 (v) a copy of the information required to be  
21 reported by the trustee of the trust to the Director  
22 under the provisions of this paragraph (C); and

23 (vi) a written certification that the trust fund  
24 consists of funds in trust in an amount not less than  
25 the assuming insurer's liabilities attributable to  
26 reinsurance liabilities (as reported to the assuming

1 insurer by its cedent) attributable to reinsurance  
2 ceded by U.S. ceding insurers and, in addition, a  
3 trusted surplus of not less than \$20,000,000.

4 (3) The following requirements apply to the following  
5 categories of assuming insurer:

6 (a) The trust fund for a single assuming insurer  
7 shall consist of funds in trust in an amount not less  
8 than the assuming insurer's liabilities attributable  
9 to reinsurance ceded by U.S. ceding insurers, and in  
10 addition, the assuming insurer shall maintain a  
11 trusted surplus of not less than \$20,000,000, except  
12 as provided in item (a-5) of this subparagraph (3).

13 (a-5) At any time after the assuming insurer has  
14 permanently discontinued underwriting new business  
15 secured by the trust for at least 3 full years, the  
16 Director with principal regulatory oversight of the  
17 trust may authorize a reduction in the required  
18 trusted surplus, but only after a finding, based on  
19 an assessment of the risk, that the new required  
20 surplus level is adequate for the protection of U.S.  
21 ceding insurers, policyholders, and claimants in light  
22 of reasonably foreseeable adverse loss development.  
23 The risk assessment may involve an actuarial review,  
24 including an independent analysis of reserves and cash  
25 flows, and shall consider all material risk factors,  
26 including, when applicable, the lines of business

1 involved, the stability of the incurred loss  
2 estimates, and the effect of the surplus requirements  
3 on the assuming insurer's liquidity or solvency. The  
4 minimum required trustee surplus may not be reduced  
5 to an amount less than 30% of the assuming insurer's  
6 liabilities attributable to reinsurance ceded by U.S.  
7 ceding insurers covered by the trust.

8 (b) (i) In the case of a group including  
9 incorporated and individual unincorporated  
10 underwriters:

11 (I) for reinsurance ceded under reinsurance  
12 agreements with an inception, amendment, or  
13 renewal date on or after January 1, 1993, the  
14 trust shall consist of a trustee account in an  
15 amount not less than the respective underwriters'  
16 several liabilities attributable to business ceded  
17 by U.S. domiciled ceding insurers to any member of  
18 the group;

19 (II) for reinsurance ceded under reinsurance  
20 agreements with an inception date on or before  
21 December 31, 1992 and not amended or renewed after  
22 that date, notwithstanding the other provisions of  
23 this Act, the trust shall consist of a trustee  
24 account in an amount not less than the group's  
25 several insurance and reinsurance liabilities  
26 attributable to business written in the United



1 States; and

2 (III) in addition to these trusts, the group  
3 shall maintain in trust a trusteed surplus of  
4 which not less than \$100,000,000 shall be held  
5 jointly for the benefit of the U.S. domiciled  
6 ceding insurers of any member of the group for all  
7 years of account.

8 (ii) The incorporated members of the group shall  
9 not be engaged in any business other than underwriting  
10 as a member of the group and shall be subject to the  
11 same level of solvency regulation and control by the  
12 group's domiciliary regulator as are the  
13 unincorporated members.

14 (iii) Within 90 days after its financial  
15 statements are due to be filed with the group's  
16 domiciliary regulator, the group shall provide to the  
17 Director an annual certification by the group's  
18 domiciliary regulator of the solvency of each  
19 underwriter member, or if a certification is  
20 unavailable, financial statements prepared by  
21 independent public accountants of each underwriter  
22 member of the group.

23 (c) In the case of a group of incorporated  
24 insurers under common administration, the group shall:

25 (i) have continuously transacted an insurance  
26 business outside the United States for at least 3

1 years immediately before making application for  
2 accreditation;

3 (ii) maintain aggregate policyholders' surplus  
4 of not less than \$10,000,000,000;

5 (iii) maintain a trust in an amount not less  
6 than the group's several liabilities attributable  
7 to business ceded by United States domiciled  
8 ceding insurers to any member of the group  
9 pursuant to reinsurance contracts issued in the  
10 name of the group;

11 (iv) in addition, maintain a joint trustee  
12 surplus of which not less than \$100,000,000 shall  
13 be held jointly for the benefit of the United  
14 States ceding insurers of any member of the group  
15 as additional security for these liabilities; and

16 (v) within 90 days after its financial  
17 statements are due to be filed with the group's  
18 domiciliary regulator, make available to the  
19 Director an annual certification of each  
20 underwriter member's solvency by the member's  
21 domiciliary regulator and financial statements of  
22 each underwriter member of the group prepared by  
23 its independent public accountant.

24 (C-5) Credit shall be allowed when the reinsurance is  
25 ceded to an assuming insurer that has been certified by  
26 the Director as a reinsurer in this State and secures its

1 obligations in accordance with the requirements of this  
2 paragraph (C-5).

3 (1) In order to be eligible for certification, the  
4 assuming insurer shall meet the following  
5 requirements:

6 (a) the assuming insurer must be domiciled and  
7 licensed to transact insurance or reinsurance in a  
8 qualified jurisdiction, as determined by the  
9 Director pursuant to subparagraph (3) of this  
10 paragraph (C-5);

11 (b) the assuming insurer must maintain minimum  
12 capital and surplus, or its equivalent, in an  
13 amount not less than \$250,000,000 or such greater  
14 amount as determined by the Director pursuant to  
15 regulation; this requirement may also be satisfied  
16 by an association, including incorporated and  
17 individual unincorporated underwriters, having  
18 minimum capital and surplus equivalents (net of  
19 liabilities) of at least \$250,000,000 and a  
20 central fund containing a balance of at least  
21 \$250,000,000;

22 (c) the assuming insurer must maintain  
23 financial strength ratings from 2 or more rating  
24 agencies deemed acceptable by the Director; these  
25 ratings shall be based on interactive  
26 communication between the rating agency and the

1 assuming insurer and shall not be based solely on  
2 publicly available information; each certified  
3 reinsurer shall be rated on a legal entity basis,  
4 with due consideration being given to the group  
5 rating where appropriate, except that an  
6 association, including incorporated and individual  
7 unincorporated underwriters, that has been  
8 approved to do business as a single certified  
9 reinsurer may be evaluated on the basis of its  
10 group rating; these financial strength ratings  
11 shall be one factor used by the Director in  
12 determining the rating that is assigned to the  
13 assuming insurer; acceptable rating agencies  
14 include the following:

15 (i) Standard & Poor's;

16 (ii) Moody's Investors Service;

17 (iii) Fitch Ratings;

18 (iv) A.M. Best Company; or

19 (v) any other nationally recognized  
20 statistical rating organization;

21 (d) the assuming insurer must agree to submit  
22 to the jurisdiction of this State, appoint the  
23 Director as its agent for service of process in  
24 this State, and agree to provide security for 100%  
25 of the assuming insurer's liabilities attributable  
26 to reinsurance ceded by U.S. ceding insurers if it

1 resists enforcement of a final U.S. judgment; and

2 (e) the assuming insurer must agree to meet  
3 applicable information filing requirements as  
4 determined by the Director, both with respect to  
5 an initial application for certification and on an  
6 ongoing basis.

7 (2) An association, including incorporated and  
8 individual unincorporated underwriters, may be a  
9 certified reinsurer. In order to be eligible for  
10 certification, in addition to satisfying the  
11 requirements of subparagraph (1) of this paragraph  
12 (C-5):

13 (a) the association shall satisfy its minimum  
14 capital and surplus requirements through the  
15 capital and surplus equivalents (net of  
16 liabilities) of the association and its members,  
17 which shall include a joint central fund that may  
18 be applied to any unsatisfied obligation of the  
19 association or any of its members, in the amounts  
20 specified in item (b) of subparagraph (1) of this  
21 paragraph (C-5);

22 (b) the incorporated members of the  
23 association shall not be engaged in any business  
24 other than underwriting as a member of the  
25 association and shall be subject to the same level  
26 of regulation and solvency control by the

1 association's domiciliary regulator as are the  
2 unincorporated members; and

3 (c) within 90 days after its financial  
4 statements are due to be filed with the  
5 association's domiciliary regulator, the  
6 association shall provide to the Director an  
7 annual certification by the association's  
8 domiciliary regulator of the solvency of each  
9 underwriter member; or if a certification is  
10 unavailable, financial statements, prepared by  
11 independent public accountants, of each  
12 underwriter member of the association.

13 (3) The Director shall create and publish a list  
14 of qualified jurisdictions, under which an assuming  
15 insurer licensed and domiciled in such jurisdiction is  
16 eligible to be considered for certification by the  
17 Director as a certified reinsurer.

18 (a) In order to determine whether the  
19 domiciliary jurisdiction of a non-U.S. assuming  
20 insurer is eligible to be recognized as a  
21 qualified jurisdiction, the Director shall  
22 evaluate the appropriateness and effectiveness of  
23 the reinsurance supervisory system of the  
24 jurisdiction, both initially and on an ongoing  
25 basis, and consider the rights, benefits, and  
26 extent of reciprocal recognition afforded by the

1 non-U.S. jurisdiction to reinsurers licensed and  
2 domiciled in the U.S. A qualified jurisdiction  
3 must agree in writing to share information and  
4 cooperate with the Director with respect to all  
5 certified reinsurers domiciled within that  
6 jurisdiction. A jurisdiction may not be recognized  
7 as a qualified jurisdiction if the Director has  
8 determined that the jurisdiction does not  
9 adequately and promptly enforce final U.S.  
10 judgments and arbitration awards. The costs and  
11 expenses associated with the Director's review and  
12 evaluation of the domiciliary jurisdictions of  
13 non-U.S. assuming insurers shall be borne by the  
14 certified reinsurer or reinsurers domiciled in  
15 such jurisdiction.

16 (b) Additional factors to be considered in  
17 determining whether to recognize a qualified  
18 jurisdiction include, but are not limited to, the  
19 following:

20 (i) the framework under which the assuming  
21 insurer is regulated;

22 (ii) the structure and authority of the  
23 domiciliary regulator with regard to solvency  
24 regulation requirements and financial  
25 surveillance;

26 (iii) the substance of financial and

1 operating standards for assuming insurers in  
2 the domiciliary jurisdiction;

3 (iv) the form and substance of financial  
4 reports required to be filed or made publicly  
5 available by reinsurers in the domiciliary  
6 jurisdiction and the accounting principles  
7 used;

8 (v) the domiciliary regulator's  
9 willingness to cooperate with U.S. regulators  
10 in general and the Director in particular;

11 (vi) the history of performance by  
12 assuming insurers in the domiciliary  
13 jurisdiction;

14 (vii) any documented evidence of  
15 substantial problems with the enforcement of  
16 final U.S. judgments in the domiciliary  
17 jurisdiction; and

18 (viii) any relevant international  
19 standards or guidance with respect to mutual  
20 recognition of reinsurance supervision adopted  
21 by the International Association of Insurance  
22 Supervisors or its successor organization.

23 (c) If, upon conducting an evaluation under  
24 this paragraph with respect to the reinsurance  
25 supervisory system of any non-U.S. assuming  
26 insurer, the Director determines that the



1 jurisdiction qualifies to be recognized as a  
2 qualified jurisdiction, the Director shall publish  
3 notice and evidence of such recognition in an  
4 appropriate manner. The Director may establish a  
5 procedure to withdraw recognition of those  
6 jurisdictions that are no longer qualified.

7 (d) The Director shall consider the list of  
8 qualified jurisdictions through the NAIC committee  
9 process in determining qualified jurisdictions. If  
10 the Director approves a jurisdiction as qualified  
11 that does not appear on the list of qualified  
12 jurisdictions, then the Director shall provide  
13 thoroughly documented justification in accordance  
14 with criteria to be developed under regulations.

15 (e) U.S. jurisdictions that meet the  
16 requirement for accreditation under the NAIC  
17 financial standards and accreditation program  
18 shall be recognized as qualified jurisdictions.

19 (f) If a certified reinsurer's domiciliary  
20 jurisdiction ceases to be a qualified  
21 jurisdiction, then the Director may suspend the  
22 reinsurer's certification indefinitely, in lieu of  
23 revocation.

24 (4) If an applicant for certification has been  
25 certified as a reinsurer in an NAIC accredited  
26 jurisdiction, then the Director may defer to that

1 jurisdiction's certification and to the rating  
2 assigned by that jurisdiction if the assuming insurer  
3 submits a properly executed Form CR-1 and such  
4 additional information as the Director requires. Such  
5 assuming insurer shall be considered to be a certified  
6 reinsurer in this State but only upon the Director's  
7 assignment of an Illinois rating, which shall be made  
8 based on the requirements of subparagraph (5) of this  
9 paragraph (C-5). The following shall apply:

10 (a) Any change in the certified reinsurer's  
11 status or rating in the other jurisdiction shall  
12 apply automatically in Illinois as of the date it  
13 takes effect in the other jurisdiction. The  
14 certified reinsurer shall notify the Director of  
15 any change in its status or rating within 10 days  
16 after receiving notice of the change.

17 (b) The Director may withdraw recognition of  
18 the other jurisdiction's rating at any time and  
19 assign a new rating in accordance with  
20 subparagraph (5) of this paragraph (C-5).

21 (c) The Director may withdraw recognition of  
22 the other jurisdiction's certification at any time  
23 with written notice to the certified reinsurer.  
24 Unless the Director suspends or revokes the  
25 certified reinsurer's certification in accordance  
26 with item (c) of subparagraph (9) of this

1 paragraph (C-5), the certified reinsurer's  
2 certification shall remain in good standing in  
3 Illinois for a period of 3 months, which shall be  
4 extended if additional time is necessary to  
5 consider the assuming insurer's application for  
6 certification in Illinois.

7 (5) The Director shall assign a rating to each  
8 certified reinsurer pursuant to rules adopted by the  
9 Department. Factors that shall be considered as part  
10 of the evaluation process include the following:

11 (a) The certified reinsurer's financial  
12 strength rating from an acceptable rating agency.  
13 Financial strength ratings shall be classified  
14 according to the following ratings categories:

15 (i) Ratings Category "Secure - 1"  
16 corresponds to the highest level of rating  
17 given by a rating agency, including, but not  
18 limited to, A.M. Best Company rating A++;  
19 Standard & Poor's rating AAA; Moody's  
20 Investors Service rating Aaa; and Fitch  
21 Ratings rating AAA.

22 (ii) Ratings Category "Secure - 2"  
23 corresponds to the second-highest level of  
24 rating or group of ratings given by a rating  
25 agency, including, but not limited to, A.M.  
26 Best Company rating A+; Standard & Poor's

1 rating AA+, AA, or AA-; Moody's Investors  
2 Service ratings Aa1, Aa2, or Aa3; and Fitch  
3 Ratings ratings AA+, AA, or AA-.

4 (iii) Ratings Category "Secure - 3"  
5 corresponds to the third-highest level of  
6 rating or group of ratings given by a rating  
7 agency, including, but not limited to, A.M.  
8 Best Company rating A; Standard & Poor's  
9 ratings A+ or A; Moody's Investors Service  
10 ratings A1 or A2; and Fitch Ratings ratings A+  
11 or A.

12 (iv) Ratings Category "Secure - 4"  
13 corresponds to the fourth-highest level of  
14 rating or group of ratings given by a rating  
15 agency, including, but not limited to, A.M.  
16 Best Company rating A-; Standard & Poor's  
17 rating A-; Moody's Investors Service rating  
18 A3; and Fitch Ratings rating A-.

19 (v) Ratings Category "Secure - 5"  
20 corresponds to the fifth-highest level of  
21 rating or group of ratings given by a rating  
22 agency, including, but not limited to, A.M.  
23 Best Company ratings B++ or B+; Standard &  
24 Poor's ratings BBB+, BBB, or BBB-; Moody's  
25 Investors Service ratings Baa1, Baa2, or Baa3;  
26 and Fitch Ratings ratings BBB+, BBB, or BBB-.

1 (vi) Ratings Category "Vulnerable - 6"  
2 corresponds to a level of rating given by a  
3 rating agency, other than those described in  
4 subitems (i) through (v) of this item (a),  
5 including, but not limited to, A.M. Best  
6 Company rating B, B-, C++, C+, C, C-, D, E, or  
7 F; Standard & Poor's ratings BB+, BB, BB-, B+,  
8 B, B-, CCC, CC, C, D, or R; Moody's Investors  
9 Service ratings Ba1, Ba2, Ba3, B1, B2, B3,  
10 Caa, Ca, or C; and Fitch Ratings ratings BB+,  
11 BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

12 A failure to obtain or maintain at least 2  
13 financial strength ratings from acceptable rating  
14 agencies shall result in loss of eligibility for  
15 certification.

16 (b) The business practices of the certified  
17 reinsurer in dealing with its ceding insurers,  
18 including its record of compliance with  
19 reinsurance contractual terms and obligations.

20 (c) For certified reinsurers domiciled in the  
21 U.S., a review of the most recent applicable NAIC  
22 Annual Statement Blank, either Schedule F (for  
23 property and casualty reinsurers) or Schedule S  
24 (for life and health reinsurers).

25 (d) For certified reinsurers not domiciled in  
26 the U.S., a review annually of Form CR-F (for

1 property and casualty reinsurers) or Form CR-S  
2 (for life and health reinsurers).

3 (e) The reputation of the certified reinsurer  
4 for prompt payment of claims under reinsurance  
5 agreements, based on an analysis of ceding  
6 insurers' Schedule F reporting of overdue  
7 reinsurance recoverables, including the proportion  
8 of obligations that are more than 90 days past due  
9 or are in dispute, with specific attention given  
10 to obligations payable to companies that are in  
11 administrative supervision or receivership.

12 (f) Regulatory actions against the certified  
13 reinsurer.

14 (g) The report of the independent auditor on  
15 the financial statements of the insurance  
16 enterprise, on the basis described in item (h) of  
17 this subparagraph (5).

18 (h) For certified reinsurers not domiciled in  
19 the U.S., audited financial statements (audited  
20 Generally Accepted Accounting Principles (U.S.  
21 GAAP) basis statement if available, audited  
22 International Financial Reporting Standards (IFRS)  
23 basis statements are allowed but must include an  
24 audited footnote reconciling equity and net income  
25 to U.S. GAAP basis or, with the permission of the  
26 Director, audited IFRS basis statements with

1 reconciliation to U.S. GAAP basis certified by an  
2 officer of the company), regulatory filings, and  
3 actuarial opinion (as filed with the non-U.S.  
4 jurisdiction supervisor). Upon the initial  
5 application for certification, the Director shall  
6 consider the audited financial statements filed  
7 with its non-U.S. jurisdiction supervisor for the  
8 3 years immediately preceding the date of the  
9 initial application for certification.

10 (i) The liquidation priority of obligations to  
11 a ceding insurer in the certified reinsurer's  
12 domiciliary jurisdiction in the context of an  
13 insolvency proceeding.

14 (j) A certified reinsurer's participation in  
15 any solvent scheme of arrangement, or similar  
16 procedure, that involves U.S. ceding insurers. The  
17 Director shall receive prior notice from a  
18 certified reinsurer that proposes participation by  
19 the certified reinsurer in a solvent scheme of  
20 arrangement.

21 The maximum rating that a certified reinsurer may  
22 be assigned shall correspond to its financial strength  
23 rating, which shall be determined according to  
24 subitems (i) through (vi) of item (a) of this  
25 subparagraph (5). The Director shall use the lowest  
26 financial strength rating received from an acceptable

1 rating agency in establishing the maximum rating of a  
2 certified reinsurer.

3 (6) Based on the analysis conducted under item (e)  
4 of subparagraph (5) of this paragraph (C-5) of a  
5 certified reinsurer's reputation for prompt payment of  
6 claims, the Director may make appropriate adjustments  
7 in the security the certified reinsurer is required to  
8 post to protect its liabilities to U.S. ceding  
9 insurers, provided that the Director shall, at a  
10 minimum, increase the security the certified reinsurer  
11 is required to post by one rating level under item (a)  
12 of subparagraph (8) of this paragraph (C-5) if the  
13 Director finds that:

14 (a) more than 15% of the certified reinsurer's  
15 ceding insurance clients have overdue reinsurance  
16 recoverables on paid losses of 90 days or more  
17 that are not in dispute and that exceed \$100,000  
18 for each cedent; or

19 (b) the aggregate amount of reinsurance  
20 recoverables on paid losses that are not in  
21 dispute that are overdue by 90 days or more  
22 exceeds \$50,000,000.

23 (7) The Director shall post notice on the  
24 Department's website promptly upon receipt of any  
25 application for certification, including instructions  
26 on how members of the public may respond to the



1 application. The Director may not take final action on  
2 the application until at least 30 days after posting  
3 the notice required by this subparagraph. The Director  
4 shall publish a list of all certified reinsurers and  
5 their ratings.

6 (8) A certified reinsurer shall secure obligations  
7 assumed from U.S. ceding insurers under this  
8 subsection (1) at a level consistent with its rating.

9 (a) The amount of security required in order  
10 for full credit to be allowed shall correspond  
11 with the applicable ratings category:

12 Secure - 1: 0%.

13 Secure - 2: 10%.

14 Secure - 3: 20%.

15 Secure - 4: 50%.

16 Secure - 5: 75%.

17 Vulnerable - 6: 100%.

18 (b) Nothing in this subparagraph (8) shall  
19 prohibit the parties to a reinsurance agreement  
20 from agreeing to provisions establishing security  
21 requirements that exceed the minimum security  
22 requirements established for certified reinsurers  
23 under this Section.

24 (c) In order for a domestic ceding insurer to  
25 qualify for full financial statement credit for  
26 reinsurance ceded to a certified reinsurer, the

1 certified reinsurer shall maintain security in a  
2 form acceptable to the Director and consistent  
3 with the provisions of subsection (2) of this  
4 Section, or in a multibeneficiary trust in  
5 accordance with paragraph (C) of this subsection  
6 (1), except as otherwise provided in this  
7 subparagraph (8).

8 (d) If a certified reinsurer maintains a trust  
9 to fully secure its obligations subject to  
10 paragraph (C) of this subsection (1), and chooses  
11 to secure its obligations incurred as a certified  
12 reinsurer in the form of a multibeneficiary trust,  
13 then the certified reinsurer shall maintain  
14 separate trust accounts for its obligations  
15 incurred under reinsurance agreements issued or  
16 renewed as a certified reinsurer with reduced  
17 security as permitted by this subsection or  
18 comparable laws of other U.S. jurisdictions and  
19 for its obligations subject to paragraph (C) of  
20 this subsection (1). It shall be a condition to  
21 the grant of certification under this paragraph  
22 (C-5) that the certified reinsurer shall have  
23 bound itself, by the language of the trust and  
24 agreement with the Director with principal  
25 regulatory oversight of each such trust account,  
26 to fund, upon termination of any such trust

1 account, out of the remaining surplus of such  
2 trust any deficiency of any other such trust  
3 account. The certified reinsurer shall also  
4 provide or make available, if requested by a  
5 beneficiary under a trust, all the information  
6 that is required to be provided under the  
7 requirements of item (d) of subparagraph (2) of  
8 paragraph (C) of this subsection (1) to the  
9 certified reinsurer's U.S. ceding insurers or  
10 their assigns and successors in interest. The  
11 assuming insurer may decline to release trade  
12 secrets or commercially sensitive information that  
13 would qualify as exempt from disclosure under the  
14 Freedom of Information Act.

15 (e) The minimum trustee surplus requirements  
16 provided in paragraph (C) of this subsection (1)  
17 are not applicable with respect to a  
18 multibeneficiary trust maintained by a certified  
19 reinsurer for the purpose of securing obligations  
20 incurred under this subsection, except that such  
21 trust shall maintain a minimum trustee surplus of  
22 \$10,000,000.

23 (f) With respect to obligations incurred by a  
24 certified reinsurer under this subsection (1), if  
25 the security is insufficient, then the Director  
26 may reduce the allowable credit by an amount

1           proportionate to the deficiency and may impose  
2           further reductions in allowable credit upon  
3           finding that there is a material risk that the  
4           certified reinsurer's obligations will not be paid  
5           in full when due.

6           (9) (a) In the case of a downgrade by a rating  
7           agency or other disqualifying circumstance, the  
8           Director shall by written notice assign a new rating  
9           to the certified reinsurer in accordance with the  
10          requirements of subparagraph (5) of this paragraph  
11          (C-5).

12          (b) If the rating of a certified reinsurer is  
13          upgraded by the Director, then the certified reinsurer  
14          may meet the security requirements applicable to its  
15          new rating on a prospective basis, but the Director  
16          shall require the certified reinsurer to post security  
17          under the previously applicable security requirements  
18          as to all contracts in force on or before the effective  
19          date of the upgraded rating. If the rating of a  
20          certified reinsurer is downgraded by the Director,  
21          then the Director shall require the certified  
22          reinsurer to meet the security requirements applicable  
23          to its new rating for all business it has assumed as a  
24          certified reinsurer.

25          (c) The Director may suspend, revoke, or otherwise  
26          modify a certified reinsurer's certification at any

1 time if the certified reinsurer fails to meet its  
2 obligations or security requirements under this  
3 Section or if other financial or operating results of  
4 the certified reinsurer, or documented significant  
5 delays in payment by the certified reinsurer, lead the  
6 Director to reconsider the certified reinsurer's  
7 ability or willingness to meet its contractual  
8 obligations. In seeking to suspend, revoke, or  
9 otherwise modify a certified reinsurer's  
10 certification, the Director shall follow the  
11 procedures provided in paragraph (G) of this  
12 subsection (1).

13 (d) For purposes of this subsection (1), a  
14 certified reinsurer whose certification has been  
15 terminated for any reason shall be treated as a  
16 certified reinsurer required to secure 100% of its  
17 obligations.

18 (i) As used in this item (d), the term  
19 "terminated" refers to revocation, suspension,  
20 voluntary surrender and inactive status.

21 (ii) If the Director continues to assign a  
22 higher rating as permitted by other provisions of  
23 this Section, then this requirement does not apply  
24 to a certified reinsurer in inactive status or to  
25 a reinsurer whose certification has been  
26 suspended.

1           (e) Upon revocation of the certification of a  
2 certified reinsurer by the Director, the assuming  
3 insurer shall be required to post security in  
4 accordance with subsection (2) of this Section in  
5 order for the ceding insurer to continue to take  
6 credit for reinsurance ceded to the assuming insurer.  
7 If funds continue to be held in trust, then the  
8 Director may allow additional credit equal to the  
9 ceding insurer's pro rata share of the funds,  
10 discounted to reflect the risk of uncollectibility and  
11 anticipated expenses of trust administration.

12           (f) Notwithstanding the change of a certified  
13 reinsurer's rating or revocation of its certification,  
14 a domestic insurer that has ceded reinsurance to that  
15 certified reinsurer may not be denied credit for  
16 reinsurance for a period of 3 months for all  
17 reinsurance ceded to that certified reinsurer, unless  
18 the reinsurance is found by the Director to be at high  
19 risk of uncollectibility.

20           (10) A certified reinsurer that ceases to assume  
21 new business in this State may request to maintain its  
22 certification in inactive status in order to continue  
23 to qualify for a reduction in security for its  
24 in-force business. An inactive certified reinsurer  
25 shall continue to comply with all applicable  
26 requirements of this subsection (1), and the Director

1 shall assign a rating that takes into account, if  
2 relevant, the reasons why the reinsurer is not  
3 assuming new business.

4 (11) Credit for reinsurance under this paragraph  
5 (C-5) shall apply only to reinsurance contracts  
6 entered into or renewed on or after the effective date  
7 of the certification of the assuming insurer.

8 (12) The Director shall comply with all reporting  
9 and notification requirements that may be established  
10 by the NAIC with respect to certified reinsurers and  
11 qualified jurisdictions.

12 (D) Credit shall be allowed when the reinsurance is  
13 ceded to an assuming insurer not meeting the requirements  
14 of paragraph (A), (B), or (C) of this subsection (1) but  
15 only with respect to the insurance of risks located in  
16 jurisdictions where that reinsurance is required by  
17 applicable law or regulation of that jurisdiction.

18 (E) If the assuming insurer is not licensed to  
19 transact insurance in this State or an accredited or  
20 certified reinsurer in this State, the credit permitted by  
21 paragraphs (B-5) and (C) of this subsection (1) shall not  
22 be allowed unless the assuming insurer agrees in the  
23 reinsurance agreements:

24 (1) that in the event of the failure of the  
25 assuming insurer to perform its obligations under the  
26 terms of the reinsurance agreement, the assuming

1 insurer, at the request of the ceding insurer, shall  
2 submit to the jurisdiction of any court of competent  
3 jurisdiction in any state of the United States, will  
4 comply with all requirements necessary to give the  
5 court jurisdiction, and will abide by the final  
6 decision of the court or of any appellate court in the  
7 event of an appeal; and

8 (2) to designate the Director or a designated  
9 attorney as its true and lawful attorney upon whom may  
10 be served any lawful process in any action, suit, or  
11 proceeding instituted by or on behalf of the ceding  
12 company.

13 This provision is not intended to conflict with or  
14 override the obligation of the parties to a reinsurance  
15 agreement to arbitrate their disputes, if an obligation to  
16 arbitrate is created in the agreement.

17 (F) If the assuming insurer does not meet the  
18 requirements of paragraph (A) or (B) of this subsection  
19 (1), the credit permitted by paragraph (C) of this  
20 subsection (1) shall not be allowed unless the assuming  
21 insurer agrees in the trust agreements to the following  
22 conditions:

23 (1) Notwithstanding any other provisions in the  
24 trust instrument, if the trust fund is inadequate  
25 because it contains an amount less than the amount  
26 required by subparagraph (3) of paragraph (C) of this



1 subsection (1) or if the grantor of the trust has been  
2 declared insolvent or placed into receivership,  
3 rehabilitation, liquidation, or similar proceedings  
4 under the laws of its state or country of domicile, the  
5 trustee shall comply with an order of the state  
6 official with regulatory oversight over the trust or  
7 with an order of a court of competent jurisdiction  
8 directing the trustee to transfer to the state  
9 official with regulatory oversight all of the assets  
10 of the trust fund.

11 (2) The assets shall be distributed by and claims  
12 shall be filed with and valued by the state official  
13 with regulatory oversight in accordance with the laws  
14 of the state in which the trust is domiciled that are  
15 applicable to the liquidation of domestic insurance  
16 companies.

17 (3) If the state official with regulatory  
18 oversight determines that the assets of the trust fund  
19 or any part thereof are not necessary to satisfy the  
20 claims of the U.S. ceding insurers of the grantor of  
21 the trust, the assets or part thereof shall be  
22 returned by the state official with regulatory  
23 oversight to the trustee for distribution in  
24 accordance with the trust agreement.

25 (4) The grantor shall waive any rights otherwise  
26 available to it under U.S. law that are inconsistent

1 with the provision.

2 (G) If an accredited or certified reinsurer ceases to  
3 meet the requirements for accreditation or certification,  
4 then the Director may suspend or revoke the reinsurer's  
5 accreditation or certification.

6 (1) The Director must give the reinsurer notice  
7 and opportunity for hearing. The suspension or  
8 revocation may not take effect until after the  
9 Director's order on hearing, unless:

10 (a) the reinsurer waives its right to hearing;

11 (b) the Director's order is based on  
12 regulatory action by the reinsurer's domiciliary  
13 jurisdiction or the voluntary surrender or  
14 termination of the reinsurer's eligibility to  
15 transact insurance or reinsurance business in its  
16 domiciliary jurisdiction or in the primary  
17 certifying state of the reinsurer under  
18 subparagraph (4) of paragraph (C-5) of this  
19 subsection (1); or

20 (c) the Director finds that an emergency  
21 requires immediate action and a court of competent  
22 jurisdiction has not stayed the Director's action.

23 (2) While a reinsurer's accreditation or  
24 certification is suspended, no reinsurance contract  
25 issued or renewed after the effective date of the  
26 suspension qualifies for credit except to the extent

1           that the reinsurer's obligations under the contract  
2           are secured in accordance with subsection (2) of this  
3           Section. If a reinsurer's accreditation or  
4           certification is revoked, no credit for reinsurance  
5           may be granted after the effective date of the  
6           revocation, except to the extent that the reinsurer's  
7           obligations under the contract are secured in  
8           accordance with subsection (2) of this Section.

9           (H) The following provisions shall apply concerning  
10          concentration of risk:

11                 (1) A ceding insurer shall take steps to manage  
12                 its reinsurance recoverable proportionate to its own  
13                 book of business. A domestic ceding insurer shall  
14                 notify the Director within 30 days after reinsurance  
15                 recoverables from any single assuming insurer, or  
16                 group of affiliated assuming insurers, exceeds 50% of  
17                 the domestic ceding insurer's last reported surplus to  
18                 policyholders, or after it is determined that  
19                 reinsurance recoverables from any single assuming  
20                 insurer, or group of affiliated assuming insurers, is  
21                 likely to exceed this limit. The notification shall  
22                 demonstrate that the exposure is safely managed by the  
23                 domestic ceding insurer.

24                 (2) A ceding insurer shall take steps to diversify  
25                 its reinsurance program. A domestic ceding insurer  
26                 shall notify the Director within 30 days after ceding

1 to any single assuming insurer, or group of affiliated  
2 assuming insurers, more than 20% of the ceding  
3 insurer's gross written premium in the prior calendar  
4 year, or after it has determined that the reinsurance  
5 ceded to any single assuming insurer, or group of  
6 affiliated assuming insurers, is likely to exceed this  
7 limit. The notification shall demonstrate that the  
8 exposure is safely managed by the domestic ceding  
9 insurer.

10 (2) Credit for the reinsurance ceded by a domestic insurer  
11 to an assuming insurer not meeting the requirements of  
12 subsection (1) of this Section shall be allowed in an amount  
13 not exceeding the assets or liabilities carried by the ceding  
14 insurer. The credit shall not exceed the amount of funds held  
15 by or held in trust for the ceding insurer under a reinsurance  
16 contract with the assuming insurer as security for the payment  
17 of obligations thereunder, if the security is held in the  
18 United States subject to withdrawal solely by, and under the  
19 exclusive control of, the ceding insurer; or, in the case of a  
20 trust, held in a qualified United States financial  
21 institution, as defined in paragraph (B) of subsection (3) of  
22 this Section. This security may be in the form of:

23 (A) Cash.

24 (B) Securities listed by the Securities Valuation  
25 Office of the National Association of Insurance  
26 Commissioners, including those deemed exempt from filing

1 as defined by the Purposes and Procedures Manual of the  
2 Securities Valuation Office that conform to the  
3 requirements of Article VIII of this Code that are not  
4 issued by an affiliate of either the assuming or ceding  
5 company.

6 (C) Clean, irrevocable, unconditional, letters of  
7 credit issued or confirmed by a qualified United States  
8 financial institution, as defined in paragraph (A) of  
9 subsection (3) of this Section. The letters of credit  
10 shall be effective no later than December 31 of the year  
11 for which filing is being made, and in the possession of,  
12 or in trust for, the ceding company on or before the filing  
13 date of its annual statement. Letters of credit meeting  
14 applicable standards of issuer acceptability as of the  
15 dates of their issuance (or confirmation) shall,  
16 notwithstanding the issuing (or confirming) institution's  
17 subsequent failure to meet applicable standards of issuer  
18 acceptability, continue to be acceptable as security until  
19 their expiration, extension, renewal, modification, or  
20 amendment, whichever first occurs.

21 (D) Any other form of security acceptable to the  
22 Director.

23 (3) (A) For purposes of paragraph (C) of subsection (2) of  
24 this Section, a "qualified United States financial  
25 institution" means an institution that:

26 (1) is organized or, in the case of a U.S. office of a

1 foreign banking organization, licensed under the laws of  
2 the United States or any state thereof;

3 (2) is regulated, supervised, and examined by U.S.  
4 federal or state authorities having regulatory authority  
5 over banks and trust companies;

6 (3) has been designated by either the Director or the  
7 Securities Valuation Office of the National Association of  
8 Insurance Commissioners as meeting such standards of  
9 financial condition and standing as are considered  
10 necessary and appropriate to regulate the quality of  
11 financial institutions whose letters of credit will be  
12 acceptable to the Director; and

13 (4) is not affiliated with the assuming company.

14 (B) A "qualified United States financial institution"  
15 means, for purposes of those provisions of this law specifying  
16 those institutions that are eligible to act as a fiduciary of a  
17 trust, an institution that:

18 (1) is organized or, in the case of the U.S. branch or  
19 agency office of a foreign banking organization, licensed  
20 under the laws of the United States or any state thereof  
21 and has been granted authority to operate with fiduciary  
22 powers;

23 (2) is regulated, supervised, and examined by federal  
24 or state authorities having regulatory authority over  
25 banks and trust companies; and

26 (3) is not affiliated with the assuming company,

1           however, if the subject of the reinsurance contract is  
2           insurance written pursuant to Section 155.51 of this Code,  
3           the financial institution may be affiliated with the  
4           assuming company with the prior approval of the Director.

5           (C) Except as set forth in subparagraph (11) of paragraph  
6           (C-5) of subsection (1) of this Section as to cessions by  
7           certified reinsurers, this amendatory Act of the 100th General  
8           Assembly shall apply to all cessions after the effective date  
9           of this amendatory Act of the 100th General Assembly under  
10          reinsurance agreements that have an inception, anniversary, or  
11          renewal date not less than 6 months after the effective date of  
12          this amendatory Act of the 100th General Assembly.

13          (D) The Department shall adopt rules implementing the  
14          provisions of this Article.

15          (Source: P.A. 100-1118, eff. 11-27-18.)

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

17          Sec. 173.1. Credit allowed a domestic ceding insurer.

18          (1) Except as otherwise provided under Article VIII 1/2 of  
19          this Code and related provisions of the Illinois  
20          Administrative Code, credit for reinsurance shall be allowed a  
21          domestic ceding insurer as either an admitted asset or a  
22          deduction from liability on account of reinsurance ceded only  
23          when the reinsurer meets the requirements of paragraph (A),  
24          (B), (B-5), (C), (C-5), (C-10), or (D) of this subsection (1).  
25          Credit shall be allowed under paragraph (A), (B), or (B-5) of

1 this subsection (1) only as respects cessions of those kinds  
2 or classes of business in which the assuming insurer is  
3 licensed or otherwise permitted to write or assume in its  
4 state of domicile, or in the case of a U.S. branch of a  
5 non-domestic ~~an alien~~ assuming insurer, in the state through  
6 which it is entered and licensed to transact insurance or  
7 reinsurance. Credit shall be allowed under paragraph (B-5) or  
8 (C) of this subsection (1) only if the applicable requirements  
9 of paragraph (E) of this subsection (1) have been satisfied.

10 (A) Credit shall be allowed when the reinsurance is  
11 ceded to an assuming insurer that is authorized in this  
12 State to transact the types of insurance ceded and has at  
13 least \$5,000,000 in capital and surplus.

14 (B) Credit shall be allowed when the reinsurance is  
15 ceded to an assuming insurer that is accredited as a  
16 reinsurer in this State. An accredited reinsurer is one  
17 that:

18 (1) files with the Director evidence of its  
19 submission to this State's jurisdiction;

20 (2) submits to this State's authority to examine  
21 its books and records;

22 (3) is licensed to transact insurance or  
23 reinsurance in at least one state, or in the case of a  
24 U.S. branch of a non-domestic ~~an alien~~ assuming  
25 insurer is entered through and licensed to transact  
26 insurance or reinsurance in at least one state;



1 (4) files annually with the Director a copy of its  
2 annual statement filed with the insurance department  
3 of its state of domicile and a copy of its most recent  
4 audited financial statement; and

5 (5) maintains a surplus as regards policyholders  
6 in an amount that is not less than \$20,000,000 and  
7 whose accreditation has been approved by the Director.

8 (B-5) (1) Credit shall be allowed when the reinsurance  
9 is ceded to an assuming insurer that is domiciled in, or in  
10 the case of a U.S. branch of a non-domestic ~~an alien~~  
11 assuming insurer is entered through, a state that employs  
12 standards regarding credit for reinsurance substantially  
13 similar to those applicable under this Code and the  
14 assuming insurer or U.S. branch of a non-domestic ~~an alien~~  
15 assuming insurer:

16 (a) maintains a surplus as regards policyholders  
17 in an amount not less than \$20,000,000; and

18 (b) submits to the authority of this State to  
19 examine its books and records.

20 (2) The requirement of item (a) of subparagraph (1) of  
21 paragraph (B-5) of this subsection (1) does not apply to  
22 reinsurance ceded and assumed pursuant to pooling  
23 arrangements among insurers in the same holding company  
24 system.

25 (C) (1) Credit shall be allowed when the reinsurance  
26 is ceded to an assuming insurer that maintains a trust

1 fund in a qualified United States financial institution,  
2 as defined in paragraph (B) of subsection (3) of this  
3 Section, for the payment of the valid claims of its United  
4 States policyholders and ceding insurers, their assigns  
5 and successors in interest. The assuming insurer shall  
6 report to the Director information substantially the same  
7 as that required to be reported on the NAIC annual and  
8 quarterly financial statement by authorized insurers and  
9 any other financial information that the Director deems  
10 necessary to determine the financial condition of the  
11 assuming insurer and the sufficiency of the trust fund.  
12 The assuming insurer shall provide or make the information  
13 available to the ceding insurer. The assuming insurer may  
14 decline to release trade secrets or commercially sensitive  
15 information that would qualify as exempt from disclosure  
16 under the Freedom of Information Act. The Director shall  
17 also make the information publicly available, subject only  
18 to such reasonable objections as might be raised to a  
19 request pursuant to the Freedom of Information Act, as  
20 determined by the Director. The assuming insurer shall  
21 submit to examination of its books and records by the  
22 Director and bear the expense of examination.

23 (2) (a) Credit for reinsurance shall not be granted  
24 under this subsection unless the form of the trust and any  
25 amendments to the trust have been approved by:

26 (i) the regulatory official of the state where the

1 trust is domiciled; or

2 (ii) the regulatory official of another state who,  
3 pursuant to the terms of the trust instrument, has  
4 accepted principal regulatory oversight of the trust.

5 (b) The form of the trust and any trust amendments  
6 also shall be filed with the regulatory official of every  
7 state in which the ceding insurer beneficiaries of the  
8 trust are domiciled. The trust instrument shall provide  
9 that contested claims shall be valid and enforceable upon  
10 the final order of any court of competent jurisdiction in  
11 the United States. The trust shall vest legal title to its  
12 assets in its trustees for the benefit of the assuming  
13 insurer's United States policyholders and ceding insurees  
14 and their assigns and successors in interest. The trust  
15 and the assuming insurer shall be subject to examination  
16 as determined by the Director.

17 (c) The trust shall remain in effect for as long as the  
18 assuming insurer has outstanding obligations due under the  
19 reinsurance agreements subject to the trust. No later than  
20 February 28 of each year the trustee of the trust shall  
21 report to the Director in writing the balance of the trust  
22 and a list of the trust's investments at the preceding  
23 year-end and shall certify the date of termination of the  
24 trust, if so planned, or certify that the trust will not  
25 expire prior to the next following December 31.

26 No later than February 28 of each year, the assuming

1 insurer's chief executive officer or chief financial  
2 officer shall certify to the Director that the trust fund  
3 contains funds in an amount not less than the assuming  
4 insurer's liabilities (as reported to the assuming insurer  
5 by its cedent) attributable to reinsurance ceded by U.S.  
6 ceding insurers, and in addition, a trusted surplus of no  
7 less than \$20,000,000. In the event that item (a-5) of  
8 subparagraph (3) of this paragraph (C) applies to the  
9 trust, the assuming insurer's chief executive officer or  
10 chief financial officer shall then certify to the Director  
11 that the trust fund contains funds in an amount not less  
12 than the assuming insurer's liabilities (as reported to  
13 the assuming insurer by its cedent) attributable to  
14 reinsurance ceded by U.S. ceding insurers and, in  
15 addition, a reduced trusted surplus of not less than the  
16 amount that has been authorized by the regulatory  
17 authority having principal regulatory oversight of the  
18 trust.

19 (d) No later than February 28 of each year, an  
20 assuming insurer that maintains a trust fund in accordance  
21 with this paragraph (C) shall provide or make available,  
22 if requested by a beneficiary under the trust fund, the  
23 following information to the assuming insurer's U.S.  
24 ceding insurers or their assigns and successors in  
25 interest:

26 (i) a copy of the form of the trust agreement and

1 any trust amendments to the trust agreement pertaining  
2 to the trust fund;

3 (ii) a copy of the annual and quarterly financial  
4 information, and its most recent audited financial  
5 statement provided to the Director by the assuming  
6 insurer, including any exhibits and schedules thereto;

7 (iii) any financial information provided to the  
8 Director by the assuming insurer that the Director has  
9 deemed necessary to determine the financial condition  
10 of the assuming insurer and the sufficiency of the  
11 trust fund;

12 (iv) a copy of any annual and quarterly financial  
13 information provided to the Director by the trustee of  
14 the trust fund maintained by the assuming insurer,  
15 including any exhibits and schedules thereto;

16 (v) a copy of the information required to be  
17 reported by the trustee of the trust to the Director  
18 under the provisions of this paragraph (C); and

19 (vi) a written certification that the trust fund  
20 consists of funds in trust in an amount not less than  
21 the assuming insurer's liabilities attributable to  
22 reinsurance liabilities (as reported to the assuming  
23 insurer by its cedent) attributable to reinsurance  
24 ceded by U.S. ceding insurers and, in addition, a  
25 trusted surplus of not less than \$20,000,000.

26 (3) The following requirements apply to the following

1 categories of assuming insurer:

2 (a) The trust fund for a single assuming insurer  
3 shall consist of funds in trust in an amount not less  
4 than the assuming insurer's liabilities attributable  
5 to reinsurance ceded by U.S. ceding insurers, and in  
6 addition, the assuming insurer shall maintain a  
7 trustee surplus of not less than \$20,000,000, except  
8 as provided in item (a-5) of this subparagraph (3).

9 (a-5) At any time after the assuming insurer has  
10 permanently discontinued underwriting new business  
11 secured by the trust for at least 3 full years, the  
12 Director with principal regulatory oversight of the  
13 trust may authorize a reduction in the required  
14 trustee surplus, but only after a finding, based on  
15 an assessment of the risk, that the new required  
16 surplus level is adequate for the protection of U.S.  
17 ceding insurers, policyholders, and claimants in light  
18 of reasonably foreseeable adverse loss development.  
19 The risk assessment may involve an actuarial review,  
20 including an independent analysis of reserves and cash  
21 flows, and shall consider all material risk factors,  
22 including, when applicable, the lines of business  
23 involved, the stability of the incurred loss  
24 estimates, and the effect of the surplus requirements  
25 on the assuming insurer's liquidity or solvency. The  
26 minimum required trustee surplus may not be reduced

1 to an amount less than 30% of the assuming insurer's  
2 liabilities attributable to reinsurance ceded by U.S.  
3 ceding insurers covered by the trust.

4 (b) (i) In the case of a group including  
5 incorporated and individual unincorporated  
6 underwriters:

7 (I) for reinsurance ceded under reinsurance  
8 agreements with an inception, amendment, or  
9 renewal date on or after January 1, 1993, the  
10 trust shall consist of a trusteed account in an  
11 amount not less than the respective underwriters'  
12 several liabilities attributable to business ceded  
13 by U.S. domiciled ceding insurers to any member of  
14 the group;

15 (II) for reinsurance ceded under reinsurance  
16 agreements with an inception date on or before  
17 December 31, 1992 and not amended or renewed after  
18 that date, notwithstanding the other provisions of  
19 this Act, the trust shall consist of a trusteed  
20 account in an amount not less than the group's  
21 several insurance and reinsurance liabilities  
22 attributable to business written in the United  
23 States; and

24 (III) in addition to these trusts, the group  
25 shall maintain in trust a trusteed surplus of  
26 which not less than \$100,000,000 shall be held

1 jointly for the benefit of the U.S. domiciled  
2 ceding insurers of any member of the group for all  
3 years of account.

4 (ii) The incorporated members of the group shall  
5 not be engaged in any business other than underwriting  
6 as a member of the group and shall be subject to the  
7 same level of solvency regulation and control by the  
8 group's domiciliary regulator as are the  
9 unincorporated members.

10 (iii) Within 90 days after its financial  
11 statements are due to be filed with the group's  
12 domiciliary regulator, the group shall provide to the  
13 Director an annual certification by the group's  
14 domiciliary regulator of the solvency of each  
15 underwriter member, or if a certification is  
16 unavailable, financial statements prepared by  
17 independent public accountants of each underwriter  
18 member of the group.

19 (c) In the case of a group of incorporated  
20 insurers under common administration, the group shall:

21 (i) have continuously transacted an insurance  
22 business outside the United States for at least 3  
23 years immediately before making application for  
24 accreditation;

25 (ii) maintain aggregate policyholders' surplus  
26 of not less than \$10,000,000,000;



1 (iii) maintain a trust in an amount not less  
2 than the group's several liabilities attributable  
3 to business ceded by United States domiciled  
4 ceding insurers to any member of the group  
5 pursuant to reinsurance contracts issued in the  
6 name of the group;

7 (iv) in addition, maintain a joint trusteed  
8 surplus of which not less than \$100,000,000 shall  
9 be held jointly for the benefit of the United  
10 States ceding insurers of any member of the group  
11 as additional security for these liabilities; and

12 (v) within 90 days after its financial  
13 statements are due to be filed with the group's  
14 domiciliary regulator, make available to the  
15 Director an annual certification of each  
16 underwriter member's solvency by the member's  
17 domiciliary regulator and financial statements of  
18 each underwriter member of the group prepared by  
19 its independent public accountant.

20 (C-5) Credit shall be allowed when the reinsurance is  
21 ceded to an assuming insurer that has been certified by  
22 the Director as a reinsurer in this State and secures its  
23 obligations in accordance with the requirements of this  
24 paragraph (C-5).

25 (1) In order to be eligible for certification, the  
26 assuming insurer shall meet the following

1 requirements:

2 (a) the assuming insurer must be domiciled and  
3 licensed to transact insurance or reinsurance in a  
4 qualified jurisdiction, as determined by the  
5 Director pursuant to subparagraph (3) of this  
6 paragraph (C-5);

7 (b) the assuming insurer must maintain minimum  
8 capital and surplus, or its equivalent, in an  
9 amount not less than \$250,000,000 or such greater  
10 amount as determined by the Director pursuant to  
11 regulation; this requirement may also be satisfied  
12 by an association, including incorporated and  
13 individual unincorporated underwriters, having  
14 minimum capital and surplus equivalents (net of  
15 liabilities) of at least \$250,000,000 and a  
16 central fund containing a balance of at least  
17 \$250,000,000;

18 (c) the assuming insurer must maintain  
19 financial strength ratings from 2 or more rating  
20 agencies deemed acceptable by the Director; these  
21 ratings shall be based on interactive  
22 communication between the rating agency and the  
23 assuming insurer and shall not be based solely on  
24 publicly available information; each certified  
25 reinsurer shall be rated on a legal entity basis,  
26 with due consideration being given to the group

1 rating where appropriate, except that an  
2 association, including incorporated and individual  
3 unincorporated underwriters, that has been  
4 approved to do business as a single certified  
5 reinsurer may be evaluated on the basis of its  
6 group rating; these financial strength ratings  
7 shall be one factor used by the Director in  
8 determining the rating that is assigned to the  
9 assuming insurer; acceptable rating agencies  
10 include the following:

11 (i) Standard & Poor's;

12 (ii) Moody's Investors Service;

13 (iii) Fitch Ratings;

14 (iv) A.M. Best Company; or

15 (v) any other nationally recognized  
16 statistical rating organization;

17 (d) the assuming insurer must agree to submit  
18 to the jurisdiction of this State, appoint the  
19 Director as its agent for service of process in  
20 this State, and agree to provide security for 100%  
21 of the assuming insurer's liabilities attributable  
22 to reinsurance ceded by U.S. ceding insurers if it  
23 resists enforcement of a final U.S. judgment; and

24 (e) the assuming insurer must agree to meet  
25 applicable information filing requirements as  
26 determined by the Director, both with respect to

1 an initial application for certification and on an  
2 ongoing basis.

3 (2) An association, including incorporated and  
4 individual unincorporated underwriters, may be a  
5 certified reinsurer. In order to be eligible for  
6 certification, in addition to satisfying the  
7 requirements of subparagraph (1) of this paragraph  
8 (C-5):

9 (a) the association shall satisfy its minimum  
10 capital and surplus requirements through the  
11 capital and surplus equivalents (net of  
12 liabilities) of the association and its members,  
13 which shall include a joint central fund that may  
14 be applied to any unsatisfied obligation of the  
15 association or any of its members, in the amounts  
16 specified in item (b) of subparagraph (1) of this  
17 paragraph (C-5);

18 (b) the incorporated members of the  
19 association shall not be engaged in any business  
20 other than underwriting as a member of the  
21 association and shall be subject to the same level  
22 of regulation and solvency control by the  
23 association's domiciliary regulator as are the  
24 unincorporated members; and

25 (c) within 90 days after its financial  
26 statements are due to be filed with the

1           association's domiciliary regulator, the  
2           association shall provide to the Director an  
3           annual certification by the association's  
4           domiciliary regulator of the solvency of each  
5           underwriter member; or if a certification is  
6           unavailable, financial statements, prepared by  
7           independent public accountants, of each  
8           underwriter member of the association.

9           (3) The Director shall create and publish a list  
10          of qualified jurisdictions, under which an assuming  
11          insurer licensed and domiciled in such jurisdiction is  
12          eligible to be considered for certification by the  
13          Director as a certified reinsurer.

14                 (a) In order to determine whether the  
15                 domiciliary jurisdiction of a non-U.S. assuming  
16                 insurer is eligible to be recognized as a  
17                 qualified jurisdiction, the Director shall  
18                 evaluate the appropriateness and effectiveness of  
19                 the reinsurance supervisory system of the  
20                 jurisdiction, both initially and on an ongoing  
21                 basis, and consider the rights, benefits, and  
22                 extent of reciprocal recognition afforded by the  
23                 non-U.S. jurisdiction to reinsurers licensed and  
24                 domiciled in the U.S. A qualified jurisdiction  
25                 must agree in writing to share information and  
26                 cooperate with the Director with respect to all

1 certified reinsurers domiciled within that  
2 jurisdiction. A jurisdiction may not be recognized  
3 as a qualified jurisdiction if the Director has  
4 determined that the jurisdiction does not  
5 adequately and promptly enforce final U.S.  
6 judgments and arbitration awards. The costs and  
7 expenses associated with the Director's review and  
8 evaluation of the domiciliary jurisdictions of  
9 non-U.S. assuming insurers shall be borne by the  
10 certified reinsurer or reinsurers domiciled in  
11 such jurisdiction.

12 (b) Additional factors to be considered in  
13 determining whether to recognize a qualified  
14 jurisdiction include, but are not limited to, the  
15 following:

16 (i) the framework under which the assuming  
17 insurer is regulated;

18 (ii) the structure and authority of the  
19 domiciliary regulator with regard to solvency  
20 regulation requirements and financial  
21 surveillance;

22 (iii) the substance of financial and  
23 operating standards for assuming insurers in  
24 the domiciliary jurisdiction;

25 (iv) the form and substance of financial  
26 reports required to be filed or made publicly

1 available by reinsurers in the domiciliary  
2 jurisdiction and the accounting principles  
3 used;

4 (v) the domiciliary regulator's  
5 willingness to cooperate with U.S. regulators  
6 in general and the Director in particular;

7 (vi) the history of performance by  
8 assuming insurers in the domiciliary  
9 jurisdiction;

10 (vii) any documented evidence of  
11 substantial problems with the enforcement of  
12 final U.S. judgments in the domiciliary  
13 jurisdiction; and

14 (viii) any relevant international  
15 standards or guidance with respect to mutual  
16 recognition of reinsurance supervision adopted  
17 by the International Association of Insurance  
18 Supervisors or its successor organization.

19 (c) If, upon conducting an evaluation under  
20 this paragraph with respect to the reinsurance  
21 supervisory system of any non-U.S. assuming  
22 insurer, the Director determines that the  
23 jurisdiction qualifies to be recognized as a  
24 qualified jurisdiction, the Director shall publish  
25 notice and evidence of such recognition in an  
26 appropriate manner. The Director may establish a

1 procedure to withdraw recognition of those  
2 jurisdictions that are no longer qualified.

3 (d) The Director shall consider the list of  
4 qualified jurisdictions through the NAIC committee  
5 process in determining qualified jurisdictions. If  
6 the Director approves a jurisdiction as qualified  
7 that does not appear on the list of qualified  
8 jurisdictions, then the Director shall provide  
9 thoroughly documented justification in accordance  
10 with criteria to be developed under regulations.

11 (e) U.S. jurisdictions that meet the  
12 requirement for accreditation under the NAIC  
13 financial standards and accreditation program  
14 shall be recognized as qualified jurisdictions.

15 (f) If a certified reinsurer's domiciliary  
16 jurisdiction ceases to be a qualified  
17 jurisdiction, then the Director may suspend the  
18 reinsurer's certification indefinitely, in lieu of  
19 revocation.

20 (4) If an applicant for certification has been  
21 certified as a reinsurer in an NAIC accredited  
22 jurisdiction, then the Director may defer to that  
23 jurisdiction's certification and to the rating  
24 assigned by that jurisdiction if the assuming insurer  
25 submits a properly executed Form CR-1 and such  
26 additional information as the Director requires. Such



1           assuming insurer shall be considered to be a certified  
2           reinsurer in this State but only upon the Director's  
3           assignment of an Illinois rating, which shall be made  
4           based on the requirements of subparagraph (5) of this  
5           paragraph (C-5). The following shall apply:

6                   (a) Any change in the certified reinsurer's  
7                   status or rating in the other jurisdiction shall  
8                   apply automatically in Illinois as of the date it  
9                   takes effect in the other jurisdiction. The  
10                  certified reinsurer shall notify the Director of  
11                  any change in its status or rating within 10 days  
12                  after receiving notice of the change.

13                  (b) The Director may withdraw recognition of  
14                  the other jurisdiction's rating at any time and  
15                  assign a new rating in accordance with  
16                  subparagraph (5) of this paragraph (C-5).

17                  (c) The Director may withdraw recognition of  
18                  the other jurisdiction's certification at any time  
19                  with written notice to the certified reinsurer.  
20                  Unless the Director suspends or revokes the  
21                  certified reinsurer's certification in accordance  
22                  with item (c) of subparagraph (9) of this  
23                  paragraph (C-5), the certified reinsurer's  
24                  certification shall remain in good standing in  
25                  Illinois for a period of 3 months, which shall be  
26                  extended if additional time is necessary to



1 corresponds to the third-highest level of  
2 rating or group of ratings given by a rating  
3 agency, including, but not limited to, A.M.  
4 Best Company rating A; Standard & Poor's  
5 ratings A+ or A; Moody's Investors Service  
6 ratings A1 or A2; and Fitch Ratings ratings A+  
7 or A.

8 (iv) Ratings Category "Secure - 4"  
9 corresponds to the fourth-highest level of  
10 rating or group of ratings given by a rating  
11 agency, including, but not limited to, A.M.  
12 Best Company rating A-; Standard & Poor's  
13 rating A-; Moody's Investors Service rating  
14 A3; and Fitch Ratings rating A-.

15 (v) Ratings Category "Secure - 5"  
16 corresponds to the fifth-highest level of  
17 rating or group of ratings given by a rating  
18 agency, including, but not limited to, A.M.  
19 Best Company ratings B++ or B+; Standard &  
20 Poor's ratings BBB+, BBB, or BBB-; Moody's  
21 Investors Service ratings Baa1, Baa2, or Baa3;  
22 and Fitch Ratings ratings BBB+, BBB, or BBB-.

23 (vi) Ratings Category "Vulnerable - 6"  
24 corresponds to a level of rating given by a  
25 rating agency, other than those described in  
26 subitems (i) through (v) of this item (a),

1 including, but not limited to, A.M. Best  
2 Company rating B, B-, C++, C+, C, C-, D, E, or  
3 F; Standard & Poor's ratings BB+, BB, BB-, B+,  
4 B, B-, CCC, CC, C, D, or R; Moody's Investors  
5 Service ratings Ba1, Ba2, Ba3, B1, B2, B3,  
6 Caa, Ca, or C; and Fitch Ratings ratings BB+,  
7 BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

8 A failure to obtain or maintain at least 2  
9 financial strength ratings from acceptable rating  
10 agencies shall result in loss of eligibility for  
11 certification.

12 (b) The business practices of the certified  
13 reinsurer in dealing with its ceding insurers,  
14 including its record of compliance with  
15 reinsurance contractual terms and obligations.

16 (c) For certified reinsurers domiciled in the  
17 U.S., a review of the most recent applicable NAIC  
18 Annual Statement Blank, either Schedule F (for  
19 property and casualty reinsurers) or Schedule S  
20 (for life and health reinsurers).

21 (d) For certified reinsurers not domiciled in  
22 the U.S., a review annually of Form CR-F (for  
23 property and casualty reinsurers) or Form CR-S  
24 (for life and health reinsurers).

25 (e) The reputation of the certified reinsurer  
26 for prompt payment of claims under reinsurance

1 agreements, based on an analysis of ceding  
2 insurers' Schedule F reporting of overdue  
3 reinsurance recoverables, including the proportion  
4 of obligations that are more than 90 days past due  
5 or are in dispute, with specific attention given  
6 to obligations payable to companies that are in  
7 administrative supervision or receivership.

8 (f) Regulatory actions against the certified  
9 reinsurer.

10 (g) The report of the independent auditor on  
11 the financial statements of the insurance  
12 enterprise, on the basis described in item (h) of  
13 this subparagraph (5).

14 (h) For certified reinsurers not domiciled in  
15 the U.S., audited financial statements (audited  
16 Generally Accepted Accounting Principles (U.S.  
17 GAAP) basis statement if available, audited  
18 International Financial Reporting Standards (IFRS)  
19 basis statements are allowed but must include an  
20 audited footnote reconciling equity and net income  
21 to U.S. GAAP basis or, with the permission of the  
22 Director, audited IFRS basis statements with  
23 reconciliation to U.S. GAAP basis certified by an  
24 officer of the company), regulatory filings, and  
25 actuarial opinion (as filed with the non-U.S.  
26 jurisdiction supervisor). Upon the initial

1 application for certification, the Director shall  
2 consider the audited financial statements filed  
3 with its non-U.S. jurisdiction supervisor for the  
4 3 years immediately preceding the date of the  
5 initial application for certification.

6 (i) The liquidation priority of obligations to  
7 a ceding insurer in the certified reinsurer's  
8 domiciliary jurisdiction in the context of an  
9 insolvency proceeding.

10 (j) A certified reinsurer's participation in  
11 any solvent scheme of arrangement, or similar  
12 procedure, that involves U.S. ceding insurers. The  
13 Director shall receive prior notice from a  
14 certified reinsurer that proposes participation by  
15 the certified reinsurer in a solvent scheme of  
16 arrangement.

17 The maximum rating that a certified reinsurer may  
18 be assigned shall correspond to its financial strength  
19 rating, which shall be determined according to  
20 subitems (i) through (vi) of item (a) of this  
21 subparagraph (5). The Director shall use the lowest  
22 financial strength rating received from an acceptable  
23 rating agency in establishing the maximum rating of a  
24 certified reinsurer.

25 (6) Based on the analysis conducted under item (e)  
26 of subparagraph (5) of this paragraph (C-5) of a

1 certified reinsurer's reputation for prompt payment of  
2 claims, the Director may make appropriate adjustments  
3 in the security the certified reinsurer is required to  
4 post to protect its liabilities to U.S. ceding  
5 insurers, provided that the Director shall, at a  
6 minimum, increase the security the certified reinsurer  
7 is required to post by one rating level under item (a)  
8 of subparagraph (8) of this paragraph (C-5) if the  
9 Director finds that:

10 (a) more than 15% of the certified reinsurer's  
11 ceding insurance clients have overdue reinsurance  
12 recoverables on paid losses of 90 days or more  
13 that are not in dispute and that exceed \$100,000  
14 for each cedent; or

15 (b) the aggregate amount of reinsurance  
16 recoverables on paid losses that are not in  
17 dispute that are overdue by 90 days or more  
18 exceeds \$50,000,000.

19 (7) The Director shall post notice on the  
20 Department's website promptly upon receipt of any  
21 application for certification, including instructions  
22 on how members of the public may respond to the  
23 application. The Director may not take final action on  
24 the application until at least 30 days after posting  
25 the notice required by this subparagraph. The Director  
26 shall publish a list of all certified reinsurers and

1           their ratings.

2           (8) A certified reinsurer shall secure obligations  
3 assumed from U.S. ceding insurers under this  
4 subsection (1) at a level consistent with its rating.

5           (a) The amount of security required in order  
6 for full credit to be allowed shall correspond  
7 with the applicable ratings category:

8                       Secure - 1: 0%.

9                       Secure - 2: 10%.

10                      Secure - 3: 20%.

11                      Secure - 4: 50%.

12                      Secure - 5: 75%.

13                      Vulnerable - 6: 100%.

14           (b) Nothing in this subparagraph (8) shall  
15 prohibit the parties to a reinsurance agreement  
16 from agreeing to provisions establishing security  
17 requirements that exceed the minimum security  
18 requirements established for certified reinsurers  
19 under this Section.

20           (c) In order for a domestic ceding insurer to  
21 qualify for full financial statement credit for  
22 reinsurance ceded to a certified reinsurer, the  
23 certified reinsurer shall maintain security in a  
24 form acceptable to the Director and consistent  
25 with the provisions of subsection (2) of this  
26 Section, or in a multibeneficiary trust in



1 accordance with paragraph (C) of this subsection  
2 (1), except as otherwise provided in this  
3 subparagraph (8).

4 (d) If a certified reinsurer maintains a trust  
5 to fully secure its obligations subject to  
6 paragraph (C) of this subsection (1), and chooses  
7 to secure its obligations incurred as a certified  
8 reinsurer in the form of a multibeneficiary trust,  
9 then the certified reinsurer shall maintain  
10 separate trust accounts for its obligations  
11 incurred under reinsurance agreements issued or  
12 renewed as a certified reinsurer with reduced  
13 security as permitted by this subsection or  
14 comparable laws of other U.S. jurisdictions and  
15 for its obligations subject to paragraph (C) of  
16 this subsection (1). It shall be a condition to  
17 the grant of certification under this paragraph  
18 (C-5) that the certified reinsurer shall have  
19 bound itself, by the language of the trust and  
20 agreement with the Director with principal  
21 regulatory oversight of each such trust account,  
22 to fund, upon termination of any such trust  
23 account, out of the remaining surplus of such  
24 trust any deficiency of any other such trust  
25 account. The certified reinsurer shall also  
26 provide or make available, if requested by a

1 beneficiary under a trust, all the information  
2 that is required to be provided under the  
3 requirements of item (d) of subparagraph (2) of  
4 paragraph (C) of this subsection (1) to the  
5 certified reinsurer's U.S. ceding insurers or  
6 their assigns and successors in interest. The  
7 assuming insurer may decline to release trade  
8 secrets or commercially sensitive information that  
9 would qualify as exempt from disclosure under the  
10 Freedom of Information Act.

11 (e) The minimum trustee surplus requirements  
12 provided in paragraph (C) of this subsection (1)  
13 are not applicable with respect to a  
14 multibeneficiary trust maintained by a certified  
15 reinsurer for the purpose of securing obligations  
16 incurred under this subsection, except that such  
17 trust shall maintain a minimum trustee surplus of  
18 \$10,000,000.

19 (f) With respect to obligations incurred by a  
20 certified reinsurer under this subsection (1), if  
21 the security is insufficient, then the Director  
22 may reduce the allowable credit by an amount  
23 proportionate to the deficiency and may impose  
24 further reductions in allowable credit upon  
25 finding that there is a material risk that the  
26 certified reinsurer's obligations will not be paid

1           in full when due.

2           (9) (a) In the case of a downgrade by a rating  
3 agency or other disqualifying circumstance, the  
4 Director shall by written notice assign a new rating  
5 to the certified reinsurer in accordance with the  
6 requirements of subparagraph (5) of this paragraph  
7 (C-5).

8           (b) If the rating of a certified reinsurer is  
9 upgraded by the Director, then the certified reinsurer  
10 may meet the security requirements applicable to its  
11 new rating on a prospective basis, but the Director  
12 shall require the certified reinsurer to post security  
13 under the previously applicable security requirements  
14 as to all contracts in force on or before the effective  
15 date of the upgraded rating. If the rating of a  
16 certified reinsurer is downgraded by the Director,  
17 then the Director shall require the certified  
18 reinsurer to meet the security requirements applicable  
19 to its new rating for all business it has assumed as a  
20 certified reinsurer.

21           (c) The Director may suspend, revoke, or otherwise  
22 modify a certified reinsurer's certification at any  
23 time if the certified reinsurer fails to meet its  
24 obligations or security requirements under this  
25 Section or if other financial or operating results of  
26 the certified reinsurer, or documented significant

1 delays in payment by the certified reinsurer, lead the  
2 Director to reconsider the certified reinsurer's  
3 ability or willingness to meet its contractual  
4 obligations. In seeking to suspend, revoke, or  
5 otherwise modify a certified reinsurer's  
6 certification, the Director shall follow the  
7 procedures provided in paragraph (G) of this  
8 subsection (1).

9 (d) For purposes of this subsection (1), a  
10 certified reinsurer whose certification has been  
11 terminated for any reason shall be treated as a  
12 certified reinsurer required to secure 100% of its  
13 obligations.

14 (i) As used in this item (d), the term  
15 "terminated" refers to revocation, suspension,  
16 voluntary surrender and inactive status.

17 (ii) If the Director continues to assign a  
18 higher rating as permitted by other provisions of  
19 this Section, then this requirement does not apply  
20 to a certified reinsurer in inactive status or to  
21 a reinsurer whose certification has been  
22 suspended.

23 (e) Upon revocation of the certification of a  
24 certified reinsurer by the Director, the assuming  
25 insurer shall be required to post security in  
26 accordance with subsection (2) of this Section in

1 order for the ceding insurer to continue to take  
2 credit for reinsurance ceded to the assuming insurer.  
3 If funds continue to be held in trust, then the  
4 Director may allow additional credit equal to the  
5 ceding insurer's pro rata share of the funds,  
6 discounted to reflect the risk of uncollectibility and  
7 anticipated expenses of trust administration.

8 (f) Notwithstanding the change of a certified  
9 reinsurer's rating or revocation of its certification,  
10 a domestic insurer that has ceded reinsurance to that  
11 certified reinsurer may not be denied credit for  
12 reinsurance for a period of 3 months for all  
13 reinsurance ceded to that certified reinsurer, unless  
14 the reinsurance is found by the Director to be at high  
15 risk of uncollectibility.

16 (10) A certified reinsurer that ceases to assume  
17 new business in this State may request to maintain its  
18 certification in inactive status in order to continue  
19 to qualify for a reduction in security for its  
20 in-force business. An inactive certified reinsurer  
21 shall continue to comply with all applicable  
22 requirements of this subsection (1), and the Director  
23 shall assign a rating that takes into account, if  
24 relevant, the reasons why the reinsurer is not  
25 assuming new business.

26 (11) Credit for reinsurance under this paragraph

1 (C-5) shall apply only to reinsurance contracts  
2 entered into or renewed on or after the effective date  
3 of the certification of the assuming insurer.

4 (12) The Director shall comply with all reporting  
5 and notification requirements that may be established  
6 by the NAIC with respect to certified reinsurers and  
7 qualified jurisdictions.

8 (C-10) (1) Credit shall be allowed when the reinsurance  
9 is ceded to an assuming insurer meeting each of the  
10 conditions set forth in this subparagraph.

11 (a) The assuming insurer must have its head office  
12 in or be domiciled in, as applicable, and be licensed  
13 in a reciprocal jurisdiction. As used in this  
14 paragraph (C-10), "reciprocal jurisdiction" means a  
15 jurisdiction that meets one of the following:

16 (i) a non-U.S. jurisdiction that is subject to  
17 an in-force covered agreement with the United  
18 States, each within its legal authority, or, in  
19 the case of a covered agreement between the United  
20 States and European Union, is a member state of  
21 the European Union; as used in this subitem,  
22 "covered agreement" means an agreement entered  
23 into pursuant to the Dodd-Frank Wall Street Reform  
24 and Consumer Protection Act (31 U.S.C. 313 and  
25 314) that is currently in effect or in a period of  
26 provisional application and addresses the

1 elimination, under specified conditions, of  
2 collateral requirements as a condition for  
3 entering into any reinsurance agreement with a  
4 ceding insurer domiciled in this State or for  
5 allowing the ceding insurer to recognize credit  
6 for reinsurance;

7 (ii) a U.S. jurisdiction that meets the  
8 requirements for accreditation under the NAIC  
9 financial standards and accreditation program; or

10 (iii) a qualified jurisdiction, as determined  
11 by the Director pursuant to subparagraph (3) of  
12 paragraph (C-5) of subsection (1) of this Section,  
13 that is not otherwise described in subitem (i) or  
14 (ii) of this item and that meets certain  
15 additional requirements, consistent with the terms  
16 and conditions of in-force covered agreements, as  
17 specified by the Department by rule.

18 (b) The assuming insurer must have and maintain,  
19 on an ongoing basis, minimum capital and surplus, or  
20 its equivalent, calculated according to the  
21 methodology of its domiciliary jurisdiction, in an  
22 amount to be set forth by rule. If the assuming insurer  
23 is an association, including incorporated and  
24 individual unincorporated underwriters, it must have  
25 and maintain, on an ongoing basis, minimum capital and  
26 surplus equivalents (net of liabilities) calculated

1 according to the methodology applicable in its  
2 domiciliary jurisdiction and a central fund containing  
3 a balance in amounts to be set forth by rule.

4 (c) The assuming insurer must have and maintain,  
5 on an ongoing basis, a minimum solvency or capital  
6 ratio, as applicable, that will be set forth by rule.  
7 If the assuming insurer is an association, including  
8 incorporated and individual unincorporated  
9 underwriters, it must have and maintain, on an ongoing  
10 basis, a minimum solvency or capital ratio in the  
11 reciprocal jurisdiction where the assuming insurer has  
12 its head office or is domiciled, as applicable, and is  
13 also licensed.

14 (d) The assuming insurer must provide adequate  
15 assurance to the Director, in a form specified by the  
16 Department by rule, as follows:

17 (i) the assuming insurer must provide prompt  
18 written notice and explanation to the Director if  
19 it falls below the minimum requirements set forth  
20 in items (b) or (c) of this subparagraph or if any  
21 regulatory action is taken against it for serious  
22 noncompliance with applicable law;

23 (ii) the assuming insurer must consent in  
24 writing to the jurisdiction of the courts of this  
25 State and to the appointment of the Director as  
26 agent for service of process; the Director may



1 require that consent for service of process be  
2 provided to the Director and included in each  
3 reinsurance agreement; nothing in this subitem  
4 (ii) shall limit or in any way alter the capacity  
5 of parties to a reinsurance agreement to agree to  
6 alternative dispute resolution mechanisms, except  
7 to the extent such agreements are unenforceable  
8 under applicable insolvency or delinquency laws;

9 (iii) the assuming insurer must consent in  
10 writing to pay all final judgments obtained by a  
11 ceding insurer or its legal successor, whenever  
12 enforcement is sought, that have been declared  
13 enforceable in the jurisdiction where the judgment  
14 was obtained;

15 (iv) each reinsurance agreement must include a  
16 provision requiring the assuming insurer to  
17 provide security in an amount equal to 100% of the  
18 assuming insurer's liabilities attributable to  
19 reinsurance ceded pursuant to that agreement if  
20 the assuming insurer resists enforcement of a  
21 final judgment that is enforceable under the law  
22 of the jurisdiction in which it was obtained or a  
23 properly enforceable arbitration award, whether  
24 obtained by the ceding insurer or by its legal  
25 successor on behalf of its resolution estate; and

26 (v) the assuming insurer must confirm that it

1 is not presently participating in any solvent  
2 scheme of arrangement which involves this State's  
3 ceding insurers and agree to notify the ceding  
4 insurer and the Director and to provide security  
5 in an amount equal to 100% of the assuming  
6 insurer's liabilities to the ceding insurer if the  
7 assuming insurer enters into such a solvent scheme  
8 of arrangement; the security shall be in a form  
9 consistent with the provisions of paragraph (C-5)  
10 of subsection (1) and subsection (2) and as  
11 specified by the Department by rule.

12 (e) If requested by the Director, the assuming  
13 insurer or its legal successor must provide, on behalf  
14 of itself and any legal predecessors, certain  
15 documentation to the Director, as specified by the  
16 Department by rule.

17 (f) The assuming insurer must maintain a practice  
18 of prompt payment of claims under reinsurance  
19 agreements pursuant to criteria set forth by rule.

20 (g) The assuming insurer's supervisory authority  
21 must confirm to the Director on an annual basis, as of  
22 the preceding December 31 or at the annual date  
23 otherwise statutorily reported to the reciprocal  
24 jurisdiction, that the assuming insurer complied with  
25 the requirements set forth in items (b) and (c) of this  
26 subparagraph.

1           (h) Nothing in this subparagraph precludes an  
2           assuming insurer from providing the Director with  
3           information on a voluntary basis.

4           (2) The Director shall timely create and publish a  
5           list of reciprocal jurisdictions.

6           (a) The Director's list shall include any  
7           reciprocal jurisdiction as defined under subitems (i)  
8           and (ii) of item (a) of subparagraph (1) of this  
9           paragraph, and shall consider any other reciprocal  
10          jurisdiction included on the list of reciprocal  
11          jurisdictions published through the NAIC committee  
12          process. The Director may approve a jurisdiction that  
13          does not appear on the NAIC list of reciprocal  
14          jurisdictions in accordance with criteria to be  
15          developed by rules adopted by the Department.

16          (b) The Director may remove a jurisdiction from  
17          the list of reciprocal jurisdictions upon a  
18          determination that the jurisdiction no longer meets  
19          the requirements of a reciprocal jurisdiction in  
20          accordance with a process set forth in rules adopted  
21          by the Department, except that the Director shall not  
22          remove from the list a reciprocal jurisdiction as  
23          defined under subitems (i) and (ii) of item (a) of  
24          subparagraph (1) of this paragraph. If otherwise  
25          allowed pursuant to this Section, credit for  
26          reinsurance ceded to an assuming insurer that has its

1           home office or is domiciled in that jurisdiction shall  
2           be allowed upon removal of a reciprocal jurisdiction  
3           from this list.

4           (3) The Director shall timely create and publish a  
5           list of assuming insurers that have satisfied the  
6           conditions set forth in this paragraph and to which  
7           cessions shall be granted credit in accordance with this  
8           paragraph. The Director may add an assuming insurer to the  
9           list if a NAIC-accredited jurisdiction has added the  
10          assuming insurer to a list of assuming insurers or if,  
11          upon initial eligibility, the assuming insurer submits the  
12          information to the Director as required under item (d) of  
13          subparagraph (1) of this paragraph and complies with any  
14          additional requirements that the Department may impose by  
15          rule except to the extent that they conflict with an  
16          applicable covered agreement.

17          (4) If the Director determines that an assuming  
18          insurer no longer meets one or more of the requirements  
19          under this paragraph, the Director may revoke or suspend  
20          the eligibility of the assuming insurer for recognition  
21          under this paragraph in accordance with procedures set  
22          forth by rule.

23                 (a) While an assuming insurer's eligibility is  
24                 suspended, no reinsurance agreement issued, amended,  
25                 or renewed after the effective date of the suspension  
26                 qualifies for credit except to the extent that the

1           assuming insurer's obligations under the contract are  
2           secured in accordance with subsection (2).

3           (b) If an assuming insurer's eligibility is  
4           revoked, no credit for reinsurance may be granted  
5           after the effective date of the revocation with  
6           respect to any reinsurance agreements entered into by  
7           the assuming insurer, including reinsurance agreements  
8           entered into before the date of revocation, except to  
9           the extent that the assuming insurer's obligations  
10          under the contract are secured in a form acceptable to  
11          the Director and consistent with the provisions of  
12          subsection (2).

13          (5) If subject to a legal process of rehabilitation,  
14          liquidation, or conservation, as applicable, the ceding  
15          insurer or its representative may seek and, if determined  
16          appropriate by the court in which the proceedings are  
17          pending, may obtain an order requiring that the assuming  
18          insurer post security for all outstanding ceded  
19          liabilities.

20          (6) Nothing in this paragraph shall limit or in any  
21          way alter the capacity of parties to a reinsurance  
22          agreement to agree on requirements for security or other  
23          terms in that reinsurance agreement except as expressly  
24          prohibited by this Section or other applicable law or  
25          regulation.

26          (7) Credit may be taken under this paragraph only for

1 reinsurance agreements entered into, amended, or renewed  
2 on or after the effective date of this amendatory Act of  
3 the 102nd General Assembly and only with respect to losses  
4 incurred and reserves reported on or after the later of:

5 (i) the date on which the assuming insurer has met  
6 all eligibility requirements pursuant to subparagraph  
7 (1) of this paragraph; and

8 (ii) the effective date of the new reinsurance  
9 agreement, amendment, or renewal.

10 This subparagraph does not alter or impair a ceding  
11 insurer's right to take credit for reinsurance, to the  
12 extent that credit is not available under this paragraph,  
13 as long as the reinsurance qualifies for credit under any  
14 other applicable provision of this Section.

15 (8) Nothing in this paragraph shall authorize an  
16 assuming insurer to withdraw or reduce the security  
17 provided under any reinsurance agreement except as  
18 permitted by the terms of the agreement.

19 (9) Nothing in this paragraph shall limit or in any  
20 way alter the capacity of parties to any reinsurance  
21 agreement to renegotiate the agreement.

22 (D) Credit shall be allowed when the reinsurance is  
23 ceded to an assuming insurer not meeting the requirements  
24 of paragraph (A), (B), (B-5), (C), (C-5), or (C-10) of  
25 this subsection (1) but only with respect to the insurance  
26 of risks located in jurisdictions where that reinsurance

1 is required by applicable law or regulation of that  
2 jurisdiction.

3 (E) If the assuming insurer is not licensed to  
4 transact insurance in this State or an accredited or  
5 certified reinsurer in this State, the credit permitted by  
6 paragraphs (B-5) and (C) of this subsection (1) shall not  
7 be allowed unless the assuming insurer agrees in the  
8 reinsurance agreements:

9 (1) that in the event of the failure of the  
10 assuming insurer to perform its obligations under the  
11 terms of the reinsurance agreement, the assuming  
12 insurer, at the request of the ceding insurer, shall  
13 submit to the jurisdiction of any court of competent  
14 jurisdiction in any state of the United States, will  
15 comply with all requirements necessary to give the  
16 court jurisdiction, and will abide by the final  
17 decision of the court or of any appellate court in the  
18 event of an appeal; and

19 (2) to designate the Director or a designated  
20 attorney as its true and lawful attorney upon whom may  
21 be served any lawful process in any action, suit, or  
22 proceeding instituted by or on behalf of the ceding  
23 company.

24 This provision is not intended to conflict with or  
25 override the obligation of the parties to a reinsurance  
26 agreement to arbitrate their disputes, if an obligation to

1 arbitrate is created in the agreement.

2 (F) If the assuming insurer does not meet the  
3 requirements of paragraph (A), (B), (B-5), or (C-10) of  
4 this subsection (1), the credit permitted by paragraph (C)  
5 or (C-5) of this subsection (1) shall not be allowed  
6 unless the assuming insurer agrees in the trust agreements  
7 to the following conditions:

8 (1) Notwithstanding any other provisions in the  
9 trust instrument, if the trust fund is inadequate  
10 because it contains an amount less than the amount  
11 required by subparagraph (3) of paragraph (C) of this  
12 subsection (1) or if the grantor of the trust has been  
13 declared insolvent or placed into receivership,  
14 rehabilitation, liquidation, or similar proceedings  
15 under the laws of its state or country of domicile, the  
16 trustee shall comply with an order of the state  
17 official with regulatory oversight over the trust or  
18 with an order of a court of competent jurisdiction  
19 directing the trustee to transfer to the state  
20 official with regulatory oversight all of the assets  
21 of the trust fund.

22 (2) The assets shall be distributed by and claims  
23 shall be filed with and valued by the state official  
24 with regulatory oversight in accordance with the laws  
25 of the state in which the trust is domiciled that are  
26 applicable to the liquidation of domestic insurance



1 companies.

2 (3) If the state official with regulatory  
3 oversight determines that the assets of the trust fund  
4 or any part thereof are not necessary to satisfy the  
5 claims of the U.S. ceding insurers of the grantor of  
6 the trust, the assets or part thereof shall be  
7 returned by the state official with regulatory  
8 oversight to the trustee for distribution in  
9 accordance with the trust agreement.

10 (4) The grantor shall waive any rights otherwise  
11 available to it under U.S. law that are inconsistent  
12 with the provision.

13 (G) If an accredited or certified reinsurer ceases to  
14 meet the requirements for accreditation or certification,  
15 then the Director may suspend or revoke the reinsurer's  
16 accreditation or certification.

17 (1) The Director must give the reinsurer notice  
18 and opportunity for hearing. The suspension or  
19 revocation may not take effect until after the  
20 Director's order on hearing, unless:

21 (a) the reinsurer waives its right to hearing;

22 (b) the Director's order is based on  
23 regulatory action by the reinsurer's domiciliary  
24 jurisdiction or the voluntary surrender or  
25 termination of the reinsurer's eligibility to  
26 transact insurance or reinsurance business in its

1 domiciliary jurisdiction or in the primary  
2 certifying state of the reinsurer under  
3 subparagraph (4) of paragraph (C-5) of this  
4 subsection (1); or

5 (c) the Director finds that an emergency  
6 requires immediate action and a court of competent  
7 jurisdiction has not stayed the Director's action.

8 (2) While a reinsurer's accreditation or  
9 certification is suspended, no reinsurance contract  
10 issued or renewed after the effective date of the  
11 suspension qualifies for credit except to the extent  
12 that the reinsurer's obligations under the contract  
13 are secured in accordance with subsection (2) of this  
14 Section. If a reinsurer's accreditation or  
15 certification is revoked, no credit for reinsurance  
16 may be granted after the effective date of the  
17 revocation, except to the extent that the reinsurer's  
18 obligations under the contract are secured in  
19 accordance with subsection (2) of this Section.

20 (H) The following provisions shall apply concerning  
21 concentration of risk:

22 (1) A ceding insurer shall take steps to manage  
23 its reinsurance recoverable proportionate to its own  
24 book of business. A domestic ceding insurer shall  
25 notify the Director within 30 days after reinsurance  
26 recoverables from any single assuming insurer, or

1 group of affiliated assuming insurers, exceeds 50% of  
2 the domestic ceding insurer's last reported surplus to  
3 policyholders, or after it is determined that  
4 reinsurance recoverables from any single assuming  
5 insurer, or group of affiliated assuming insurers, is  
6 likely to exceed this limit. The notification shall  
7 demonstrate that the exposure is safely managed by the  
8 domestic ceding insurer.

9 (2) A ceding insurer shall take steps to diversify  
10 its reinsurance program. A domestic ceding insurer  
11 shall notify the Director within 30 days after ceding  
12 to any single assuming insurer, or group of affiliated  
13 assuming insurers, more than 20% of the ceding  
14 insurer's gross written premium in the prior calendar  
15 year, or after it has determined that the reinsurance  
16 ceded to any single assuming insurer, or group of  
17 affiliated assuming insurers, is likely to exceed this  
18 limit. The notification shall demonstrate that the  
19 exposure is safely managed by the domestic ceding  
20 insurer.

21 (2) Credit for the reinsurance ceded by a domestic insurer  
22 to an assuming insurer not meeting the requirements of  
23 subsection (1) of this Section shall be allowed in an amount  
24 not exceeding the assets or liabilities carried by the ceding  
25 insurer. The credit shall not exceed the amount of funds held  
26 by or held in trust for the ceding insurer under a reinsurance

1 contract with the assuming insurer as security for the payment  
2 of obligations thereunder, if the security is held in the  
3 United States subject to withdrawal solely by, and under the  
4 exclusive control of, the ceding insurer; or, in the case of a  
5 trust, held in a qualified United States financial  
6 institution, as defined in paragraph (B) of subsection (3) of  
7 this Section. This security may be in the form of:

8 (A) Cash.

9 (B) Securities listed by the Securities Valuation  
10 Office of the National Association of Insurance  
11 Commissioners, including those deemed exempt from filing  
12 as defined by the Purposes and Procedures Manual of the  
13 Securities Valuation Office that conform to the  
14 requirements of Article VIII of this Code that are not  
15 issued by an affiliate of either the assuming or ceding  
16 company.

17 (C) Clean, irrevocable, unconditional, letters of  
18 credit issued or confirmed by a qualified United States  
19 financial institution, as defined in paragraph (A) of  
20 subsection (3) of this Section. The letters of credit  
21 shall be effective no later than December 31 of the year  
22 for which filing is being made, and in the possession of,  
23 or in trust for, the ceding company on or before the filing  
24 date of its annual statement. Letters of credit meeting  
25 applicable standards of issuer acceptability as of the  
26 dates of their issuance (or confirmation) shall,

1           notwithstanding the issuing (or confirming) institution's  
2           subsequent failure to meet applicable standards of issuer  
3           acceptability, continue to be acceptable as security until  
4           their expiration, extension, renewal, modification, or  
5           amendment, whichever first occurs.

6           (D) Any other form of security acceptable to the  
7           Director.

8           (3) (A) For purposes of paragraph (C) of subsection (2) of  
9           this Section, a "qualified United States financial  
10          institution" means an institution that:

11           (1) is organized or, in the case of a U.S. office of a  
12           foreign banking organization, licensed under the laws of  
13           the United States or any state thereof;

14           (2) is regulated, supervised, and examined by U.S.  
15           federal or state authorities having regulatory authority  
16           over banks and trust companies;

17           (3) has been designated by either the Director or the  
18           Securities Valuation Office of the National Association of  
19           Insurance Commissioners as meeting such standards of  
20           financial condition and standing as are considered  
21           necessary and appropriate to regulate the quality of  
22           financial institutions whose letters of credit will be  
23           acceptable to the Director; and

24           (4) is not affiliated with the assuming company.

25           (B) A "qualified United States financial institution"  
26          means, for purposes of those provisions of this law specifying

1 those institutions that are eligible to act as a fiduciary of a  
2 trust, an institution that:

3 (1) is organized or, in the case of the U.S. branch or  
4 agency office of a foreign banking organization, licensed  
5 under the laws of the United States or any state thereof  
6 and has been granted authority to operate with fiduciary  
7 powers;

8 (2) is regulated, supervised, and examined by federal  
9 or state authorities having regulatory authority over  
10 banks and trust companies; and

11 (3) is not affiliated with the assuming company,  
12 however, if the subject of the reinsurance contract is  
13 insurance written pursuant to Section 155.51 of this Code,  
14 the financial institution may be affiliated with the  
15 assuming company with the prior approval of the Director.

16 (C) Except as set forth in subparagraph (11) of paragraph  
17 (C-5) of subsection (1) of this Section as to cessions by  
18 certified reinsurers, this amendatory Act of the 100th General  
19 Assembly shall apply to all cessions after the effective date  
20 of this amendatory Act of the 100th General Assembly under  
21 reinsurance agreements that have an inception, anniversary, or  
22 renewal date not less than 6 months after the effective date of  
23 this amendatory Act of the 100th General Assembly.

24 (D) The Department shall adopt rules implementing the  
25 provisions of this Article.

26 (Source: P.A. 102-578, eff. 7-1-22 (See Section 5 of P.A.

1 102-672 for effective date of P.A. 102-578).)

2 (215 ILCS 5/179A-5)

3 Sec. 179A-5. Purpose. This Article is adopted to provide a  
4 basis for the creation of protected cells by a domestic  
5 insurer as one means of accessing alternative sources of  
6 capital and achieving the benefits of insurance  
7 securitization. Investors in fully funded insurance  
8 securitization transactions provide funds that are available  
9 to pay the insurer's insurance obligations or to repay the  
10 investors or both. The creation of protected cells is intended  
11 to be a means to achieve more efficiencies in conducting  
12 insurance securitizations.

13 Under the terms of the typical debt instrument underlying  
14 an insurance securitization transaction, prepaid principal is  
15 repaid to the investor on a specified maturity date with  
16 interest, unless a trigger event occurs. The insurance  
17 securitization proceeds secure both the protected cell  
18 company's insurance obligations if a trigger event occurs, as  
19 well as the protected cell company's obligation to repay the  
20 insurance securitization investors if a trigger event does not  
21 occur. Insurance securitization transactions have been  
22 performed through non-domestic ~~alien~~ companies in order to  
23 utilize efficiencies available to non-domestic ~~alien~~ companies  
24 that are not currently available to domestic companies. This  
25 Article is adopted in order to create more efficiency in

1 conducting insurance securitization, to allow domestic  
2 companies easier access to alternative sources of capital, and  
3 to promote the benefits of insurance securitization generally.  
4 (Source: P.A. 91-278, eff. 7-23-99; 92-74, eff. 7-12-01.)

5 (215 ILCS 5/179E-5)

6 Sec. 179E-5. Purpose. This Article is adopted to provide  
7 for the creation of Special Purpose Reinsurance Vehicles  
8 ("SPRV") exclusively to facilitate the securitization of one  
9 or more ceding insurers' risk as a means of accessing  
10 alternative sources of capital and achieving the benefits of  
11 securitization. Investors in fully funded insurance  
12 securitization transactions provide funds that are available  
13 to the SPRV to secure the aggregate limit under an SPRV  
14 contract that provides coverage against the occurrence of a  
15 triggering event. The creation of SPRVs is intended to achieve  
16 greater efficiencies in conducting insurance securitizations,  
17 to diversify and broaden insurers' access to sources of risk  
18 bearing capital, and to make insurance securitization  
19 generally available on reasonable terms to as many U.S.  
20 insurers as possible.

21 Under the terms of the typical securities underlying an  
22 insurance securitization transaction, proceeds from the  
23 issuance of securities are repaid to the investor on a  
24 specified maturity date with interest or dividends unless a  
25 triggering event occurs. The insurance securitization proceeds



1 are available to pay the SPRV's obligations to the ceding  
2 insurer if the triggering event occurs, as well as being  
3 available to satisfy the SPRV's obligation to repay the  
4 insurance securitization investors if a triggering event does  
5 not occur. Insurance securitization transactions have been  
6 performed by non-domestic ~~alien~~ companies to utilize  
7 efficiencies available to those non-domestic ~~alien~~ companies  
8 that are not currently available to domestic companies. This  
9 Article is adopted to allow more efficiency in conducting  
10 insurance securitizations, to allow ceding insurers easier  
11 access to alternative sources of risk bearing capital, and to  
12 promote the benefits of insurance securitization to U.S.  
13 insurers.

14 (Source: P.A. 92-124, eff. 7-20-01.)

15 (215 ILCS 5/Art. XII heading)

16 ARTICLE XII. DOMESTICATION OF  
17 FOREIGN AND NON-DOMESTIC ~~ALIEN~~ COMPANIES

18 (215 ILCS 5/180) (from Ch. 73, par. 792)

19 Sec. 180. Companies that may domesticate.

20 (1) Any domestic, foreign, or non-domestic ~~alien~~ stock  
21 company, mutual company, assessment legal reserve company,  
22 reciprocal, or fraternal benefit society, authorized or which  
23 may be authorized to do business in this State, may reorganize  
24 under the laws of this State (including a reorganization as a

1 captive insurance company under the laws of this State), by  
2 complying with the provisions of this Article.

3 (2) As used in this Article: "reorganize" means  
4 reorganize, reincorporate, or domesticate as an Illinois  
5 insurer; "reorganization" means reorganization,  
6 reincorporation, or domestication as an Illinois insurer;  
7 "reorganized company" means any company that has availed  
8 itself of the provisions of this Article, and the  
9 reorganization of which has been effected as in this Article  
10 provided; and "similar domestic company" means, in the case of  
11 an application for reorganization as a domestic captive  
12 insurance company, a domestic captive insurance company  
13 organized under Article VIIC.

14 (Source: P.A. 87-1216.)

15 (215 ILCS 5/185.1) (from Ch. 73, par. 797.1)

16 Sec. 185.1. Effect of Reorganization.

17 When the reorganization has been effected:

18 (a) The articles of reorganization shall be the articles  
19 of incorporation of the reorganized company and said company  
20 shall continue in existence as, and thereafter be, a company  
21 of this State.

22 (b) The reorganized company shall make its reports in  
23 accordance with the laws of this State and shall be subject to  
24 the exclusive regulation and supervision by the Department of  
25 Insurance of this State and shall be subject to regulation and

1 supervision by the Insurance Departments of other states and  
2 countries as a foreign or non-domestic ~~alien~~ company.

3 (c) The reorganized company shall have all of the rights,  
4 privileges, immunities and powers and shall be subject to all  
5 of the duties and liabilities granted or imposed by this Code  
6 (except in the case of a domestic captive insurance company,  
7 which shall have all of the rights, privileges, immunities and  
8 powers and shall be subject to all of the duties and  
9 liabilities granted or imposed by Article VIIC of this Code).

10 (d) The reorganized company shall thereupon and thereafter  
11 possess all the rights, privileges, immunities, powers and  
12 franchises of a public as well as a private nature,  
13 theretofore possessed by the company so reorganized. Without  
14 limiting the generality of the foregoing, (i) the agency  
15 appointments, licenses, certificates of authority and rates  
16 which are in existence at the time of the reorganization of  
17 such reorganized company takes effect shall continue in full  
18 force and effect; (ii) all property, real, personal and mixed,  
19 and all debts due on whatever account, including subscriptions  
20 to shares, assessments payable from members or policyholders,  
21 and all other choses in action, and all and every other  
22 interest of, or belonging to or due to the company so  
23 reorganized, shall be deemed to be transferred to and vested  
24 in the reorganized company without further act or deed; and  
25 (iii) the title to any real estate or any interest therein  
26 theretofore vested in the company so reorganized, shall not

1 revert or be in any way impaired by reason of such  
2 reorganization.

3 (e) The reorganized company shall thenceforth be  
4 responsible and liable for all the liabilities and obligations  
5 of the company so reorganized. Any claim existing, or action  
6 or proceeding pending by or against the company so  
7 reorganized, may be prosecuted to judgment as if such  
8 reorganization had not taken place, or such reorganized  
9 company may be substituted in its place. Neither the rights of  
10 creditors nor any liens upon the property of the company so  
11 reorganized, shall be impaired by such reorganization, but  
12 such liens shall be limited to the property upon which they  
13 were liens immediately prior to the reorganization, unless  
14 otherwise provided in the articles of reorganization.

15 (Source: P.A. 85-131.)

16 (215 ILCS 5/188) (from Ch. 73, par. 800)

17 Sec. 188. Grounds for rehabilitation and liquidation of a  
18 domestic company or an unauthorized foreign or non-domestic  
19 ~~alien~~ company. Whenever any domestic company or any  
20 unauthorized foreign or non-domestic ~~alien~~ company:

- 21 1. is insolvent;
- 22 2. has failed or refused to submit its books, papers,  
23 accounts, records or affairs to the reasonable inspection  
24 or examination of the Director or his actuaries,  
25 supervisors, deputies, or examiners;

1           3. has concealed, removed, altered, destroyed or  
2 failed to establish and maintain books, records,  
3 documents, accounts, vouchers and other pertinent material  
4 adequate for the determination of its financial condition  
5 by examination under Sections 132 through 132.7 or has  
6 failed to properly administer claims and to maintain  
7 claims records which are adequate for the determination of  
8 its outstanding claims liability;

9           4. has failed or refused to observe an order of the  
10 Director to make good within the time prescribed by law  
11 any deficiency, whenever its capital and minimum required  
12 surplus, if a stock company, or its required surplus, if a  
13 company other than stock, has become impaired;

14           5. has, by articles of consolidation, contract of  
15 reinsurance or otherwise, transferred or attempted to  
16 transfer its entire property or business not in conformity  
17 with this Code, or entered into any transaction the effect  
18 of which is to merge substantially its entire property or  
19 business in any other company without having first  
20 obtained the written approval of the Director under this  
21 Code;

22           6. is found to be in such condition that its further  
23 transaction of business would be hazardous to its  
24 policyholders, or to its creditors, or to the public;

25           7. has violated its charter or any law of this State or  
26 has exceeded or is exceeding its corporate powers;

1           8. has an officer who has refused upon reasonable  
2 demand to be examined under oath touching its affairs;

3           9. is found to be in such condition that it could not  
4 meet the requirements for organization and authorization  
5 as required by law, except as to the amount of the original  
6 surplus required of a stock company in Section 13, and  
7 except as to the amount of the surplus required of a mutual  
8 company in excess of the minimum surplus required by this  
9 Code to be maintained, or either an authorized control  
10 level event or a mandatory control level event as set  
11 forth in Article IIA exists;

12           10. has ceased for the period of one year to transact  
13 insurance business;

14           11. has commenced, or has attempted to commence, any  
15 voluntary liquidation or dissolution proceeding, or any  
16 proceeding to procure the appointment of a receiver,  
17 liquidator, rehabilitator, sequestrator, or a similar  
18 officer for itself;

19           12. is a party, whether plaintiff or defendant in any  
20 proceeding in which an application is made for the  
21 appointment of a receiver, custodian, liquidator,  
22 rehabilitator, sequestrator, or similar officer for such  
23 company or its property, or a receiver, custodian,  
24 liquidator, rehabilitator, sequestrator or similar  
25 officer, for such company or its property is appointed by  
26 any court, or such appointment is imminent;

1           13. consents by a majority of its directors,  
2 stockholders or members;

3           14. has not organized and obtained a certificate  
4 authorizing it to commence the transaction of its business  
5 within the period of time prescribed by the sections of  
6 this Code under which it is or proposes to be organized; or

7           15. has failed or refused to pay any valid final  
8 judgment within 30 days after the rendition thereof, or  
9 whenever it appears to the Director that any person has  
10 committed a violation of Article VIII 1/2 with the result  
11 described in Section 131.26,

12 sufficient grounds shall be deemed to exist for the  
13 commencement of rehabilitation or liquidation proceedings.

14           With respect to a domestic company, the Director must  
15 report, and with respect to an unauthorized foreign or  
16 non-domestic ~~alien~~ company, the Director may report any such  
17 case to the Attorney General of this State whose duty it shall  
18 be to apply forthwith by complaint on relation of the Director  
19 in the name of the People of the State of Illinois, as  
20 plaintiff, to the Circuit Court of Cook County, the Circuit  
21 Court of Sangamon County, or the circuit court of the county in  
22 which such company has, or last had its principal office, for  
23 an order to rehabilitate or liquidate the defendant company as  
24 provided in this Article, and for such other relief as the  
25 nature of the case and the interests of its policyholders,  
26 creditors, members, stockholders or the public may require.

1           When, upon investigation, the Director finds that a  
2 company is engaged in any aspect of the business of insurance  
3 on behalf of or in association with any domestic insurance  
4 company, against which a receivership proceeding has been or  
5 is being filed under this Article, in a manner that appears to  
6 be detrimental to policyholders, creditors, members,  
7 shareholders, or the public, the Director may report such case  
8 to the Attorney General of this State, whose duty it is to  
9 apply forthwith by complaint on relation of the Director in  
10 the name of the People of the State of Illinois, as plaintiff,  
11 to the court in which the receivership proceeding is pending  
12 for an order to appoint the Director as receiver to assume  
13 control of the assets and operation of the company pending a  
14 complete investigation and determination of the rights of the  
15 policyholders, creditors, members, shareholders, and the  
16 general public.

17           (Source: P.A. 92-140, eff. 7-24-01.)

18           (215 ILCS 5/188.1) (from Ch. 73, par. 800.1)

19           Sec. 188.1. Provisions for conservation of assets of a  
20 domestic, foreign, or non-domestic ~~alien~~ company.

21           (1) Upon the filing by the Director of a verified  
22 complaint alleging (a) that with respect to a domestic,  
23 foreign, or non-domestic ~~alien~~ company, whether authorized or  
24 unauthorized, a condition exists that would justify a court  
25 order for proceedings under Section 188, and (b) that the



1 interests of creditors, policyholders or the public will  
2 probably be endangered by delay, then the circuit court of  
3 Sangamon or Cook County or the circuit court of the county in  
4 which such company has or last had its principal office shall  
5 enter forthwith without a hearing or prior notice an order  
6 directing the director to take possession and control of the  
7 property, business, books, records, and accounts of the  
8 company, and of the premises occupied by it for the  
9 transaction of its business, or such part of each as the  
10 complaint shall specify, and enjoining the company and its  
11 officers, directors, agents, servants, and employees from  
12 disposition of its property and from transaction of its  
13 business except with the concurrence of the Director until the  
14 further order of the court. Copies of the verified complaint  
15 and the seizure order shall be served upon the company.

16 (2) The order shall continue in force and effect for such  
17 time as the court deems necessary for the Director to  
18 ascertain the condition and situation of the company. On  
19 motion of either party or on its own motion, the court may from  
20 time to time hold such hearings as it deems desirable, and may  
21 extend, shorten, or modify the terms of, the seizure order. So  
22 far as the court deems it possible, the parties shall be given  
23 adequate notice of such hearings. As soon as practicable, the  
24 court shall vacate the seizure order or terminate the  
25 conservation proceedings of the company, either when the  
26 Director has failed to institute proceedings under Section 188

1 having a reasonable opportunity to do so, or upon an order of  
2 the court pursuant to such proceedings.

3 (3) Entry of a seizure order under this section shall not  
4 constitute an anticipatory breach of any contract of the  
5 company.

6 (4) The court may hold all hearings in conservation  
7 proceedings privately in chambers, and shall do so on request  
8 of any officer of the company proceeded against.

9 (5) In conservation proceedings and judicial reviews  
10 thereof, all records of the company, other documents, and all  
11 insurance department files and court records and papers, so  
12 far as they pertain to and are a part of the record of the  
13 conservation proceedings, shall be and remain confidential  
14 except as is necessary to obtain compliance therewith, unless  
15 and until the court, after hearing arguments in chambers from  
16 the Director and the company, shall decide otherwise, or  
17 unless the company requests that the matter be made public.

18 (6) Any person having possession of and refusing to  
19 deliver any of the property, business, books, records or  
20 accounts of a company against which a seizure order has been  
21 issued shall be guilty of a Class A misdemeanor.

22 (Source: P.A. 89-206, eff. 7-21-95.)

23 (215 ILCS 5/197) (from Ch. 73, par. 809)

24 Sec. 197. Rights, powers, and duties ancillary to  
25 domiciliary proceeding.

1           The rights, powers, and duties of the Director as  
2 conservator, rehabilitator, or liquidator, with reference to  
3 the assets of a foreign or non-domestic ~~alien~~ company, whether  
4 authorized or unauthorized, shall be ancillary to the rights,  
5 powers and duties imposed upon any receiver or other person,  
6 if any, in charge of the property, business and affairs of such  
7 company in its domiciliary state or country.

8           (Source: P.A. 86-1154; 86-1156.)

9           (215 ILCS 5/201) (from Ch. 73, par. 813)

10          Sec. 201. Who may apply for appointment of receiver or  
11 liquidator.) No order or judgment enjoining, restraining or  
12 interfering with the prosecution of the business of any  
13 company, or for the appointment of a temporary or permanent  
14 receiver, rehabilitator or liquidator of a domestic company,  
15 or receiver or conservator of a foreign or non-domestic ~~alien~~  
16 company, shall be made or granted otherwise than upon the  
17 complaint of the Director represented by the Attorney General  
18 as provided in this article, except in an action by a judgment  
19 creditor or in proceedings supplementary thereto after notice  
20 that a final judgment has been entered and that the judgment  
21 creditor intends to file a complaint praying for any of the  
22 relief in this section mentioned, has been served upon the  
23 Director at least 30 days prior to the filing of such complaint  
24 by such judgment creditor.

25          (Source: P.A. 84-546.)

1 (215 ILCS 5/223) (from Ch. 73, par. 835)

2 Sec. 223. Director to value policies - Legal standard of  
3 valuation.

4 (1) For policies and contracts issued prior to the  
5 operative date of the Valuation Manual, the Director shall  
6 annually value, or cause to be valued, the reserve liabilities  
7 (hereinafter called reserves) for all outstanding life  
8 insurance policies and annuity and pure endowment contracts of  
9 every life insurance company doing business in this State,  
10 except that in the case of a non-domestic ~~an alien~~ company,  
11 such valuation shall be limited to its United States business.  
12 In calculating such reserves, he may use group methods and  
13 approximate averages for fractions of a year or otherwise. In  
14 lieu of the valuation of the reserves herein required of any  
15 foreign or non-domestic ~~alien~~ company, he may accept any  
16 valuation made, or caused to be made, by the insurance  
17 supervisory official of any state or other jurisdiction when  
18 such valuation complies with the minimum standard provided in  
19 this Section.

20 The provisions set forth in this subsection (1) and in  
21 subsections (2), (3), (4), (5), (6), and (7) of this Section  
22 shall apply to all policies and contracts, as appropriate,  
23 subject to this Section issued prior to the operative date of  
24 the Valuation Manual. The provisions set forth in subsections  
25 (8) and (9) of this Section shall not apply to any such

1 policies and contracts.

2 For policies and contracts issued on or after the  
3 operative date of the Valuation Manual, the Director shall  
4 annually value, or cause to be valued, the reserve liabilities  
5 (reserves) for all outstanding life insurance contracts,  
6 annuity and pure endowment contracts, accident and health  
7 contracts, and deposit-type contracts of every company issued  
8 on or after the operative date of the Valuation Manual. In lieu  
9 of the valuation of the reserves required of a foreign or  
10 non-domestic ~~alien~~ company, the Director may accept a  
11 valuation made, or caused to be made, by the insurance  
12 supervisory official of any state or other jurisdiction when  
13 the valuation complies with the minimum standard provided in  
14 this Section.

15 The provisions set forth in subsections (8) and (9) of  
16 this Section shall apply to all policies and contracts issued  
17 on or after the operative date of the Valuation Manual.

18 Any such company which adopts at any time a standard of  
19 valuation producing greater aggregate reserves than those  
20 calculated according to the minimum standard provided under  
21 this Section may adopt a lower standard of valuation, with the  
22 approval of the Director, but not lower than the minimum  
23 herein provided, however, that, for the purposes of this  
24 subsection, the holding of additional reserves previously  
25 determined by the appointed actuary to be necessary to render  
26 the opinion required by subsection (1a) shall not be deemed to

1 be the adoption of a higher standard of valuation. In the  
2 valuation of policies the Director shall give no consideration  
3 to, nor make any deduction because of, the existence or the  
4 possession by the company of

5 (a) policy liens created by any agreement given or  
6 assented to by any assured subsequent to July 1, 1937, for  
7 which liens such assured has not received cash or other  
8 consideration equal in value to the amount of such liens,  
9 or

10 (b) policy liens created by any agreement entered into  
11 in violation of Section 232 unless the agreement imposing  
12 or creating such liens has been approved by a Court in a  
13 proceeding under Article XIII, or in the case of a foreign  
14 or non-domestic ~~alien~~ company has been approved by a court  
15 in a rehabilitation or liquidation proceeding or by the  
16 insurance official of its domiciliary state or country, in  
17 accordance with the laws thereof.

18 (1a) This subsection shall become operative at the end of  
19 the first full calendar year following the effective date of  
20 this amendatory Act of 1991.

21 (A) General.

22 (1) Prior to the operative date of the Valuation  
23 Manual, every life insurance company doing business in  
24 this State shall annually submit the opinion of a  
25 qualified actuary as to whether the reserves and  
26 related actuarial items held in support of the

1 policies and contracts specified by the Director by  
2 regulation are computed appropriately, are based on  
3 assumptions that satisfy contractual provisions, are  
4 consistent with prior reported amounts and comply with  
5 applicable laws of this State. The Director by  
6 regulation shall define the specifics of this opinion  
7 and add any other items deemed to be necessary to its  
8 scope.

9 (2) The opinion shall be submitted with the annual  
10 statement reflecting the valuation of reserve  
11 liabilities for each year ending on or after December  
12 31, 1992.

13 (3) The opinion shall apply to all business in  
14 force including individual and group health insurance  
15 plans, in form and substance acceptable to the  
16 Director as specified by regulation.

17 (4) The opinion shall be based on standards  
18 adopted from time to time by the Actuarial Standards  
19 Board and on additional standards as the Director may  
20 by regulation prescribe.

21 (5) In the case of an opinion required to be  
22 submitted by a foreign or non-domestic ~~alien~~ company,  
23 the Director may accept the opinion filed by that  
24 company with the insurance supervisory official of  
25 another state if the Director determines that the  
26 opinion reasonably meets the requirements applicable

1 to a company domiciled in this State.

2 (6) For the purpose of this Section, "qualified  
3 actuary" means a member in good standing of the  
4 American Academy of Actuaries who meets the  
5 requirements set forth in its regulations.

6 (7) Except in cases of fraud or willful  
7 misconduct, the qualified actuary shall not be liable  
8 for damages to any person (other than the insurance  
9 company and the Director) for any act, error,  
10 omission, decision or conduct with respect to the  
11 actuary's opinion.

12 (8) Disciplinary action by the Director against  
13 the company or the qualified actuary shall be defined  
14 in regulations by the Director.

15 (9) A memorandum, in form and substance acceptable  
16 to the Director as specified by regulation, shall be  
17 prepared to support each actuarial opinion.

18 (10) If the insurance company fails to provide a  
19 supporting memorandum at the request of the Director  
20 within a period specified by regulation or the  
21 Director determines that the supporting memorandum  
22 provided by the insurance company fails to meet the  
23 standards prescribed by the regulations or is  
24 otherwise unacceptable to the Director, the Director  
25 may engage a qualified actuary at the expense of the  
26 company to review the opinion and the basis for the



1 opinion and prepare the supporting memorandum as is  
2 required by the Director.

3 (11) Any memorandum in support of the opinion, and  
4 any other material provided by the company to the  
5 Director in connection therewith, shall be kept  
6 confidential by the Director and shall not be made  
7 public and shall not be subject to subpoena, other  
8 than for the purpose of defending an action seeking  
9 damages from any person by reason of any action  
10 required by this Section or by regulations promulgated  
11 hereunder; provided, however, that the memorandum or  
12 other material may otherwise be released by the  
13 Director (a) with the written consent of the company  
14 or (b) to the American Academy of Actuaries upon  
15 request stating that the memorandum or other material  
16 is required for the purpose of professional  
17 disciplinary proceedings and setting forth procedures  
18 satisfactory to the Director for preserving the  
19 confidentiality of the memorandum or other material.  
20 Once any portion of the confidential memorandum is  
21 cited by the company in its marketing or is cited  
22 before any governmental agency other than a state  
23 insurance department or is released by the company to  
24 the news media, all portions of the confidential  
25 memorandum shall be no longer confidential.

26 (B) Actuarial analysis of reserves and assets

1 supporting those reserves.

2 (1) Every life insurance company, except as  
3 exempted by or under regulation, shall also annually  
4 include in the opinion required by paragraph (A)(1) of  
5 this subsection (1a), an opinion of the same qualified  
6 actuary as to whether the reserves and related  
7 actuarial items held in support of the policies and  
8 contracts specified by the Director by regulation,  
9 when considered in light of the assets held by the  
10 company with respect to the reserves and related  
11 actuarial items including, but not limited to, the  
12 investment earnings on the assets and the  
13 considerations anticipated to be received and retained  
14 under the policies and contracts, make adequate  
15 provision for the company's obligations under the  
16 policies and contracts including, but not limited to,  
17 the benefits under and expenses associated with the  
18 policies and contracts.

19 (2) The Director may provide by regulation for a  
20 transition period for establishing any higher reserves  
21 which the qualified actuary may deem necessary in  
22 order to render the opinion required by this Section.

23 (1b) Actuarial Opinion of Reserves after the Operative  
24 Date of the Valuation Manual.

25 (A) General.

26 (1) Every company with outstanding life insurance

1 contracts, accident and health insurance contracts, or  
2 deposit-type contracts in this State and subject to  
3 regulation by the Director shall annually submit the  
4 opinion of the appointed actuary as to whether the  
5 reserves and related actuarial items held in support  
6 of the policies and contracts are computed  
7 appropriately, are based on assumptions that satisfy  
8 contractual provisions, are consistent with prior  
9 reported amounts, and comply with applicable laws of  
10 this State. The Valuation Manual shall prescribe the  
11 specifics of this opinion, including any items deemed  
12 to be necessary to its scope.

13 (2) The opinion shall be submitted with the annual  
14 statement reflecting the valuation of such reserve  
15 liabilities for each year ending on or after the  
16 operative date of the Valuation Manual.

17 (3) The opinion shall apply to all policies and  
18 contracts subject to paragraph (B) of this subsection  
19 (1b), plus other actuarial liabilities as may be  
20 specified in the Valuation Manual.

21 (4) The opinion shall be based on standards  
22 adopted from time to time by the Actuarial Standards  
23 Board or its successor and on additional standards as  
24 may be prescribed in the Valuation Manual.

25 (5) In the case of an opinion required to be  
26 submitted by a foreign or non-domestic ~~alien~~ company,

1 the Director may accept the opinion filed by that  
2 company with the insurance supervisory official of  
3 another state if the Director determines that the  
4 opinion reasonably meets the requirements applicable  
5 to a company domiciled in this State.

6 (6) Except in cases of fraud or willful  
7 misconduct, the appointed actuary shall not be liable  
8 for damages to any person (other than the insurance  
9 company and the Director) for any act, error,  
10 omission, decision, or conduct with respect to the  
11 appointed actuary's opinion.

12 (7) Disciplinary action by the Director against  
13 the company or the appointed actuary shall be defined  
14 by the Director by rule.

15 (8) A memorandum, in a form and substance as  
16 specified in the Valuation Manual and acceptable to  
17 the Director, shall be prepared to support each  
18 actuarial opinion.

19 (9) If the insurance company fails to provide a  
20 supporting memorandum at the request of the Director  
21 within a period specified in the Valuation Manual or  
22 the Director determines that the supporting memorandum  
23 provided by the insurance company fails to meet the  
24 standards prescribed by the Valuation Manual or is  
25 otherwise unacceptable to the Director, the Director  
26 may engage a qualified actuary at the expense of the

1           company to review the opinion and the basis for the  
2           opinion and prepare the supporting memorandum as is  
3           required by the Director.

4           (B) Every company with outstanding life insurance  
5           contracts, accident and health insurance contracts, or  
6           deposit-type contracts in this State and subject to  
7           regulation by the Director, except as exempted in the  
8           Valuation Manual, shall also annually include in the  
9           opinion required by subparagraph (1) of paragraph (A) of  
10          this subsection (1b), an opinion of the same appointed  
11          actuary as to whether the reserves and related actuarial  
12          items held in support of the policies and contracts  
13          specified in the Valuation Manual, when considered in  
14          light of the assets held by the company with respect to the  
15          reserves and related actuarial items, including, but not  
16          limited to, the investment earnings on the assets and the  
17          considerations anticipated to be received and retained  
18          under the policies and contracts, make adequate provision  
19          for the company's obligations under the policies and  
20          contracts, including, but not limited to, the benefits  
21          under and expenses associated with the policies and  
22          contracts.

23          (2) This subsection shall apply to only those policies and  
24          contracts issued prior to the operative date of Section 229.2  
25          (the Standard Non-forfeiture Law).

26          (a) Except as otherwise in this Article provided, the

1 legal minimum standard for valuation of contracts issued  
2 before January 1, 1908, shall be the Actuaries or Combined  
3 Experience Table of Mortality with interest at 4% per  
4 annum and for valuation of contracts issued on or after  
5 that date shall be the American Experience Table of  
6 Mortality with either Craig's or Buttolph's Extension for  
7 ages under 10 and with interest at 3 1/2% per annum. The  
8 legal minimum standard for the valuation of group  
9 insurance policies under which premium rates are not  
10 guaranteed for a period in excess of 5 years shall be the  
11 American Men Ultimate Table of Mortality with interest at  
12 3 1/2% per annum. Any life company may, at its option,  
13 value its insurance contracts issued on or after January  
14 1, 1938, in accordance with their terms on the basis of the  
15 American Men Ultimate Table of Mortality with interest not  
16 higher than 3 1/2% per annum.

17 (b) Policies issued prior to January 1, 1908, may  
18 continue to be valued according to a method producing  
19 reserves not less than those produced by the full  
20 preliminary term method. Policies issued on and after  
21 January 1, 1908, may be valued according to a method  
22 producing reserves not less than those produced by the  
23 modified preliminary term method hereinafter described in  
24 paragraph (c). Policies issued on and after January 1,  
25 1938, may be valued either according to a method producing  
26 reserves not less than those produced by such modified

1 preliminary term method or by the select and ultimate  
2 method on the basis that the rate of mortality during the  
3 first 5 years after the issuance of such contracts  
4 respectively shall be calculated according to the  
5 following percentages of rates shown by the American  
6 Experience Table of Mortality:

7 (i) first insurance year 50% thereof;

8 (ii) second insurance year 65% thereof;

9 (iii) third insurance year 75% thereof;

10 (iv) fourth insurance year 85% thereof;

11 (v) fifth insurance year 95% thereof.

12 (c) If the premium charged for the first policy year  
13 under a limited payment life preliminary term policy  
14 providing for the payment of all premiums thereon in less  
15 than 20 years from the date of the policy or under an  
16 endowment preliminary term policy, exceeds that charged  
17 for the first policy year under 20 payment life  
18 preliminary term policies of the same company, the reserve  
19 thereon at the end of any year, including the first, shall  
20 not be less than the reserve on a 20 payment life  
21 preliminary term policy issued in the same year at the  
22 same age, together with an amount which shall be  
23 equivalent to the accumulation of a net level premium  
24 sufficient to provide for a pure endowment at the end of  
25 the premium payment period, equal to the difference  
26 between the value at the end of such period of such a 20

1 payment life preliminary term policy and the full net  
2 level premium reserve at such time of such a limited  
3 payment life or endowment policy. The premium payment  
4 period is the period during which premiums are  
5 concurrently payable under such 20 payment life  
6 preliminary term policy and such limited payment life or  
7 endowment policy.

8 (d) The legal minimum standard for the valuations of  
9 annuities issued on and after January 1, 1938, shall be  
10 the American Annuitant's Table with interest not higher  
11 than 3 3/4% per annum, and all annuities issued before  
12 that date shall be valued on a basis not lower than that  
13 used for the annual statement of the year 1937; but  
14 annuities deferred 10 or more years and written in  
15 connection with life insurance shall be valued on the same  
16 basis as that used in computing the consideration or  
17 premiums therefor, or upon any higher standard at the  
18 option of the company.

19 (e) The Director may vary the standards of interest  
20 and mortality as to contracts issued in countries other  
21 than the United States and may vary standards of mortality  
22 in particular cases of invalid lives and other extra  
23 hazards.

24 (f) The legal minimum standard for valuation of waiver  
25 of premium disability benefits or waiver of premium and  
26 income disability benefits issued on and after January 1,



1 1938, shall be the Class (3) Disability Table (1926)  
2 modified to conform to the contractual waiting period,  
3 with interest at not more than 3 1/2% per annum; but in no  
4 event shall the values be less than those produced by the  
5 basis used in computing premiums for such benefits. The  
6 legal minimum standard for the valuation of such benefits  
7 issued prior to January 1, 1938, shall be such as to place  
8 an adequate value, as determined by sound insurance  
9 practices, on the liabilities thereunder and shall be such  
10 that the value of the benefits under each and every policy  
11 shall in no case be less than the value placed upon the  
12 future premiums.

13 (g) The legal minimum standard for the valuation of  
14 industrial policies issued on or after January 1, 1938,  
15 shall be the American Experience Table of Mortality or the  
16 Standard Industrial Mortality Table or the Substandard  
17 Industrial Mortality Table with interest at 3 1/2% per  
18 annum by the net level premium method, or in accordance  
19 with their terms by the modified preliminary term method  
20 hereinabove described.

21 (h) Reserves for all such policies and contracts may  
22 be calculated, at the option of the company, according to  
23 any standards which produce greater aggregate reserves for  
24 all such policies and contracts than the minimum reserves  
25 required by this subsection.

26 (3) This subsection shall apply to only those policies and

1 contracts issued on or after January 1, 1948 or such earlier  
2 operative date of Section 229.2 (the Standard Non-forfeiture  
3 Law) as shall have been elected by the insurance company  
4 issuing such policies or contracts.

5 (a) Except as otherwise provided in subsections (4),  
6 (6), and (7), the minimum standard for the valuation of  
7 all such policies and contracts shall be the Commissioners  
8 Reserve valuation method defined in paragraphs (b) and (f)  
9 of this subsection and in subsection 5, 3 1/2% interest  
10 for such policies issued prior to September 8, 1977, 5  
11 1/2% interest for single premium life insurance policies  
12 and 4 1/2% interest for all other such policies issued on  
13 or after September 8, 1977, and the following tables:

14 (i) The Commissioners 1941 Standard Ordinary  
15 Mortality Table for all Ordinary policies of life  
16 insurance issued on the standard basis, excluding any  
17 disability and accidental death benefits in such  
18 policies, for such policies issued prior to the  
19 operative date of subsection (4a) of Section 229.2  
20 (Standard Non-forfeiture Law); and the Commissioners  
21 1958 Standard Ordinary Mortality Table for such  
22 policies issued on or after such operative date but  
23 prior to the operative date of subsection (4c) of  
24 Section 229.2 provided that for any category of such  
25 policies issued on female risks all modified net  
26 premiums and present values referred to in this

1 Section may, prior to September 8, 1977, be calculated  
2 according to an age not more than 3 years younger than  
3 the actual age of the insured and, after September 8,  
4 1977, calculated according to an age not more than 6  
5 years younger than the actual age of the insured; and  
6 for such policies issued on or after the operative  
7 date of subsection (4c) of Section 229.2, (i) the  
8 Commissioners 1980 Standard Ordinary Mortality Table,  
9 or (ii) at the election of the company for any one or  
10 more specified plans of life insurance, the  
11 Commissioners 1980 Standard Ordinary Mortality Table  
12 with Ten-Year Select Mortality Factors, or (iii) any  
13 ordinary mortality table adopted after 1980 by the  
14 NAIC and approved by regulations promulgated by the  
15 Director for use in determining the minimum standard  
16 of valuation for such policies.

17 (ii) For all Industrial Life Insurance policies  
18 issued on the standard basis, excluding any disability  
19 and accidental death benefits in such policies--the  
20 1941 Standard Industrial Mortality Table for such  
21 policies issued prior to the operative date of  
22 subsection 4 (b) of Section 229.2 (Standard  
23 Non-forfeiture Law); and for such policies issued on  
24 or after such operative date the Commissioners 1961  
25 Standard Industrial Mortality Table or any industrial  
26 mortality table adopted after 1980 by the NAIC and

1 approved by regulations promulgated by the Director  
2 for use in determining the minimum standard of  
3 valuation for such policies.

4 (iii) For Individual Annuity and Pure Endowment  
5 contracts, excluding any disability and accidental  
6 death benefits in such policies--the 1937 Standard  
7 Annuity Mortality Table--or, at the option of the  
8 company, the Annuity Mortality Table for 1949,  
9 Ultimate, or any modification of either of these  
10 tables approved by the Director.

11 (iv) For Group Annuity and Pure Endowment  
12 contracts, excluding any disability and accidental  
13 death benefits in such policies--the Group Annuity  
14 Mortality Table for 1951, any modification of such  
15 table approved by the Director, or, at the option of  
16 the company, any of the tables or modifications of  
17 tables specified for Individual Annuity and Pure  
18 Endowment contracts.

19 (v) For Total and Permanent Disability Benefits in  
20 or supplementary to Ordinary policies or contracts for  
21 policies or contracts issued on or after January 1,  
22 1966, the tables of Period 2 disablement rates and the  
23 1930 to 1950 termination rates of the 1952 Disability  
24 Study of the Society of Actuaries, with due regard to  
25 the type of benefit, or any tables of disablement  
26 rates and termination rates adopted after 1980 by the

1 NAIC and approved by regulations promulgated by the  
2 Director for use in determining the minimum standard  
3 of valuation for such policies; for policies or  
4 contracts issued on or after January 1, 1961, and  
5 prior to January 1, 1966, either such tables or, at the  
6 option of the company, the Class (3) Disability Table  
7 (1926); and for policies issued prior to January 1,  
8 1961, the Class (3) Disability Table (1926). Any such  
9 table shall, for active lives, be combined with a  
10 mortality table permitted for calculating the reserves  
11 for life insurance policies.

12 (vi) For Accidental Death benefits in or  
13 supplementary to policies--for policies issued on or  
14 after January 1, 1966, the 1959 Accidental Death  
15 Benefits Table or any accidental death benefits table  
16 adopted after 1980 by the NAIC and approved by  
17 regulations promulgated by the Director for use in  
18 determining the minimum standard of valuation for such  
19 policies; for policies issued on or after January 1,  
20 1961, and prior to January 1, 1966, any of such tables  
21 or, at the option of the company, the Inter-Company  
22 Double Indemnity Mortality Table; and for policies  
23 issued prior to January 1, 1961, the Inter-Company  
24 Double Indemnity Mortality Table. Either table shall  
25 be combined with a mortality table permitted for  
26 calculating the reserves for life insurance policies.

1           (vii) For Group Life Insurance, life insurance  
2           issued on the substandard basis and other special  
3           benefits--such tables as may be approved by the  
4           Director.

5           (b) Except as otherwise provided in paragraph (f) of  
6           subsection (3), subsection (5), and subsection (7)  
7           reserves according to the Commissioners reserve valuation  
8           method, for the life insurance and endowment benefits of  
9           policies providing for a uniform amount of insurance and  
10          requiring the payment of uniform premiums shall be the  
11          excess, if any, of the present value, at the date of  
12          valuation, of such future guaranteed benefits provided for  
13          by such policies, over the then present value of any  
14          future modified net premiums therefor. The modified net  
15          premiums for any such policy shall be such uniform  
16          percentage of the respective contract premiums for such  
17          benefits that the present value, at the date of issue of  
18          the policy, of all such modified net premiums shall be  
19          equal to the sum of the then present value of such benefits  
20          provided for by the policy and the excess of (A) over (B),  
21          as follows:

22           (A) A net level annual premium equal to the  
23           present value, at the date of issue, of such benefits  
24           provided for after the first policy year, divided by  
25           the present value, at the date of issue, of an annuity  
26           of one per annum payable on the first and each

1 subsequent anniversary of such policy on which a  
2 premium falls due; provided, however, that such net  
3 level annual premium shall not exceed the net level  
4 annual premium on the 19 year premium whole life plan  
5 for insurance of the same amount at an age one year  
6 higher than the age at issue of such policy.

7 (B) A net one year term premium for such benefits  
8 provided for in the first policy year.

9 For any life insurance policy issued on or after  
10 January 1, 1987, for which the contract premium in the  
11 first policy year exceeds that of the second year with no  
12 comparable additional benefit being provided in that first  
13 year, which policy provides an endowment benefit or a cash  
14 surrender value or a combination thereof in an amount  
15 greater than such excess premium, the reserve according to  
16 the Commissioners reserve valuation method as of any  
17 policy anniversary occurring on or before the assumed  
18 ending date, defined herein as the first policy  
19 anniversary on which the sum of any endowment benefit and  
20 any cash surrender value then available is greater than  
21 such excess premium, shall, except as otherwise provided  
22 in paragraph (f) of subsection (3), be the greater of the  
23 reserve as of such policy anniversary calculated as  
24 described in the preceding part of this paragraph (b) and  
25 the reserve as of such policy anniversary calculated as  
26 described in the preceding part of this paragraph (b) with

1 (i) the value defined in subpart A of the preceding part of  
2 this paragraph (b) being reduced by 15% of the amount of  
3 such excess first year premium, (ii) all present values of  
4 benefits and premiums being determined without reference  
5 to premiums or benefits provided for by the policy after  
6 the assumed ending date, (iii) the policy being assumed to  
7 mature on such date as an endowment, and (iv) the cash  
8 surrender value provided on such date being considered as  
9 an endowment benefit. In making the above comparison, the  
10 mortality and interest bases stated in paragraph (a) of  
11 subsection (3) and in subsection (6) shall be used.

12 Reserves according to the Commissioners reserve  
13 valuation method for (i) life insurance policies providing  
14 for a varying amount of insurance or requiring the payment  
15 of varying premiums, (ii) group annuity and pure endowment  
16 contracts purchased under a retirement plan or plan of  
17 deferred compensation, established or maintained by an  
18 employer (including a partnership or sole proprietorship)  
19 or by an employee organization, or by both, other than a  
20 plan providing individual retirement accounts or  
21 individual retirement annuities under Section 408 of the  
22 Internal Revenue Code, as now or hereafter amended, (iii)  
23 disability and accidental death benefits in all policies  
24 and contracts, and (iv) all other benefits, except life  
25 insurance and endowment benefits in life insurance  
26 policies and benefits provided by all other annuity and



1 pure endowment contracts, shall be calculated by a method  
2 consistent with the principles of this paragraph (b),  
3 except that any extra premiums charged because of  
4 impairments or special hazards shall be disregarded in the  
5 determination of modified net premiums.

6 (c) In no event shall a company's aggregate reserves  
7 for all life insurance policies, excluding disability and  
8 accidental death benefits be less than the aggregate  
9 reserves calculated in accordance with the methods set  
10 forth in paragraphs (b), (f), and (g) of subsection (3)  
11 and in subsection (5) and the mortality table or tables  
12 and rate or rates of interest used in calculating  
13 non-forfeiture benefits for such policies.

14 (d) In no event shall the aggregate reserves for all  
15 policies, contracts, and benefits be less than the  
16 aggregate reserves determined by the appointed actuary to  
17 be necessary to render the opinion required by subsection  
18 (1a).

19 (e) Reserves for any category of policies, contracts  
20 or benefits as established by the Director, may be  
21 calculated, at the option of the company, according to any  
22 standards which produce greater aggregate reserves for  
23 such category than those calculated according to the  
24 minimum standard herein provided, but the rate or rates of  
25 interest used for policies and contracts, other than  
26 annuity and pure endowment contracts, shall not be higher

1 than the corresponding rate or rates of interest used in  
2 calculating any nonforfeiture benefits provided for  
3 therein.

4 (f) If in any contract year the gross premium charged  
5 by any life insurance company on any policy or contract is  
6 less than the valuation net premium for the policy or  
7 contract calculated by the method used in calculating the  
8 reserve thereon but using the minimum valuation standards  
9 of mortality and rate of interest, the minimum reserve  
10 required for such policy or contract shall be the greater  
11 of either the reserve calculated according to the  
12 mortality table, rate of interest, and method actually  
13 used for such policy or contract, or the reserve  
14 calculated by the method actually used for such policy or  
15 contract but using the minimum standards of mortality and  
16 rate of interest and replacing the valuation net premium  
17 by the actual gross premium in each contract year for  
18 which the valuation net premium exceeds the actual gross  
19 premium. The minimum valuation standards of mortality and  
20 rate of interest referred to in this paragraph (f) are  
21 those standards stated in subsection (6) and paragraph (a)  
22 of subsection (3).

23 For any life insurance policy issued on or after  
24 January 1, 1987, for which the gross premium in the first  
25 policy year exceeds that of the second year with no  
26 comparable additional benefit provided in that first year,

1           which policy provides an endowment benefit or a cash  
2           surrender value or a combination thereof in an amount  
3           greater than such excess premium, the foregoing provisions  
4           of this paragraph (f) shall be applied as if the method  
5           actually used in calculating the reserve for such policy  
6           were the method described in paragraph (b) of subsection  
7           (3), ignoring the second paragraph of said paragraph (b).  
8           The minimum reserve at each policy anniversary of such a  
9           policy shall be the greater of the minimum reserve  
10          calculated in accordance with paragraph (b) of subsection  
11          (3), including the second paragraph of said paragraph (b),  
12          and the minimum reserve calculated in accordance with this  
13          paragraph (f).

14           (g) In the case of any plan of life insurance which  
15          provides for future premium determination, the amounts of  
16          which are to be determined by the insurance company based  
17          on then estimates of future experience, or in the case of  
18          any plan of life insurance or annuity which is of such a  
19          nature that the minimum reserves cannot be determined by  
20          the methods described in paragraphs (b) and (f) of  
21          subsection (3) and subsection (5), the reserves which are  
22          held under any such plan shall:

23                   (i) be appropriate in relation to the benefits and  
24                   the pattern of premiums for that plan, and

25                   (ii) be computed by a method which is consistent  
26                   with the principles of this Standard Valuation Law, as

1           determined by regulations promulgated by the Director.

2           (4) Except as provided in subsection (6), the minimum  
3           standard of valuation for individual annuity and pure  
4           endowment contracts issued on or after the operative date of  
5           this subsection, as defined herein, and for all annuities and  
6           pure endowments purchased on or after such operative date  
7           under group annuity and pure endowment contracts shall be the  
8           Commissioners Reserve valuation methods defined in paragraph  
9           (b) of subsection (3) and subsection (5) and the following  
10          tables and interest rates:

11           (a) For individual single premium immediate annuity  
12          contracts, excluding any disability and accidental death  
13          benefits in such contracts, the 1971 Individual Annuity  
14          Mortality Table, any individual annuity mortality table  
15          adopted after 1980 by the NAIC and approved by regulations  
16          promulgated by the Director for use in determining the  
17          minimum standard of valuation for such contracts, or any  
18          modification of those tables approved by the Director, and  
19          7 1/2% interest.

20           (b) For individual and pure endowment contracts other  
21          than single premium annuity contracts, excluding any  
22          disability and accidental death benefits in such  
23          contracts, the 1971 Individual Annuity Mortality Table,  
24          any individual annuity mortality table adopted after 1980  
25          by the NAIC and approved by regulations promulgated by the  
26          Director for use in determining the minimum standard of

1 valuation for such contracts, or any modification of those  
2 tables approved by the Director, and 5 1/2% interest for  
3 single premium deferred annuity and pure endowment  
4 contracts and 4 1/2% interest for all other such  
5 individual annuity and pure endowment contracts.

6 (c) For all annuities and pure endowments purchased  
7 under group annuity and pure endowment contracts,  
8 excluding any disability and accidental death benefits  
9 purchased under such contracts, the 1971 Group Annuity  
10 Mortality Table, any group annuity mortality table adopted  
11 after 1980 by the NAIC and approved by regulations  
12 promulgated by the Director for use in determining the  
13 minimum standard of valuation for such annuities and pure  
14 endowments, or any modification of those tables approved  
15 by the Director, and 7 1/2% interest.

16 After September 8, 1977, any company may file with the  
17 Director a written notice of its election to comply with the  
18 provisions of this subsection after a specified date before  
19 January 1, 1979, which shall be the operative date of this  
20 subsection for such company; provided, a company may elect a  
21 different operative date for individual annuity and pure  
22 endowment contracts from that elected for group annuity and  
23 pure endowment contracts. If a company makes no election, the  
24 operative date of this subsection for such company shall be  
25 January 1, 1979.

26 (5) This subsection shall apply to all annuity and pure

1 endowment contracts other than group annuity and pure  
2 endowment contracts purchased under a retirement plan or plan  
3 of deferred compensation, established or maintained by an  
4 employer (including a partnership or sole proprietorship) or  
5 by an employee organization, or by both, other than a plan  
6 providing individual retirement accounts or individual  
7 retirement annuities under Section 408 of the Internal Revenue  
8 Code, as now or hereafter amended.

9 Reserves according to the Commissioners annuity reserve  
10 method for benefits under annuity or pure endowment contracts,  
11 excluding any disability and accidental death benefits in such  
12 contracts, shall be the greatest of the respective excesses of  
13 the present values, at the date of valuation, of the future  
14 guaranteed benefits, including guaranteed nonforfeiture  
15 benefits, provided for by such contracts at the end of each  
16 respective contract year, over the present value, at the date  
17 of valuation, of any future valuation considerations derived  
18 from future gross considerations, required by the terms of  
19 such contract, that become payable prior to the end of such  
20 respective contract year. The future guaranteed benefits shall  
21 be determined by using the mortality table, if any, and the  
22 interest rate, or rates, specified in such contracts for  
23 determining guaranteed benefits. The valuation considerations  
24 are the portions of the respective gross considerations  
25 applied under the terms of such contracts to determine  
26 nonforfeiture values.

1           (6) (a) Applicability of this subsection. The interest  
2 rates used in determining the minimum standard for the  
3 valuation of

4           (A) all life insurance policies issued in a particular  
5 calendar year, on or after the operative date of  
6 subsection (4c) of Section 229.2 (Standard Nonforfeiture  
7 Law),

8           (B) all individual annuity and pure endowment  
9 contracts issued in a particular calendar year ending on  
10 or after December 31, 1983,

11           (C) all annuities and pure endowments purchased in a  
12 particular calendar year ending on or after December 31,  
13 1983, under group annuity and pure endowment contracts,  
14 and

15           (D) the net increase in a particular calendar year  
16 ending after December 31, 1983, in amounts held under  
17 guaranteed interest contracts

18 shall be the calendar year statutory valuation interest rates,  
19 as defined in this subsection.

20           (b) Calendar Year Statutory Valuation Interest Rates.

21           (i) The calendar year statutory valuation interest  
22 rates shall be determined according to the following  
23 formulae, rounding "I" to the nearest .25%.

24           (A) For life insurance,

$$25 \quad I = .03 + W (R1 - .03) + W/2 (R2 - .09).$$

26           (B) For single premium immediate annuities and

1 annuity benefits involving life contingencies  
2 arising from other annuities with cash settlement  
3 options and from guaranteed interest contracts  
4 with cash settlement options,

5  $I = .03 + W (R - .03)$  or with prior  
6 approval of the Director  $I = .03 + W (R_q -$   
7  $.03)$ .

8 For the purposes of this subparagraph (i), "I"  
9 equals the calendar year statutory valuation interest  
10 rate, "R" is the reference interest rate defined in  
11 this subsection, "R1" is the lesser of R and .09, "R2"  
12 is the greater of R and .09, "Rq" is the quarterly  
13 reference interest rate defined in this subsection,  
14 and "W" is the weighting factor defined in this  
15 subsection.

16 (C) For other annuities with cash settlement  
17 options and guaranteed interest contracts with  
18 cash settlement options, valued on an issue year  
19 basis, except as stated in (B), the formula for  
20 life insurance stated in (A) applies to annuities  
21 and guaranteed interest contracts with guarantee  
22 durations in excess of 10 years, and the formula  
23 for single premium immediate annuities stated in  
24 (B) above applies to annuities and guaranteed  
25 interest contracts with guarantee durations of 10  
26 years or less.



1           (D) For other annuities with no cash  
2 settlement options and for guaranteed interest  
3 contracts with no cash settlement options, the  
4 formula for single premium immediate annuities  
5 stated in (B) applies.

6           (E) For other annuities with cash settlement  
7 options and guaranteed interest contracts with  
8 cash settlement options, valued on a change in  
9 fund basis, the formula for single premium  
10 immediate annuities stated in (B) applies.

11           (ii) If the calendar year statutory valuation  
12 interest rate for any life insurance policy issued in  
13 any calendar year determined without reference to this  
14 subparagraph differs from the corresponding actual  
15 rate for similar policies issued in the immediately  
16 preceding calendar year by less than .5%, the calendar  
17 year statutory valuation interest rate for such life  
18 insurance policy shall be the corresponding actual  
19 rate for the immediately preceding calendar year. For  
20 purposes of applying this subparagraph, the calendar  
21 year statutory valuation interest rate for life  
22 insurance policies issued in a calendar year shall be  
23 determined for 1980, using the reference interest rate  
24 defined for 1979, and shall be determined for each  
25 subsequent calendar year regardless of when subsection  
26 (4c) of Section 229.2 (Standard Nonforfeiture Law)

1 becomes operative.

2 (c) Weighting Factors.

3 (i) The weighting factors referred to in the  
4 formulae stated in paragraph (b) are given in the  
5 following tables.

6 (A) Weighting Factors for Life Insurance.

| 7 Guarantee                           | Weighting |
|---------------------------------------|-----------|
| 8 Duration                            | Factors   |
| 9 (Years)                             |           |
| 10 10 or less                         | .50       |
| 11 More than 10, but not more than 20 | .45       |
| 12 More than 20                       | .35       |

13 For life insurance, the guarantee duration is  
14 the maximum number of years the life insurance can  
15 remain in force on a basis guaranteed in the  
16 policy or under options to convert to plans of  
17 life insurance with premium rates or nonforfeiture  
18 values or both which are guaranteed in the  
19 original policy.

20 (B) The weighting factor for single premium  
21 immediate annuities and for annuity benefits  
22 involving life contingencies arising from other  
23 annuities with cash settlement options and  
24 guaranteed interest contracts with cash settlement  
25 options is .80.

26 (C) The weighting factors for other annuities

1 and for guaranteed interest contracts, except as  
 2 stated in (B) of this subparagraph (i), shall be  
 3 as specified in tables (1), (2), and (3) of this  
 4 subpart (C), according to the rules and  
 5 definitions in (4), (5) and (6) of this subpart  
 6 (C).

7 (1) For annuities and guaranteed interest  
 8 contracts valued on an issue year basis.

| 9 Guarantee              | Weighting Factor |     |     |
|--------------------------|------------------|-----|-----|
| 10 Duration              | for Plan Type    |     |     |
| 11 (Years)               | A                | B   | C   |
| 12 5 or less .....       | .80              | .60 | .50 |
| 13 More than 5, but not  |                  |     |     |
| 14 more than 10 .....    | .75              | .60 | .50 |
| 15 More than 10, but not |                  |     |     |
| 16 more than 20 .....    | .65              | .50 | .45 |
| 17 More than 20 .....    | .45              | .35 | .35 |

18 (2) For annuities and guaranteed interest  
 19 contracts valued on a change in fund basis,  
 20 the factors shown in (1) for Plan Types A, B  
 21 and C are increased by .15, .25 and .05,  
 22 respectively.

23 (3) For annuities and guaranteed interest  
 24 contracts valued on an issue year basis, other  
 25 than those with no cash settlement options,  
 26 which do not guarantee interest on

1 considerations received more than one year  
2 after issue or purchase, and for annuities and  
3 guaranteed interest contracts valued on a  
4 change in fund basis which do not guarantee  
5 interest rates on considerations received more  
6 than 12 months beyond the valuation date, the  
7 factors shown in (1), or derived in (2), for  
8 Plan Types A, B and C are increased by .05.

9 (4) For other annuities with cash  
10 settlement options and guaranteed interest  
11 contracts with cash settlement options, the  
12 guarantee duration is the number of years for  
13 which the contract guarantees interest rates  
14 in excess of the calendar year statutory  
15 valuation interest rate for life insurance  
16 policies with guarantee durations in excess of  
17 20 years. For other annuities with no cash  
18 settlement options, and for guaranteed  
19 interest contracts with no cash settlement  
20 options, the guarantee duration is the number  
21 of years from the date of issue or date of  
22 purchase to the date annuity benefits are  
23 scheduled to commence.

24 (5) The plan types used in the above  
25 tables are defined as follows.

26 Plan Type A is a plan under which the

1 policyholder may not withdraw funds, or may  
2 withdraw funds at any time but only (a) with  
3 an adjustment to reflect changes in interest  
4 rates or asset values since receipt of the  
5 funds by the insurance company, (b) without  
6 such an adjustment but in installments over 5  
7 years or more, or (c) as an immediate life  
8 annuity.

9 Plan Type B is a plan under which the  
10 policyholder may not withdraw funds before  
11 expiration of the interest rate guarantee, or  
12 may withdraw funds before such expiration but  
13 only (a) with an adjustment to reflect changes  
14 in interest rates or asset values since  
15 receipt of the funds by the insurance company,  
16 or (b) without such adjustment but in  
17 installments over 5 years or more. At the end  
18 of the interest rate guarantee, funds may be  
19 withdrawn without such adjustment in a single  
20 sum or installments over less than 5 years.

21 Plan Type C is a plan under which the  
22 policyholder may withdraw funds before  
23 expiration of the interest rate guarantee in a  
24 single sum or installments over less than 5  
25 years either (a) without adjustment to reflect  
26 changes in interest rates or asset values

1 since receipt of the funds by the insurance  
2 company, or (b) subject only to a fixed  
3 surrender charge stipulated in the contract as  
4 a percentage of the fund.

5 (6) A company may elect to value  
6 guaranteed interest contracts with cash  
7 settlement options and annuities with cash  
8 settlement options on either an issue year  
9 basis or on a change in fund basis. Guaranteed  
10 interest contracts with no cash settlement  
11 options and other annuities with no cash  
12 settlement options shall be valued on an issue  
13 year basis. As used in this Section, "issue  
14 year basis of valuation" refers to a valuation  
15 basis under which the interest rate used to  
16 determine the minimum valuation standard for  
17 the entire duration of the annuity or  
18 guaranteed interest contract is the calendar  
19 year valuation interest rate for the year of  
20 issue or year of purchase of the annuity or  
21 guaranteed interest contract. "Change in fund  
22 basis of valuation", as used in this Section,  
23 refers to a valuation basis under which the  
24 interest rate used to determine the minimum  
25 valuation standard applicable to each change  
26 in the fund held under the annuity or

1           guaranteed interest contract is the calendar  
2           year valuation interest rate for the year of  
3           the change in the fund.

4           (d) Reference Interest Rate. The reference interest  
5           rate referred to in paragraph (b) of this subsection is  
6           defined as follows.

7           (A) For all life insurance, the reference interest  
8           rate is the lesser of the average over a period of 36  
9           months, and the average over a period of 12 months,  
10          with both periods ending on June 30, or with prior  
11          approval of the Director ending on December 31, of the  
12          calendar year next preceding the year of issue, of  
13          Moody's Corporate Bond Yield Average - Monthly Average  
14          Corporates, as published by Moody's Investors Service,  
15          Inc.

16          (B) For single premium immediate annuities and for  
17          annuity benefits involving life contingencies arising  
18          from other annuities with cash settlement options and  
19          guaranteed interest contracts with cash settlement  
20          options, the reference interest rate is the average  
21          over a period of 12 months, ending on June 30, or with  
22          prior approval of the Director ending on December 31,  
23          of the calendar year of issue or year of purchase, of  
24          Moody's Corporate Bond Yield Average - Monthly Average  
25          Corporates, as published by Moody's Investors Service,  
26          Inc.

1 (C) For annuities with cash settlement options and  
2 guaranteed interest contracts with cash settlement  
3 options, valued on a year of issue basis, except those  
4 described in (B), with guarantee durations in excess  
5 of 10 years, the reference interest rate is the lesser  
6 of the average over a period of 36 months and the  
7 average over a period of 12 months, ending on June 30,  
8 or with prior approval of the Director ending on  
9 December 31, of the calendar year of issue or  
10 purchase, of Moody's Corporate Bond Yield  
11 Average-Monthly Average Corporates, as published by  
12 Moody's Investors Service, Inc.

13 (D) For other annuities with cash settlement  
14 options and guaranteed interest contracts with cash  
15 settlement options, valued on a year of issue basis,  
16 except those described in (B), with guarantee  
17 durations of 10 years or less, the reference interest  
18 rate is the average over a period of 12 months, ending  
19 on June 30, or with prior approval of the Director  
20 ending on December 31, of the calendar year of issue or  
21 purchase, of Moody's Corporate Bond Yield  
22 Average-Monthly Average Corporates, as published by  
23 Moody's Investors Service, Inc.

24 (E) For annuities with no cash settlement options  
25 and for guaranteed interest contracts with no cash  
26 settlement options, the reference interest rate is the



1 average over a period of 12 months, ending on June 30,  
2 or with prior approval of the Director ending on  
3 December 31, of the calendar year of issue or  
4 purchase, of Moody's Corporate Bond Yield  
5 Average-Monthly Average Corporates, as published by  
6 Moody's Investors Service, Inc.

7 (F) For annuities with cash settlement options and  
8 guaranteed interest contracts with cash settlement  
9 options, valued on a change in fund basis, except  
10 those described in (B), the reference interest rate is  
11 the average over a period of 12 months, ending on June  
12 30, or with prior approval of the Director ending on  
13 December 31, of the calendar year of the change in the  
14 fund, of Moody's Corporate Bond Yield Average-Monthly  
15 Average Corporates, as published by Moody's Investors  
16 Service, Inc.

17 (G) For annuities valued by a formula based on  $R_q$ ,  
18 the quarterly reference interest rate is, with the  
19 prior approval of the Director, the average within  
20 each of the 4 consecutive calendar year quarters  
21 ending on March 31, June 30, September 30 and December  
22 31 of the calendar year of issue or year of purchase of  
23 Moody's Corporate Bond Yield Average-Monthly Average  
24 Corporates, as published by Moody's Investors Service,  
25 Inc.

26 (e) Alternative Method for Determining Reference

1 Interest Rates. In the event that the Moody's Corporate  
2 Bond Yield Average-Monthly Average Corporates is no longer  
3 published by Moody's Investors Services, Inc., or in the  
4 event that the NAIC determines that Moody's Corporate Bond  
5 Yield Average-Monthly Average Corporates as published by  
6 Moody's Investors Service, Inc. is no longer appropriate  
7 for the determination of the reference interest rate, then  
8 an alternative method for determination of the reference  
9 interest rate, which is adopted by the NAIC and approved  
10 by regulations promulgated by the Director, may be  
11 substituted.

12 (7) Minimum Standards for Accident and Health (Disability,  
13 Accident and Sickness) Insurance Contracts. The Director shall  
14 promulgate a regulation containing the minimum standards  
15 applicable to the valuation of health (disability, sickness  
16 and accident) plans which are issued prior to the operative  
17 date of the Valuation Manual. For accident and health  
18 (disability, accident and sickness) insurance contracts issued  
19 on or after the operative date of the Valuation Manual, the  
20 standard prescribed in the Valuation Manual is the minimum  
21 standard of valuation required under subsection (1).

22 (8) Valuation Manual for Policies Issued On or After the  
23 Operative Date of the Valuation Manual.

24 (a) For policies issued on or after the operative date  
25 of the Valuation Manual, the standard prescribed in the  
26 Valuation Manual is the minimum standard of valuation

1 required under subsection (1), except as provided under  
2 paragraphs (e) or (g) of this subsection (8).

3 (b) The operative date of the Valuation Manual is  
4 January 1 of the first calendar year following the first  
5 July 1 when all of the following have occurred:

6 (i) The Valuation Manual has been adopted by the  
7 NAIC by an affirmative vote of at least 42 members, or  
8 three-fourths of the members voting, whichever is  
9 greater.

10 (ii) The Standard Valuation Law, as amended by the  
11 NAIC in 2009, or legislation including substantially  
12 similar terms and provisions, has been enacted by  
13 states representing greater than 75% of the direct  
14 premiums written as reported in the following annual  
15 statements submitted for 2008: life, accident and  
16 health annual statements; health annual statements; or  
17 fraternal annual statements.

18 (iii) The Standard Valuation Law, as amended by  
19 the NAIC in 2009, or legislation including  
20 substantially similar terms and provisions, has been  
21 enacted by at least 42 of the following 55  
22 jurisdictions: the 50 states of the United States,  
23 American Samoa, the American Virgin Islands, the  
24 District of Columbia, Guam, and Puerto Rico.

25 (c) Unless a change in the Valuation Manual specifies  
26 a later effective date, changes to the Valuation Manual

1 shall be effective on January 1 following the date when  
2 the change to the Valuation Manual has been adopted by the  
3 NAIC by an affirmative vote representing:

4 (i) at least three-fourths of the members of the  
5 NAIC voting, but not less than a majority of the total  
6 membership; and

7 (ii) members of the NAIC representing  
8 jurisdictions totaling greater than 75% of the direct  
9 premiums written as reported in the following annual  
10 statements most recently available prior to the vote  
11 in subparagraph (i) of this paragraph (c): life,  
12 accident and health annual statements; health annual  
13 statements; or fraternal annual statements.

14 (d) The Valuation Manual must specify all of the  
15 following:

16 (i) Minimum valuation standards for and  
17 definitions of the policies or contracts subject to  
18 subsection (1). Such minimum valuation standards shall  
19 be:

20 (A) the Commissioners reserve valuation method  
21 for life insurance contracts, other than annuity  
22 contracts, subject to subsection (1);

23 (B) the Commissioners annuity reserve  
24 valuation method for annuity contracts subject to  
25 subsection (1); and

26 (C) minimum reserves for all other policies or

1 contracts subject to subsection (1).

2 (ii) Which policies or contracts or types of  
3 policies or contracts are subject to the requirements  
4 of a principle-based valuation in paragraph (a) of  
5 subsection (9) and the minimum valuation standards  
6 consistent with those requirements.

7 (iii) For policies and contracts subject to a  
8 principle-based valuation under subsection (9):

9 (A) Requirements for the format of reports to  
10 the Director under subparagraph (iii) of paragraph  
11 (b) of subsection (9), and which shall include  
12 information necessary to determine if the  
13 valuation is appropriate and in compliance with  
14 this Section.

15 (B) Assumptions shall be prescribed for risks  
16 over which the company does not have significant  
17 control or influence.

18 (C) Procedures for corporate governance and  
19 oversight of the actuarial function, and a process  
20 for appropriate waiver or modification of such  
21 procedures.

22 (iv) For policies not subject to a principle-based  
23 valuation under subsection (9), the minimum valuation  
24 standard shall either:

25 (A) be consistent with the minimum standard of  
26 valuation prior to the operative date of the

1 Valuation Manual; or

2 (B) develop reserves that quantify the  
3 benefits and guarantees and the funding associated  
4 with the contracts and their risks at a level of  
5 conservatism that reflects conditions that include  
6 unfavorable events that have a reasonable  
7 probability of occurring.

8 (v) Other requirements, including, but not limited  
9 to, those relating to reserve methods, models for  
10 measuring risk, generation of economic scenarios,  
11 assumptions, margins, use of company experience, risk  
12 measurement, disclosure, certifications, reports,  
13 actuarial opinions and memorandums, transition rules,  
14 and internal controls.

15 (vi) The data and form of the data required under  
16 subsection (10) of this Section, with whom the data  
17 must be submitted, and may specify other requirements,  
18 including data analyses and the reporting of analyses.

19 (e) In the absence of a specific valuation requirement  
20 or if a specific valuation requirement in the Valuation  
21 Manual is not, in the opinion of the Director, in  
22 compliance with this Section, then the company shall, with  
23 respect to such requirements, comply with minimum  
24 valuation standards prescribed by the Director by rule.

25 (f) The Director may engage a qualified actuary, at  
26 the expense of the company, to perform an actuarial

1 examination of the company and opine on the  
2 appropriateness of any reserve assumption or method used  
3 by the company, or to review and opine on a company's  
4 compliance with any requirement set forth in this Section.  
5 The Director may rely upon the opinion regarding  
6 provisions contained within this Section of a qualified  
7 actuary engaged by the Director of another state,  
8 district, or territory of the United States. As used in  
9 this paragraph, "engage" includes employment and  
10 contracting.

11 (g) The Director may require a company to change any  
12 assumption or method that in the opinion of the Director  
13 is necessary in order to comply with the requirements of  
14 the Valuation Manual or this Section; and the company  
15 shall adjust the reserves as required by the Director. The  
16 Director may take other disciplinary action as permitted  
17 pursuant to law.

18 (9) Requirements of a Principle-Based Valuation.

19 (a) A company must establish reserves using a  
20 principle-based valuation that meets the following  
21 conditions for policies or contracts as specified in the  
22 Valuation Manual:

23 (i) Quantify the benefits and guarantees, and the  
24 funding, associated with the contracts and their risks  
25 at a level of conservatism that reflects conditions  
26 that include unfavorable events that have a reasonable

1 probability of occurring during the lifetime of the  
2 contracts. For policies or contracts with significant  
3 tail risk, reflect conditions appropriately adverse to  
4 quantify the tail risk.

5 (ii) Incorporate assumptions, risk analysis  
6 methods, and financial models and management  
7 techniques that are consistent with, but not  
8 necessarily identical to, those utilized within the  
9 company's overall risk assessment process, while  
10 recognizing potential differences in financial  
11 reporting structures and any prescribed assumptions or  
12 methods.

13 (iii) Incorporate assumptions that are derived in  
14 one of the following manners:

15 (A) The assumption is prescribed in the  
16 Valuation Manual.

17 (B) For assumptions that are not prescribed,  
18 the assumptions shall:

19 (1) be established utilizing the company's  
20 available experience, to the extent it is  
21 relevant and statistically credible; or

22 (2) to the extent that company data is not  
23 available, relevant, or statistically  
24 credible, be established utilizing other  
25 relevant, statistically credible experience.

26 (iv) Provide margins for uncertainty, including



1 adverse deviation and estimation error, such that the  
2 greater the uncertainty, the larger the margin and  
3 resulting reserve.

4 (b) A company using a principle-based valuation for  
5 one or more policies or contracts subject to this  
6 subsection as specified in the Valuation Manual shall:

7 (i) Establish procedures for corporate governance  
8 and oversight of the actuarial valuation function  
9 consistent with those described in the Valuation  
10 Manual.

11 (ii) Provide to the Director and the board of  
12 directors an annual certification of the effectiveness  
13 of the internal controls with respect to the  
14 principle-based valuation. Such controls shall be  
15 designed to ensure that all material risks inherent in  
16 the liabilities and associated assets subject to such  
17 valuation are included in the valuation, and that  
18 valuations are made in accordance with the Valuation  
19 Manual. The certification shall be based on the  
20 controls in place as of the end of the preceding  
21 calendar year.

22 (iii) Develop and file with the Director upon  
23 request a principle-based valuation report that  
24 complies with standards prescribed in the Valuation  
25 Manual.

26 (c) A principle-based valuation may include a

1 prescribed formulaic reserve component.

2 (10) Experience Reporting for Policies In Force On or  
3 After the Operative Date of the Valuation Manual. A company  
4 shall submit mortality, morbidity, policyholder behavior, or  
5 expense experience and other data as prescribed in the  
6 Valuation Manual.

7 (11) Confidentiality.

8 (a) For the purposes of this subsection (11),  
9 "confidential information" means any of the following:

10 (i) A memorandum in support of an opinion  
11 submitted under subsection (1) of this Section and any  
12 other documents, materials, and other information,  
13 including, but not limited to, all working papers, and  
14 copies thereof, created, produced or obtained by or  
15 disclosed to the Director or any other person in  
16 connection with the memorandum.

17 (ii) All documents, materials, and other  
18 information, including, but not limited to, all  
19 working papers, and copies thereof, created, produced,  
20 or obtained by or disclosed to the Director or any  
21 other person in the course of an examination made  
22 under paragraph (f) of subsection (8) of this Section.

23 (iii) Any reports, documents, materials, and other  
24 information developed by a company in support of, or  
25 in connection with, an annual certification by the  
26 company under subparagraph (ii) of paragraph (b) of

1 subsection (9) of this Section evaluating the  
2 effectiveness of the company's internal controls with  
3 respect to a principle-based valuation and any other  
4 documents, materials, and other information,  
5 including, but not limited to, all working papers, and  
6 copies thereof, created, produced, or obtained by or  
7 disclosed to the Director or any other person in  
8 connection with such reports, documents, materials,  
9 and other information.

10 (iv) Any principle-based valuation report  
11 developed under subparagraph (iii) of paragraph (b) of  
12 subsection (9) of this Section and any other  
13 documents, materials and other information, including,  
14 but not limited to, all working papers, and copies  
15 thereof, created, produced or obtained by or disclosed  
16 to the Director or any other person in connection with  
17 such report.

18 (v) Any documents, materials, data, and other  
19 information submitted by a company under subsection  
20 (10) of this Section (collectively, "experience data")  
21 and any other documents, materials, data, and other  
22 information, including, but not limited to, all  
23 working papers, and copies thereof, created or  
24 produced in connection with such experience data, in  
25 each case that include any potentially  
26 company-identifying or personally identifiable

1 information, that is provided to or obtained by the  
2 Director (together with any experience data, the  
3 "experience materials") and any other documents,  
4 materials, data and other information, including, but  
5 not limited to, all working papers and copies thereof,  
6 created, produced, or obtained by or disclosed to the  
7 Director or any other person in connection with such  
8 experience materials.

9 (b) Privilege for and Confidentiality of Confidential  
10 Information.

11 (i) Except as provided in this subsection (11), a  
12 company's confidential information is confidential by  
13 law and privileged, and shall not be subject to the  
14 Freedom of Information Act, subpoena, or discovery or  
15 admissible as evidence in any private civil action;  
16 however, the Director is authorized to use the  
17 confidential information in the furtherance of any  
18 regulatory or legal action brought against the company  
19 as a part of the Director's official duties.

20 (ii) Neither the Director nor any person who  
21 received confidential information while acting under  
22 the authority of the Director shall be permitted or  
23 required to testify in any private civil action  
24 concerning any confidential information.

25 (iii) In order to assist in the performance of the  
26 Director's duties, the Director may share confidential

1 information (A) with other state, federal, and  
2 international regulatory agencies and with the NAIC  
3 and its affiliates and subsidiaries and (B) in the  
4 case of confidential information specified in  
5 subparagraphs (i) and (iv) of paragraph (a) of  
6 subsection (11) only, with the Actuarial Board for  
7 Counseling and Discipline or its successor upon  
8 request stating that the confidential information is  
9 required for the purpose of professional disciplinary  
10 proceedings and with state, federal, and international  
11 law enforcement officials; in the case of (A) and (B),  
12 provided that such recipient agrees and has the legal  
13 authority to agree, to maintain the confidentiality  
14 and privileged status of such documents, materials,  
15 data, and other information in the same manner and to  
16 the same extent as required for the Director.

17 (iv) The Director may receive documents,  
18 materials, data, and other information, including  
19 otherwise confidential and privileged documents,  
20 materials, data, or information, from the NAIC and its  
21 affiliates and subsidiaries, from regulatory or law  
22 enforcement officials of other foreign or domestic  
23 jurisdictions, and from the Actuarial Board for  
24 Counseling and Discipline or its successor and shall  
25 maintain as confidential or privileged any document,  
26 material, data, or other information received with

1 notice or the understanding that it is confidential or  
2 privileged under the laws of the jurisdiction that is  
3 the source of the document, material, or other  
4 information.

5 (v) The Director may enter into agreements  
6 governing the sharing and use of information  
7 consistent with paragraph (b) of this subsection (11).

8 (vi) No waiver of any applicable privilege or  
9 claim of confidentiality in the confidential  
10 information shall occur as a result of disclosure to  
11 the Director under this subsection (11) or as a result  
12 of sharing as authorized in subparagraph (iii) of  
13 paragraph (b) of this subsection (11).

14 (vii) A privilege established under the law of any  
15 state or jurisdiction that is substantially similar to  
16 the privilege established under paragraph (b) of this  
17 subsection (11) shall be available and enforced in any  
18 proceeding in and in any court of this State.

19 (viii) In this subsection (11), "regulatory  
20 agency", "law enforcement agency", and "NAIC" include,  
21 but are not limited to, their employees, agents,  
22 consultants, and contractors.

23 (c) Notwithstanding paragraph (b) of this subsection  
24 (11), any confidential information specified in  
25 subparagraphs (i) and (iv) of paragraph (a) of this  
26 subsection (11):

1 (i) may be subject to subpoena for the purpose of  
2 defending an action seeking damages from the appointed  
3 actuary submitting the related memorandum in support  
4 of an opinion submitted under subsection (1) of this  
5 Section or principle-based valuation report developed  
6 under subparagraph (iii) of paragraph (b) of  
7 subsection (9) of this Section by reason of an action  
8 required by this Section or by regulations promulgated  
9 under this Section;

10 (ii) may otherwise be released by the Director  
11 with the written consent of the company; and

12 (iii) once any portion of a memorandum in support  
13 of an opinion submitted under subsection (1) of this  
14 Section or a principle-based valuation report  
15 developed under subparagraph (iii) of paragraph (b) of  
16 subsection (9) of this Section is cited by the company  
17 in its marketing or is publicly volunteered to or  
18 before a governmental agency other than a state  
19 insurance department or is released by the company to  
20 the news media, all portions of such memorandum or  
21 report shall no longer be confidential.

22 (12) Exemptions.

23 (a) The Director may exempt specific product forms or  
24 product lines of a domestic company that is licensed and  
25 doing business only in Illinois from the requirements of  
26 subsection (8) of this Section, provided that:

1 (i) the Director has issued an exemption in  
2 writing to the company and has not subsequently  
3 revoked the exemption in writing; and

4 (ii) the company computes reserves using  
5 assumptions and methods used prior to the operative  
6 date of the Valuation Manual in addition to any  
7 requirements established by the Director and adopted  
8 by rule.

9 (b) For any company granted an exemption under this  
10 subsection, subsections (1), (2), (3), (4), (5), (6), and  
11 (7) shall be applicable. With respect to any company  
12 applying this exemption, any reference to subsection (8)  
13 found in subsections (1), (2), (3), (4), (5), (6), and (7)  
14 shall not be applicable.

15 (13) Definitions. For the purposes of this Section, the  
16 following definitions shall apply beginning on the operative  
17 date of the Valuation Manual:

18 "Accident and health insurance" means contracts that  
19 incorporate morbidity risk and provide protection against  
20 economic loss resulting from accident, sickness, or medical  
21 conditions and as may be specified in the Valuation Manual.

22 "Appointed actuary" means a qualified actuary who is  
23 appointed in accordance with the Valuation Manual to prepare  
24 the actuarial opinion required in paragraph (b) of subsection  
25 (1) of this Section.

26 "Company" means an entity that (a) has written, issued, or



1 reinsured life insurance contracts, accident and health  
2 insurance contracts, or deposit-type contracts in this State  
3 and has at least one such policy in force or on claim or (b)  
4 has written, issued, or reinsured life insurance contracts,  
5 accident and health insurance contracts, or deposit-type  
6 contracts in any state and is required to hold a certificate of  
7 authority to write life insurance, accident and health  
8 insurance, or deposit-type contracts in this State.

9 "Deposit-type contract" means contracts that do not  
10 incorporate mortality or morbidity risks and as may be  
11 specified in the Valuation Manual.

12 "Life insurance" means contracts that incorporate  
13 mortality risk, including annuity and pure endowment  
14 contracts, and as may be specified in the Valuation Manual.

15 "NAIC" means the National Association of Insurance  
16 Commissioners.

17 "Policyholder behavior" means any action a policyholder,  
18 contract holder, or any other person with the right to elect  
19 options, such as a certificate holder, may take under a policy  
20 or contract subject to this Section including, but not limited  
21 to, lapse, withdrawal, transfer, deposit, premium payment,  
22 loan, annuitization, or benefit elections prescribed by the  
23 policy or contract, but excluding events of mortality or  
24 morbidity that result in benefits prescribed in their  
25 essential aspects by the terms of the policy or contract.

26 "Principle-based valuation" means a reserve valuation that

1 uses one or more methods or one or more assumptions determined  
2 by the insurer and is required to comply with subsection (9) of  
3 this Section as specified in the Valuation Manual.

4 "Qualified actuary" means an individual who is qualified  
5 to sign the applicable statement of actuarial opinion in  
6 accordance with the American Academy of Actuaries  
7 qualification standards for actuaries signing such statements  
8 and who meets the requirements specified in the Valuation  
9 Manual.

10 "Tail risk" means a risk that occurs either where the  
11 frequency of low probability events is higher than expected  
12 under a normal probability distribution or where there are  
13 observed events of very significant size or magnitude.

14 "Valuation Manual" means the manual of valuation  
15 instructions adopted by the NAIC as specified in this Section  
16 or as subsequently amended.

17 (Source: P.A. 99-162, eff. 1-1-16.)

18 (215 ILCS 5/241) (from Ch. 73, par. 853)

19 Sec. 241. Trust settlements.

20 Any domestic life company shall have the power to hold the  
21 proceeds of any policy issued by it under a trust or other  
22 agreement upon such terms and restrictions as to revocation by  
23 the policyholder and control by beneficiaries, and with such  
24 exemptions from the claims of creditors of beneficiaries other  
25 than the policyholder as shall have been agreed to in writing

1 by such company and the policyholder. Upon maturity of a  
2 policy in the event the policyholder has made no such  
3 agreement, the company shall have power to hold the proceeds  
4 of the policy under an agreement with the beneficiaries. Such  
5 company shall not be required to segregate funds so held but  
6 may hold them as part of its general company assets. A foreign  
7 or non-domestic ~~alien~~ company, when authorized by its charter  
8 or the laws of its domicile, may exercise any such powers in  
9 this State.

10 (Source: Laws 1937, p. 696.)

11 (215 ILCS 5/292.1) (from Ch. 73, par. 904.1)

12 (Section scheduled to be repealed on January 1, 2027)

13 Sec. 292.1. Amendments to Laws.

14 (a) A domestic society may amend its laws in accordance  
15 with the provisions thereof by action of its supreme governing  
16 body at any regular or special meeting thereof or, if its laws  
17 so provide, by referendum. Such referendum may be held in  
18 accordance with the provisions of its laws by the vote of the  
19 voting members of the society, by the vote of delegates or  
20 representatives of voting members or by the vote of local  
21 lodges. A society may provide for voting by mail. No amendment  
22 submitted for adoption by referendum shall be adopted unless,  
23 within 6 months from the date of submission thereof, a  
24 majority of the members voting shall have signified their  
25 consent to such amendment by one of the methods herein

1 specified.

2 (b) No amendment to the laws of any domestic society shall  
3 take effect unless approved by the Director, who shall approve  
4 such amendment if the Director finds that it has been duly  
5 adopted and is not inconsistent with any requirement of the  
6 laws of this State or with the character, objects and purposes  
7 of the society. Unless the Director shall disapprove any such  
8 amendment within 60 days after the filing of same, such  
9 amendment shall be considered approved. The approval or  
10 disapproval of the Director shall be in writing and mailed to  
11 the society. In case the Director disapproves such amendment,  
12 the reasons therefor shall be stated in such written notice.

13 (c) Within 90 days from the approval thereof by the  
14 Director, all such amendments, or a synopsis thereof, shall be  
15 furnished to all members of the society either by mail or by  
16 publication in full in the official publication of the  
17 society. The affidavit of any officer of the society or of  
18 anyone authorized by it to mail any amendments or synopsis  
19 thereof, stating facts which show that same have been duly  
20 addressed and mailed, shall be prima facie evidence that such  
21 amendments, or a synopsis thereof, have been furnished the  
22 addressee.

23 (d) Every foreign or non-domestic ~~alien~~ society authorized  
24 to do business in this State shall file with the Director a  
25 certified copy of all amendments of, or additions to, its laws  
26 within 90 days after the enactment of same.

1 (e) Printed copies of the laws as amended, certified by  
2 the secretary or corresponding officer of the society, shall  
3 be prima facie evidence of the legal adoption thereof.

4 (Source: P.A. 84-303.)

5 (215 ILCS 5/302.1) (from Ch. 73, par. 914.1)

6 (Section scheduled to be repealed on January 1, 2027)

7 Sec. 302.1. Investments and admitted assets. A domestic  
8 society shall invest its funds only in such investments as are  
9 authorized by the laws of this State for the investment of  
10 assets of life insurers and subject to the limitations  
11 thereon. Any foreign or non-domestic ~~alien~~ society permitted  
12 or seeking to do business in this State which invests its funds  
13 in accordance with the laws of the state, district, territory,  
14 country or province in which it is incorporated shall be held  
15 to meet the requirements of this Section for the investment of  
16 funds. Admitted assets in addition to investments authorized  
17 by this Section and Article VIII and Article VIII 1/2 of this  
18 Code shall be in accordance with Section 3.1 of this Code.

19 (Source: P.A. 84-303.)

20 (215 ILCS 5/308.1) (from Ch. 73, par. 920.1)

21 (Section scheduled to be repealed on January 1, 2027)

22 Sec. 308.1. Examination of societies - adverse  
23 publications.

24 (a) The Director, or any person he or she may appoint, may

1 examine any domestic, foreign or non-domestic ~~alien~~ society  
2 transacting or applying for admission to transact business in  
3 this State in the same manner as authorized for examination of  
4 domestic, foreign or non-domestic ~~alien~~ insurance companies.  
5 Requirements of notice and an opportunity to respond before  
6 findings are made public as provided in the laws regulating  
7 insurance companies shall also be applicable to the  
8 examination of societies.

9 (b) The expense of each examination and of each valuation,  
10 including compensation and actual expense of examiners, shall  
11 be paid by the society examined or whose certificates are  
12 valued, upon statements furnished by the Director.

13 (Source: P.A. 84-303.)

14 (215 ILCS 5/309.1) (from Ch. 73, par. 921.1)

15 (Section scheduled to be repealed on January 1, 2027)

16 Sec. 309.1. Foreign or non-domestic ~~alien~~ society -  
17 admission. No foreign or non-domestic ~~alien~~ society shall  
18 transact business in this State without a certificate of  
19 authority issued by the Director in accordance with Article VI  
20 of this Code. Any such society desiring admission to this  
21 State shall comply substantially with the requirements and  
22 limitations of this amendatory Act applicable to domestic  
23 societies.

24 (Source: P.A. 84-303.)

1 (215 ILCS 5/310.1) (from Ch. 73, par. 922.1)

2 (Section scheduled to be repealed on January 1, 2027)

3 Sec. 310.1. Suspension, revocation or refusal to renew  
4 certificate of authority.

5 (a) Domestic Societies. When, upon investigation, the  
6 Director is satisfied that any domestic society transacting  
7 business under this amendatory Act has exceeded its powers or  
8 has failed to comply with any provisions of this amendatory  
9 Act or is conducting business fraudulently or in a way  
10 hazardous to its members, creditors or the public or is not  
11 carrying out its contracts in good faith, the Director shall  
12 notify the society of his or her findings, stating in writing  
13 the grounds of his or her dissatisfaction, and, after  
14 reasonable notice, require the society on a date named to show  
15 cause why its certificate of authority should not be revoked  
16 or suspended or why such society should not be fined as  
17 hereinafter provided or why the Director should not proceed  
18 against the society under Article XIII of this Code. If, on the  
19 date named in said notice, such objections have not been  
20 removed to the satisfaction of the Director or if the society  
21 does not present good and sufficient reasons why its authority  
22 to transact business in this State should not at that time be  
23 revoked or suspended or why such society should not be fined as  
24 hereinafter provided, the Director may revoke the authority of  
25 the society to continue business in this State and proceed  
26 against the society under Article XIII of this Code or suspend

1 such certificate of authority for any period of time up to, but  
2 not to exceed, 2 years; or may by order require such society to  
3 pay to the people of the State of Illinois a penalty in a sum  
4 not exceeding \$10,000, and, upon the failure of such society  
5 to pay such penalty within 20 days after the mailing of such  
6 order, postage prepaid, registered and addressed to the last  
7 known place of business of such society, unless such order is  
8 stayed by an order of a court of competent jurisdiction, the  
9 Director may revoke or suspend the license of such society for  
10 any period of time up to, but not exceeding, a period of 2  
11 years.

12 (b) Foreign or non-domestic ~~alien~~ societies. The Director  
13 shall suspend, revoke or refuse to renew certificates of  
14 authority in accordance with Article VI of this Code.

15 (Source: P.A. 93-32, eff. 7-1-03.)

16 (215 ILCS 5/357.29) (from Ch. 73, par. 969.29)

17 Sec. 357.29. Any policy of a foreign or non-domestic ~~alien~~  
18 company, when delivered or issued for delivery to any person  
19 in this State, may contain any provision which is not less  
20 favorable to the insured or the beneficiary than the  
21 provisions of this article and which is prescribed or required  
22 by the law of the state under which the company is organized.

23 Any policy of a domestic company may, when issued for  
24 delivery in any other state or country, contain any provision  
25 permitted or required by the laws of such other state or



1 country.

2 (Source: Laws 1967, p. 1735.)

3 (215 ILCS 5/370) (from Ch. 73, par. 982)

4 Sec. 370. Policies issued in violation of article-Penalty.

5 (1) Any company, or any officer or agent thereof, issuing  
6 or delivering to any person in this State any policy in wilful  
7 violation of the provision of this article shall be guilty of a  
8 petty offense.

9 (2) The Director may revoke the license of any foreign or  
10 non-domestic ~~alien~~ company, or of the agent thereof wilfully  
11 violating any provision of this article or suspend such  
12 license for any period of time up to, but not to exceed, two  
13 years; or may by order require such insurance company or agent  
14 to pay to the people of the State of Illinois a penalty in a  
15 sum not exceeding \$1,000, and upon the failure of such  
16 insurance company or agent to pay such penalty within twenty  
17 days after the mailing of such order, postage prepaid,  
18 registered, and addressed to the last known place of business  
19 of such insurance company or agent, unless such order is  
20 stayed by an order of a court of competent jurisdiction, the  
21 Director of Insurance may revoke or suspend the license of  
22 such insurance company or agent for any period of time up to,  
23 but not exceeding a period of, two years.

24 (Source: P.A. 93-32, eff. 7-1-03.)

1 (215 ILCS 5/404) (from Ch. 73, par. 1016)

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

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

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

1           (c) The Director shall maintain as confidential any  
2 records or information received from the National Association  
3 of Insurance Commissioners or insurance regulatory officials  
4 of other states which is confidential in that other  
5 jurisdiction.

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

13           (3) Five 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 consumer complaints or  
17 inquiries.

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

26           (5) Five years after the conclusion of the transactions to

1 which they relate, the Director is authorized to destroy or  
2 otherwise dispose of all examination reports of companies made  
3 by the insurance supervisory officials of states other than  
4 Illinois; applications, requisitions, and requests for  
5 licenses; all records of hearings; and all similar records,  
6 papers, documents, and memoranda in the possession of the  
7 Director.

8 (6) Ten years after the conclusion of the transactions to  
9 which they relate, the Director is authorized to destroy or  
10 otherwise dispose of all official correspondence of foreign  
11 and non-domestic ~~alien~~ companies, all foreign companies' and  
12 non-domestic ~~alien~~ companies' annual statements, valuation  
13 reports, tax reports, and all similar records, papers,  
14 documents and memoranda in the possession of the Director.

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

24 (8) This Section shall apply to records, papers,  
25 documents, and memoranda presently in the possession of the  
26 Director as well as to records, papers, documents, and

1 memoranda hereafter coming into his possession.

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

3 (215 ILCS 5/408) (from Ch. 73, par. 1020)

4 Sec. 408. Fees and charges.

5 (1) The Director shall charge, collect and give proper  
6 acquittances for the payment of the following fees and  
7 charges:

8 (a) For filing all documents submitted for the  
9 incorporation or organization or certification of a  
10 domestic company, except for a fraternal benefit society,  
11 \$2,000.

12 (b) For filing all documents submitted for the  
13 incorporation or organization of a fraternal benefit  
14 society, \$500.

15 (c) For filing amendments to articles of incorporation  
16 and amendments to declaration of organization, except for  
17 a fraternal benefit society, a mutual benefit association,  
18 a burial society or a farm mutual, \$200.

19 (d) For filing amendments to articles of incorporation  
20 of a fraternal benefit society, a mutual benefit  
21 association or a burial society, \$100.

22 (e) For filing amendments to articles of incorporation  
23 of a farm mutual, \$50.

24 (f) For filing bylaws or amendments thereto, \$50.

25 (g) For filing agreement of merger or consolidation:

1 (i) for a domestic company, except for a fraternal  
2 benefit society, a mutual benefit association, a  
3 burial society, or a farm mutual, \$2,000.

4 (ii) for a foreign or non-domestic ~~alien~~ company,  
5 except for a fraternal benefit society, \$600.

6 (iii) for a fraternal benefit society, a mutual  
7 benefit association, a burial society, or a farm  
8 mutual, \$200.

9 (h) For filing agreements of reinsurance by a domestic  
10 company, \$200.

11 (i) For filing all documents submitted by a foreign or  
12 non-domestic ~~alien~~ company to be admitted to transact  
13 business or accredited as a reinsurer in this State,  
14 except for a fraternal benefit society, \$5,000.

15 (j) For filing all documents submitted by a foreign or  
16 non-domestic ~~alien~~ fraternal benefit society to be  
17 admitted to transact business in this State, \$500.

18 (k) For filing declaration of withdrawal of a foreign  
19 or non-domestic ~~alien~~ company, \$50.

20 (l) For filing annual statement by a domestic company,  
21 except a fraternal benefit society, a mutual benefit  
22 association, a burial society, or a farm mutual, \$200.

23 (m) For filing annual statement by a domestic  
24 fraternal benefit society, \$100.

25 (n) For filing annual statement by a farm mutual, a  
26 mutual benefit association, or a burial society, \$50.

1           (o) For issuing a certificate of authority or renewal  
2 thereof except to a foreign fraternal benefit society,  
3 \$400.

4           (p) For issuing a certificate of authority or renewal  
5 thereof to a foreign fraternal benefit society, \$200.

6           (q) For issuing an amended certificate of authority,  
7 \$50.

8           (r) For each certified copy of certificate of  
9 authority, \$20.

10          (s) For each certificate of deposit, or valuation, or  
11 compliance or surety certificate, \$20.

12          (t) For copies of papers or records per page, \$1.

13          (u) For each certification to copies of papers or  
14 records, \$10.

15          (v) For multiple copies of documents or certificates  
16 listed in subparagraphs (r), (s), and (u) of paragraph (1)  
17 of this Section, \$10 for the first copy of a certificate of  
18 any type and \$5 for each additional copy of the same  
19 certificate requested at the same time, unless, pursuant  
20 to paragraph (2) of this Section, the Director finds these  
21 additional fees excessive.

22          (w) For issuing a permit to sell shares or increase  
23 paid-up capital:

24               (i) in connection with a public stock offering,  
25               \$300;

26               (ii) in any other case, \$100.

1           (x) For issuing any other certificate required or  
2 permissible under the law, \$50.

3           (y) For filing a plan of exchange of the stock of a  
4 domestic stock insurance company, a plan of  
5 demutualization of a domestic mutual company, or a plan of  
6 reorganization under Article XII, \$2,000.

7           (z) For filing a statement of acquisition of a  
8 domestic company as defined in Section 131.4 of this Code,  
9 \$2,000.

10          (aa) For filing an agreement to purchase the business  
11 of an organization authorized under the Dental Service  
12 Plan Act or the Voluntary Health Services Plans Act or of a  
13 health maintenance organization or a limited health  
14 service organization, \$2,000.

15          (bb) For filing a statement of acquisition of a  
16 foreign or non-domestic ~~alien~~ insurance company as defined  
17 in Section 131.12a of this Code, \$1,000.

18          (cc) For filing a registration statement as required  
19 in Sections 131.13 and 131.14, the notification as  
20 required by Sections 131.16, 131.20a, or 141.4, or an  
21 agreement or transaction required by Sections 124.2(2),  
22 141, 141a, or 141.1, \$200.

23          (dd) For filing an application for licensing of:

24           (i) a religious or charitable risk pooling trust  
25 or a workers' compensation pool, \$1,000;

26           (ii) a workers' compensation service company,



1           \$500;

2           (iii) a self-insured automobile fleet, \$200; or

3           (iv) a renewal of or amendment of any license  
4           issued pursuant to (i), (ii), or (iii) above, \$100.

5           (ee) For filing articles of incorporation for a  
6           syndicate to engage in the business of insurance through  
7           the Illinois Insurance Exchange, \$2,000.

8           (ff) For filing amended articles of incorporation for  
9           a syndicate engaged in the business of insurance through  
10          the Illinois Insurance Exchange, \$100.

11          (gg) For filing articles of incorporation for a  
12          limited syndicate to join with other subscribers or  
13          limited syndicates to do business through the Illinois  
14          Insurance Exchange, \$1,000.

15          (hh) For filing amended articles of incorporation for  
16          a limited syndicate to do business through the Illinois  
17          Insurance Exchange, \$100.

18          (ii) For a permit to solicit subscriptions to a  
19          syndicate or limited syndicate, \$100.

20          (jj) For the filing of each form as required in  
21          Section 143 of this Code, \$50 per form. The fee for  
22          advisory and rating organizations shall be \$200 per form.

23          (i) For the purposes of the form filing fee,  
24          filings made on insert page basis will be considered  
25          one form at the time of its original submission.  
26          Changes made to a form subsequent to its approval

1 shall be considered a new filing.

2 (ii) Only one fee shall be charged for a form,  
3 regardless of the number of other forms or policies  
4 with which it will be used.

5 (iii) Fees charged for a policy filed as it will be  
6 issued regardless of the number of forms comprising  
7 that policy shall not exceed \$1,500. For advisory or  
8 rating organizations, fees charged for a policy filed  
9 as it will be issued regardless of the number of forms  
10 comprising that policy shall not exceed \$2,500.

11 (iv) The Director may by rule exempt forms from  
12 such fees.

13 (kk) For filing an application for licensing of a  
14 reinsurance intermediary, \$500.

15 (ll) For filing an application for renewal of a  
16 license of a reinsurance intermediary, \$200.

17 (2) When printed copies or numerous copies of the same  
18 paper or records are furnished or certified, the Director may  
19 reduce such fees for copies if he finds them excessive. He may,  
20 when he considers it in the public interest, furnish without  
21 charge to state insurance departments and persons other than  
22 companies, copies or certified copies of reports of  
23 examinations and of other papers and records.

24 (3) The expenses incurred in any performance examination  
25 authorized by law shall be paid by the company or person being  
26 examined. The charge shall be reasonably related to the cost

1 of the examination including but not limited to compensation  
2 of examiners, electronic data processing costs, supervision  
3 and preparation of an examination report and lodging and  
4 travel expenses. All lodging and travel expenses shall be in  
5 accord with the applicable travel regulations as published by  
6 the Department of Central Management Services and approved by  
7 the Governor's Travel Control Board, except that out-of-state  
8 lodging and travel expenses related to examinations authorized  
9 under Section 132 shall be in accordance with travel rates  
10 prescribed under paragraph 301-7.2 of the Federal Travel  
11 Regulations, 41 C.F.R. 301-7.2, for reimbursement of  
12 subsistence expenses incurred during official travel. All  
13 lodging and travel expenses may be reimbursed directly upon  
14 authorization of the Director. With the exception of the  
15 direct reimbursements authorized by the Director, all  
16 performance examination charges collected by the Department  
17 shall be paid to the Insurance Producer Administration Fund,  
18 however, the electronic data processing costs incurred by the  
19 Department in the performance of any examination shall be  
20 billed directly to the company being examined for payment to  
21 the Technology Management Revolving Fund.

22 (4) At the time of any service of process on the Director  
23 as attorney for such service, the Director shall charge and  
24 collect the sum of \$20, which may be recovered as taxable costs  
25 by the party to the suit or action causing such service to be  
26 made if he prevails in such suit or action.

1           (5) (a) The costs incurred by the Department of Insurance  
2 in conducting any hearing authorized by law shall be assessed  
3 against the parties to the hearing in such proportion as the  
4 Director of Insurance may determine upon consideration of all  
5 relevant circumstances including: (1) the nature of the  
6 hearing; (2) whether the hearing was instigated by, or for the  
7 benefit of a particular party or parties; (3) whether there is  
8 a successful party on the merits of the proceeding; and (4) the  
9 relative levels of participation by the parties.

10           (b) For purposes of this subsection (5) costs incurred  
11 shall mean the hearing officer fees, court reporter fees, and  
12 travel expenses of Department of Insurance officers and  
13 employees; provided however, that costs incurred shall not  
14 include hearing officer fees or court reporter fees unless the  
15 Department has retained the services of independent  
16 contractors or outside experts to perform such functions.

17           (c) The Director shall make the assessment of costs  
18 incurred as part of the final order or decision arising out of  
19 the proceeding; provided, however, that such order or decision  
20 shall include findings and conclusions in support of the  
21 assessment of costs. This subsection (5) shall not be  
22 construed as permitting the payment of travel expenses unless  
23 calculated in accordance with the applicable travel  
24 regulations of the Department of Central Management Services,  
25 as approved by the Governor's Travel Control Board. The  
26 Director as part of such order or decision shall require all

1 assessments for hearing officer fees and court reporter fees,  
2 if any, to be paid directly to the hearing officer or court  
3 reporter by the party(s) assessed for such costs. The  
4 assessments for travel expenses of Department officers and  
5 employees shall be reimbursable to the Director of Insurance  
6 for deposit to the fund out of which those expenses had been  
7 paid.

8 (d) The provisions of this subsection (5) shall apply in  
9 the case of any hearing conducted by the Director of Insurance  
10 not otherwise specifically provided for by law.

11 (6) The Director shall charge and collect an annual  
12 financial regulation fee from every domestic company for  
13 examination and analysis of its financial condition and to  
14 fund the internal costs and expenses of the Interstate  
15 Insurance Receivership Commission as may be allocated to the  
16 State of Illinois and companies doing an insurance business in  
17 this State pursuant to Article X of the Interstate Insurance  
18 Receivership Compact. The fee shall be the greater fixed  
19 amount based upon the combination of nationwide direct premium  
20 income and nationwide reinsurance assumed premium income or  
21 upon admitted assets calculated under this subsection as  
22 follows:

23 (a) Combination of nationwide direct premium income  
24 and nationwide reinsurance assumed premium.

25 (i) \$150, if the premium is less than \$500,000 and  
26 there is no reinsurance assumed premium;

1           (ii) \$750, if the premium is \$500,000 or more, but  
2 less than \$5,000,000 and there is no reinsurance  
3 assumed premium; or if the premium is less than  
4 \$5,000,000 and the reinsurance assumed premium is less  
5 than \$10,000,000;

6           (iii) \$3,750, if the premium is less than  
7 \$5,000,000 and the reinsurance assumed premium is  
8 \$10,000,000 or more;

9           (iv) \$7,500, if the premium is \$5,000,000 or more,  
10 but less than \$10,000,000;

11           (v) \$18,000, if the premium is \$10,000,000 or  
12 more, but less than \$25,000,000;

13           (vi) \$22,500, if the premium is \$25,000,000 or  
14 more, but less than \$50,000,000;

15           (vii) \$30,000, if the premium is \$50,000,000 or  
16 more, but less than \$100,000,000;

17           (viii) \$37,500, if the premium is \$100,000,000 or  
18 more.

19           (b) Admitted assets.

20           (i) \$150, if admitted assets are less than  
21 \$1,000,000;

22           (ii) \$750, if admitted assets are \$1,000,000 or  
23 more, but less than \$5,000,000;

24           (iii) \$3,750, if admitted assets are \$5,000,000 or  
25 more, but less than \$25,000,000;

26           (iv) \$7,500, if admitted assets are \$25,000,000 or

1 more, but less than \$50,000,000;

2 (v) \$18,000, if admitted assets are \$50,000,000 or  
3 more, but less than \$100,000,000;

4 (vi) \$22,500, if admitted assets are \$100,000,000  
5 or more, but less than \$500,000,000;

6 (vii) \$30,000, if admitted assets are \$500,000,000  
7 or more, but less than \$1,000,000,000;

8 (viii) \$37,500, if admitted assets are  
9 \$1,000,000,000 or more.

10 (c) The sum of financial regulation fees charged to  
11 the domestic companies of the same affiliated group shall  
12 not exceed \$250,000 in the aggregate in any single year  
13 and shall be billed by the Director to the member company  
14 designated by the group.

15 (7) The Director shall charge and collect an annual  
16 financial regulation fee from every foreign or non-domestic  
17 ~~alien~~ company, except fraternal benefit societies, for the  
18 examination and analysis of its financial condition and to  
19 fund the internal costs and expenses of the Interstate  
20 Insurance Receivership Commission as may be allocated to the  
21 State of Illinois and companies doing an insurance business in  
22 this State pursuant to Article X of the Interstate Insurance  
23 Receivership Compact. The fee shall be a fixed amount based  
24 upon Illinois direct premium income and nationwide reinsurance  
25 assumed premium income in accordance with the following  
26 schedule:

1 (a) \$150, if the premium is less than \$500,000 and  
2 there is no reinsurance assumed premium;

3 (b) \$750, if the premium is \$500,000 or more, but less  
4 than \$5,000,000 and there is no reinsurance assumed  
5 premium; or if the premium is less than \$5,000,000 and the  
6 reinsurance assumed premium is less than \$10,000,000;

7 (c) \$3,750, if the premium is less than \$5,000,000 and  
8 the reinsurance assumed premium is \$10,000,000 or more;

9 (d) \$7,500, if the premium is \$5,000,000 or more, but  
10 less than \$10,000,000;

11 (e) \$18,000, if the premium is \$10,000,000 or more,  
12 but less than \$25,000,000;

13 (f) \$22,500, if the premium is \$25,000,000 or more,  
14 but less than \$50,000,000;

15 (g) \$30,000, if the premium is \$50,000,000 or more,  
16 but less than \$100,000,000;

17 (h) \$37,500, if the premium is \$100,000,000 or more.

18 The sum of financial regulation fees under this subsection  
19 (7) charged to the foreign or non-domestic ~~alien~~ companies  
20 within the same affiliated group shall not exceed \$250,000 in  
21 the aggregate in any single year and shall be billed by the  
22 Director to the member company designated by the group.

23 (8) Beginning January 1, 1992, the financial regulation  
24 fees imposed under subsections (6) and (7) of this Section  
25 shall be paid by each company or domestic affiliated group  
26 annually. After January 1, 1994, the fee shall be billed by



1 Department invoice based upon the company's premium income or  
2 admitted assets as shown in its annual statement for the  
3 preceding calendar year. The invoice is due upon receipt and  
4 must be paid no later than June 30 of each calendar year. All  
5 financial regulation fees collected by the Department shall be  
6 paid to the Insurance Financial Regulation Fund. The  
7 Department may not collect financial examiner per diem charges  
8 from companies subject to subsections (6) and (7) of this  
9 Section undergoing financial examination after June 30, 1992.

10 (9) In addition to the financial regulation fee required  
11 by this Section, a company undergoing any financial  
12 examination authorized by law shall pay the following costs  
13 and expenses incurred by the Department: electronic data  
14 processing costs, the expenses authorized under Section 131.21  
15 and subsection (d) of Section 132.4 of this Code, and lodging  
16 and travel expenses.

17 Electronic data processing costs incurred by the  
18 Department in the performance of any examination shall be  
19 billed directly to the company undergoing examination for  
20 payment to the Technology Management Revolving Fund. Except  
21 for direct reimbursements authorized by the Director or direct  
22 payments made under Section 131.21 or subsection (d) of  
23 Section 132.4 of this Code, all financial regulation fees and  
24 all financial examination charges collected by the Department  
25 shall be paid to the Insurance Financial Regulation Fund.

26 All lodging and travel expenses shall be in accordance

1 with applicable travel regulations published by the Department  
2 of Central Management Services and approved by the Governor's  
3 Travel Control Board, except that out-of-state lodging and  
4 travel expenses related to examinations authorized under  
5 Sections 132.1 through 132.7 shall be in accordance with  
6 travel rates prescribed under paragraph 301-7.2 of the Federal  
7 Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of  
8 subsistence expenses incurred during official travel. All  
9 lodging and travel expenses may be reimbursed directly upon  
10 the authorization of the Director.

11 In the case of an organization or person not subject to the  
12 financial regulation fee, the expenses incurred in any  
13 financial examination authorized by law shall be paid by the  
14 organization or person being examined. The charge shall be  
15 reasonably related to the cost of the examination including,  
16 but not limited to, compensation of examiners and other costs  
17 described in this subsection.

18 (10) Any company, person, or entity failing to make any  
19 payment of \$150 or more as required under this Section shall be  
20 subject to the penalty and interest provisions provided for in  
21 subsections (4) and (7) of Section 412.

22 (11) Unless otherwise specified, all of the fees collected  
23 under this Section shall be paid into the Insurance Financial  
24 Regulation Fund.

25 (12) For purposes of this Section:

26 (a) "Domestic company" means a company as defined in

1 Section 2 of this Code which is incorporated or organized  
2 under the laws of this State, and in addition includes a  
3 not-for-profit corporation authorized under the Dental  
4 Service Plan Act or the Voluntary Health Services Plans  
5 Act, a health maintenance organization, and a limited  
6 health service organization.

7 (b) "Foreign company" means a company as defined in  
8 Section 2 of this Code which is incorporated or organized  
9 under the laws of any state of the United States other than  
10 this State and in addition includes a health maintenance  
11 organization and a limited health service organization  
12 which is incorporated or organized under the laws of any  
13 state of the United States other than this State.

14 (c) "Non-domestic ~~Alien~~ company" means a company as  
15 defined in Section 2 of this Code which is incorporated or  
16 organized under the laws of any country other than the  
17 United States.

18 (d) "Fraternal benefit society" means a corporation,  
19 society, order, lodge or voluntary association as defined  
20 in Section 282.1 of this Code.

21 (e) "Mutual benefit association" means a company,  
22 association or corporation authorized by the Director to  
23 do business in this State under the provisions of Article  
24 XVIII of this Code.

25 (f) "Burial society" means a person, firm,  
26 corporation, society or association of individuals

1 authorized by the Director to do business in this State  
2 under the provisions of Article XIX of this Code.

3 (g) "Farm mutual" means a district, county and  
4 township mutual insurance company authorized by the  
5 Director to do business in this State under the provisions  
6 of the Farm Mutual Insurance Company Act of 1986.

7 (Source: P.A. 100-23, eff. 7-6-17.)

8 (215 ILCS 5/412) (from Ch. 73, par. 1024)

9 Sec. 412. Refunds; penalties; collection.

10 (1)(a) Whenever it appears to the satisfaction of the  
11 Director that because of some mistake of fact, error in  
12 calculation, or erroneous interpretation of a statute of this  
13 or any other state, any authorized company, surplus line  
14 producer, or industrial insured has paid to him, pursuant to  
15 any provision of law, taxes, fees, or other charges in excess  
16 of the amount legally chargeable against it, during the 6 year  
17 period immediately preceding the discovery of such  
18 overpayment, he shall have power to refund to such company,  
19 surplus line producer, or industrial insured the amount of the  
20 excess or excesses by applying the amount or amounts thereof  
21 toward the payment of taxes, fees, or other charges already  
22 due, or which may thereafter become due from that company  
23 until such excess or excesses have been fully refunded, or  
24 upon a written request from the authorized company, surplus  
25 line producer, or industrial insured, the Director shall

1 provide a cash refund within 120 days after receipt of the  
2 written request if all necessary information has been filed  
3 with the Department in order for it to perform an audit of the  
4 tax report for the transaction or period or annual return for  
5 the year in which the overpayment occurred or within 120 days  
6 after the date the Department receives all the necessary  
7 information to perform such audit. The Director shall not  
8 provide a cash refund if there are insufficient funds in the  
9 Insurance Premium Tax Refund Fund to provide a cash refund, if  
10 the amount of the overpayment is less than \$100, or if the  
11 amount of the overpayment can be fully offset against the  
12 taxpayer's estimated liability for the year following the year  
13 of the cash refund request. Any cash refund shall be paid from  
14 the Insurance Premium Tax Refund Fund, a special fund hereby  
15 created in the State treasury.

16 (b) Beginning January 1, 2000 and thereafter, the  
17 Department shall deposit a percentage of the amounts collected  
18 under Sections 409, 444, and 444.1 of this Code into the  
19 Insurance Premium Tax Refund Fund. The percentage deposited  
20 into the Insurance Premium Tax Refund Fund shall be the annual  
21 percentage. The annual percentage shall be calculated as a  
22 fraction, the numerator of which shall be the amount of cash  
23 refunds approved by the Director for payment and paid during  
24 the preceding calendar year as a result of overpayment of tax  
25 liability under Sections 121-2.08, 409, 444, 444.1, and 445 of  
26 this Code and the denominator of which shall be the amounts

1 collected pursuant to Sections 121-2.08, 409, 444, 444.1, and  
2 445 of this Code during the preceding calendar year. However,  
3 if there were no cash refunds paid in a preceding calendar  
4 year, the Department shall deposit 5% of the amount collected  
5 in that preceding calendar year pursuant to Sections 121-2.08,  
6 409, 444, 444.1, and 445 of this Code into the Insurance  
7 Premium Tax Refund Fund instead of an amount calculated by  
8 using the annual percentage.

9 (c) Beginning July 1, 1999, moneys in the Insurance  
10 Premium Tax Refund Fund shall be expended exclusively for the  
11 purpose of paying cash refunds resulting from overpayment of  
12 tax liability under Sections 121-2.08, 409, 444, 444.1, and  
13 445 of this Code as determined by the Director pursuant to  
14 subsection 1(a) of this Section. Cash refunds made in  
15 accordance with this Section may be made from the Insurance  
16 Premium Tax Refund Fund only to the extent that amounts have  
17 been deposited and retained in the Insurance Premium Tax  
18 Refund Fund.

19 (d) This Section shall constitute an irrevocable and  
20 continuing appropriation from the Insurance Premium Tax Refund  
21 Fund for the purpose of paying cash refunds pursuant to the  
22 provisions of this Section.

23 (2)(a) When any insurance company fails to file any tax  
24 return required under Sections 408.1, 409, 444, and 444.1 of  
25 this Code or Section 12 of the Fire Investigation Act on the  
26 date prescribed, including any extensions, there shall be

1 added as a penalty \$400 or 10% of the amount of such tax,  
2 whichever is greater, for each month or part of a month of  
3 failure to file, the entire penalty not to exceed \$2,000 or 50%  
4 of the tax due, whichever is greater.

5 (b) When any industrial insured or surplus line producer  
6 fails to file any tax return or report required under Sections  
7 121-2.08 and 445 of this Code or Section 12 of the Fire  
8 Investigation Act on the date prescribed, including any  
9 extensions, there shall be added:

10 (i) as a late fee, if the return or report is received  
11 at least one day but not more than 7 days after the  
12 prescribed due date, \$400 or 10% of the tax due, whichever  
13 is greater, the entire fee not to exceed \$1,000;

14 (ii) as a late fee, if the return or report is received  
15 at least 8 days but not more than 14 days after the  
16 prescribed due date, \$400 or 10% of the tax due, whichever  
17 is greater, the entire fee not to exceed \$1,500;

18 (iii) as a late fee, if the return or report is  
19 received at least 15 days but not more than 21 days after  
20 the prescribed due date, \$400 or 10% of the tax due,  
21 whichever is greater, the entire fee not to exceed \$2,000;  
22 or

23 (iv) as a penalty, if the return or report is received  
24 more than 21 days after the prescribed due date, \$400 or  
25 10% of the tax due, whichever is greater, for each month or  
26 part of a month of failure to file, the entire penalty not

1 to exceed \$2,000 or 50% of the tax due, whichever is  
2 greater.

3 A tax return or report shall be deemed received as of the  
4 date mailed as evidenced by a postmark, proof of mailing on a  
5 recognized United States Postal Service form or a form  
6 acceptable to the United States Postal Service or other  
7 commercial mail delivery service, or other evidence acceptable  
8 to the Director.

9 (3)(a) When any insurance company fails to pay the full  
10 amount due under the provisions of this Section, Sections  
11 408.1, 409, 444, or 444.1 of this Code, or Section 12 of the  
12 Fire Investigation Act, there shall be added to the amount due  
13 as a penalty an amount equal to 10% of the deficiency.

14 (a-5) When any industrial insured or surplus line producer  
15 fails to pay the full amount due under the provisions of this  
16 Section, Sections 121-2.08 or 445 of this Code, or Section 12  
17 of the Fire Investigation Act on the date prescribed, there  
18 shall be added:

19 (i) as a late fee, if the payment is received at least  
20 one day but not more than 7 days after the prescribed due  
21 date, 10% of the tax due, the entire fee not to exceed  
22 \$1,000;

23 (ii) as a late fee, if the payment is received at least  
24 8 days but not more than 14 days after the prescribed due  
25 date, 10% of the tax due, the entire fee not to exceed  
26 \$1,500;



1           (iii) as a late fee, if the payment is received at  
2           least 15 days but not more than 21 days after the  
3           prescribed due date, 10% of the tax due, the entire fee not  
4           to exceed \$2,000; or

5           (iv) as a penalty, if the return or report is received  
6           more than 21 days after the prescribed due date, 10% of the  
7           tax due.

8           A tax payment shall be deemed received as of the date  
9           mailed as evidenced by a postmark, proof of mailing on a  
10          recognized United States Postal Service form or a form  
11          acceptable to the United States Postal Service or other  
12          commercial mail delivery service, or other evidence acceptable  
13          to the Director.

14          (b) If such failure to pay is determined by the Director to  
15          be wilful, after a hearing under Sections 402 and 403, there  
16          shall be added to the tax as a penalty an amount equal to the  
17          greater of 50% of the deficiency or 10% of the amount due and  
18          unpaid for each month or part of a month that the deficiency  
19          remains unpaid commencing with the date that the amount  
20          becomes due. Such amount shall be in lieu of any determined  
21          under paragraph (a) or (a-5).

22          (4) Any insurance company, industrial insured, or surplus  
23          line producer that fails to pay the full amount due under this  
24          Section or Sections 121-2.08, 408.1, 409, 444, 444.1, or 445  
25          of this Code, or Section 12 of the Fire Investigation Act is  
26          liable, in addition to the tax and any late fees and penalties,

1 for interest on such deficiency at the rate of 12% per annum,  
2 or at such higher adjusted rates as are or may be established  
3 under subsection (b) of Section 6621 of the Internal Revenue  
4 Code, from the date that payment of any such tax was due,  
5 determined without regard to any extensions, to the date of  
6 payment of such amount.

7 (5) The Director, through the Attorney General, may  
8 institute an action in the name of the People of the State of  
9 Illinois, in any court of competent jurisdiction, for the  
10 recovery of the amount of such taxes, fees, and penalties due,  
11 and prosecute the same to final judgment, and take such steps  
12 as are necessary to collect the same.

13 (6) In the event that the certificate of authority of a  
14 foreign or non-domestic ~~alien~~ company is revoked for any cause  
15 or the company withdraws from this State prior to the renewal  
16 date of the certificate of authority as provided in Section  
17 114, the company may recover the amount of any such tax paid in  
18 advance. Except as provided in this subsection, no revocation  
19 or withdrawal excuses payment of or constitutes grounds for  
20 the recovery of any taxes or penalties imposed by this Code.

21 (7) When an insurance company or domestic affiliated group  
22 fails to pay the full amount of any fee of \$200 or more due  
23 under Section 408 of this Code, there shall be added to the  
24 amount due as a penalty the greater of \$100 or an amount equal  
25 to 10% of the deficiency for each month or part of a month that  
26 the deficiency remains unpaid.

1           (8) The Department shall have a lien for the taxes, fees,  
2 charges, fines, penalties, interest, other charges, or any  
3 portion thereof, imposed or assessed pursuant to this Code,  
4 upon all the real and personal property of any company or  
5 person to whom the assessment or final order has been issued or  
6 whenever a tax return is filed without payment of the tax or  
7 penalty shown therein to be due, including all such property  
8 of the company or person acquired after receipt of the  
9 assessment, issuance of the order, or filing of the return.  
10 The company or person is liable for the filing fee incurred by  
11 the Department for filing the lien and the filing fee incurred  
12 by the Department to file the release of that lien. The filing  
13 fees shall be paid to the Department in addition to payment of  
14 the tax, fee, charge, fine, penalty, interest, other charges,  
15 or any portion thereof, included in the amount of the lien.  
16 However, where the lien arises because of the issuance of a  
17 final order of the Director or tax assessment by the  
18 Department, the lien shall not attach and the notice referred  
19 to in this Section shall not be filed until all administrative  
20 proceedings or proceedings in court for review of the final  
21 order or assessment have terminated or the time for the taking  
22 thereof has expired without such proceedings being instituted.

23           Upon the granting of Department review after a lien has  
24 attached, the lien shall remain in full force except to the  
25 extent to which the final assessment may be reduced by a  
26 revised final assessment following the rehearing or review.

1 The lien created by the issuance of a final assessment shall  
2 terminate, unless a notice of lien is filed, within 3 years  
3 after the date all proceedings in court for the review of the  
4 final assessment have terminated or the time for the taking  
5 thereof has expired without such proceedings being instituted,  
6 or (in the case of a revised final assessment issued pursuant  
7 to a rehearing or review by the Department) within 3 years  
8 after the date all proceedings in court for the review of such  
9 revised final assessment have terminated or the time for the  
10 taking thereof has expired without such proceedings being  
11 instituted. Where the lien results from the filing of a tax  
12 return without payment of the tax or penalty shown therein to  
13 be due, the lien shall terminate, unless a notice of lien is  
14 filed, within 3 years after the date when the return is filed  
15 with the Department.

16 The time limitation period on the Department's right to  
17 file a notice of lien shall not run during any period of time  
18 in which the order of any court has the effect of enjoining or  
19 restraining the Department from filing such notice of lien. If  
20 the Department finds that a company or person is about to  
21 depart from the State, to conceal himself or his property, or  
22 to do any other act tending to prejudice or to render wholly or  
23 partly ineffectual proceedings to collect the amount due and  
24 owing to the Department unless such proceedings are brought  
25 without delay, or if the Department finds that the collection  
26 of the amount due from any company or person will be

1     jeopardized by delay, the Department shall give the company or  
2     person notice of such findings and shall make demand for  
3     immediate return and payment of the amount, whereupon the  
4     amount shall become immediately due and payable. If the  
5     company or person, within 5 days after the notice (or within  
6     such extension of time as the Department may grant), does not  
7     comply with the notice or show to the Department that the  
8     findings in the notice are erroneous, the Department may file  
9     a notice of jeopardy assessment lien in the office of the  
10    recorder of the county in which any property of the company or  
11    person may be located and shall notify the company or person of  
12    the filing. The jeopardy assessment lien shall have the same  
13    scope and effect as the statutory lien provided for in this  
14    Section. If the company or person believes that the company or  
15    person does not owe some or all of the tax for which the  
16    jeopardy assessment lien against the company or person has  
17    been filed, or that no jeopardy to the revenue in fact exists,  
18    the company or person may protest within 20 days after being  
19    notified by the Department of the filing of the jeopardy  
20    assessment lien and request a hearing, whereupon the  
21    Department shall hold a hearing in conformity with the  
22    provisions of this Code and, pursuant thereto, shall notify  
23    the company or person of its findings as to whether or not the  
24    jeopardy assessment lien will be released. If not, and if the  
25    company or person is aggrieved by this decision, the company  
26    or person may file an action for judicial review of the final

1 determination of the Department in accordance with the  
2 Administrative Review Law. If, pursuant to such hearing (or  
3 after an independent determination of the facts by the  
4 Department without a hearing), the Department determines that  
5 some or all of the amount due covered by the jeopardy  
6 assessment lien is not owed by the company or person, or that  
7 no jeopardy to the revenue exists, or if on judicial review the  
8 final judgment of the court is that the company or person does  
9 not owe some or all of the amount due covered by the jeopardy  
10 assessment lien against them, or that no jeopardy to the  
11 revenue exists, the Department shall release its jeopardy  
12 assessment lien to the extent of such finding of nonliability  
13 for the amount, or to the extent of such finding of no jeopardy  
14 to the revenue. The Department shall also release its jeopardy  
15 assessment lien against the company or person whenever the  
16 amount due and owing covered by the lien, plus any interest  
17 which may be due, are paid and the company or person has paid  
18 the Department in cash or by guaranteed remittance an amount  
19 representing the filing fee for the lien and the filing fee for  
20 the release of that lien. The Department shall file that  
21 release of lien with the recorder of the county where that lien  
22 was filed.

23 Nothing in this Section shall be construed to give the  
24 Department a preference over the rights of any bona fide  
25 purchaser, holder of a security interest, mechanics  
26 lienholder, mortgagee, or judgment lien creditor arising prior

1 to the filing of a regular notice of lien or a notice of  
2 jeopardy assessment lien in the office of the recorder in the  
3 county in which the property subject to the lien is located.  
4 For purposes of this Section, "bona fide" shall not include  
5 any mortgage of real or personal property or any other credit  
6 transaction that results in the mortgagee or the holder of the  
7 security acting as trustee for unsecured creditors of the  
8 company or person mentioned in the notice of lien who executed  
9 such chattel or real property mortgage or the document  
10 evidencing such credit transaction. The lien shall be inferior  
11 to the lien of general taxes, special assessments, and special  
12 taxes levied by any political subdivision of this State. In  
13 case title to land to be affected by the notice of lien or  
14 notice of jeopardy assessment lien is registered under the  
15 provisions of the Registered Titles (Torrens) Act, such notice  
16 shall be filed in the office of the Registrar of Titles of the  
17 county within which the property subject to the lien is  
18 situated and shall be entered upon the register of titles as a  
19 memorial or charge upon each folium of the register of titles  
20 affected by such notice, and the Department shall not have a  
21 preference over the rights of any bona fide purchaser,  
22 mortgagee, judgment creditor, or other lienholder arising  
23 prior to the registration of such notice. The regular lien or  
24 jeopardy assessment lien shall not be effective against any  
25 purchaser with respect to any item in a retailer's stock in  
26 trade purchased from the retailer in the usual course of the

1 retailer's business.

2 (Source: P.A. 98-158, eff. 8-2-13; 98-978, eff. 1-1-15.)

3 (215 ILCS 5/413) (from Ch. 73, par. 1025)

4 Sec. 413. Privilege Tax Payable on Admission of Foreign or  
5 Non-domestic ~~Alien~~ Company.

6 (1) Every foreign or non-domestic ~~alien~~ company applying  
7 for a certificate of authority to transact business in this  
8 State shall pay to the Director a tax for the privilege of  
9 transacting business in this State in accordance with Section  
10 409.

11 (2) If during all or any part of the 3 year period next  
12 preceding the date of application for a certificate of  
13 authority the company had a certificate of authority to  
14 transact business in this State, or if it survives or was  
15 formed by a merger, consolidation, reorganization or  
16 reincorporation, and one or more of the parties thereto was a  
17 foreign or non-domestic ~~alien~~ company authorized to transact  
18 business in this State during all or any part of such 3 year  
19 period, then the tax shall be determined in accordance with  
20 Section 409 on the basis of the last entire calendar year  
21 during which the company or any one of the foreign or  
22 non-domestic ~~alien~~ companies parties to the merger,  
23 consolidation, reorganization or reincorporation was  
24 authorized to transact business in this State, or if none was  
25 authorized during any entire calendar year, then on the basis



1 of the last partial calendar year during which any of such  
2 companies were authorized to transact business in this State.

3 (Source: P.A. 77-2087.)

4 (215 ILCS 5/415) (from Ch. 73, par. 1027)

5 Sec. 415. No taxes to be imposed by political  
6 subdivisions. The fees, charges and taxes provided for by  
7 this Article shall be in lieu of all license fees or privilege  
8 or occupation taxes or other fees levied or assessed by any  
9 municipality, county or other political subdivision of this  
10 State, and no municipality, county or other political  
11 subdivision of this State shall impose any license fee or  
12 privilege or occupation tax or fee upon any domestic, foreign  
13 or non-domestic ~~alien~~ company, or upon any of its agents, for  
14 the privilege of doing an insurance business therein, except  
15 the tax authorized by Division 10 of Article 11 of the Illinois  
16 Municipal Code, as heretofore and hereafter amended. This  
17 Section shall not be construed to prohibit the levy and  
18 collection of:

19 (a) State, county or municipal taxes upon the real and  
20 personal property of such a company, including the tax  
21 imposed by Section 414 of this Code, and

22 (b) taxes for the purpose of maintaining the Office of  
23 the State Fire Marshal and paying the expenses incident  
24 thereto.

25 (Source: P.A. 91-357, eff. 7-29-99.)

1 (215 ILCS 5/444) (from Ch. 73, par. 1056)

2 Sec. 444. Retaliation.

3 (1) Whenever the existing or future laws of any other  
4 state or country shall require of companies incorporated or  
5 organized under the laws of this State as a condition  
6 precedent to their doing business in such other state or  
7 country, compliance with laws, rules, regulations, and  
8 prohibitions more onerous or burdensome than the rules and  
9 regulations imposed by this State on foreign or non-domestic  
10 ~~alien~~ companies, or shall require any deposit of securities or  
11 other obligations in such state or country, for the protection  
12 of policyholders or otherwise or require of such companies or  
13 agents thereof or brokers the payment of penalties, fees,  
14 charges, or taxes greater than the penalties, fees, charges,  
15 or taxes required in the aggregate for like purposes by this  
16 Code or any other law of this State, of foreign or non-domestic  
17 ~~alien~~ companies, agents thereof or brokers, then such laws,  
18 rules, regulations, and prohibitions of said other state or  
19 country shall apply to companies incorporated or organized  
20 under the laws of such state or country doing business in this  
21 State, and all such companies, agents thereof, or brokers  
22 doing business in this State, shall be required to make  
23 deposits, pay penalties, fees, charges, and taxes, in amounts  
24 equal to those required in the aggregate for like purposes of  
25 Illinois companies doing business in such state or country,

1 agents thereof or brokers. Whenever any other state or country  
2 shall refuse to permit any insurance company incorporated or  
3 organized under the laws of this State to transact business  
4 according to its usual plan in such other state or country, the  
5 director may, if satisfied that such company of this State is  
6 solvent, properly managed, and can operate legally under the  
7 laws of such other state or country, forthwith suspend or  
8 cancel the license of every insurance company doing business  
9 in this State which is incorporated or organized under the  
10 laws of such other state or country to the extent that it  
11 insures in this State against any of the risks or hazards which  
12 are sought to be insured against by the company of this State  
13 in such other state or country.

14 (2) The provisions of this Section shall not apply to  
15 residual market or special purpose assessments or guaranty  
16 fund or guaranty association assessments, both under the laws  
17 of this State and under the laws of any other state or country,  
18 and any tax offset or credit for any such assessment shall, for  
19 purposes of this Section, be treated as a tax paid both under  
20 the laws of this State and under the laws of any other state or  
21 country.

22 (3) The terms "penalties", "fees", "charges", and "taxes"  
23 in subsection (1) of this Section shall include: the  
24 penalties, fees, charges, and taxes collected on a cash basis  
25 under State law and referenced within Article XXV exclusive of  
26 any items referenced by subsection (2) of this Section, but

1 including any tax offset allowed under Section 531.13 of this  
2 Code; the aggregate Illinois corporate income taxes paid under  
3 Sections 601 and 803 of the Illinois Income Tax Act during the  
4 calendar year for which the retaliatory tax calculation is  
5 being made, less the recapture of any Illinois corporate  
6 income tax cash refunds to the extent that the amount of tax  
7 refunded was reported as part of the Illinois basis in the  
8 calculation of the retaliatory tax for a prior tax year,  
9 provided that such recaptured refund shall not exceed the  
10 amount necessary for equivalence of the Illinois basis with  
11 the state of incorporation basis in such tax year, and after  
12 any tax offset allowed under Section 531.13 of this Code;  
13 income or personal property taxes imposed by other states or  
14 countries; penalties, fees, charges, and taxes of other states  
15 or countries imposed for purposes like those of the penalties,  
16 fees, charges, and taxes specified in Article XXV of this Code  
17 exclusive of any item referenced in subsection (2) of this  
18 Section; and any penalties, fees, charges, and taxes required  
19 as a franchise, privilege, or licensing tax for conducting the  
20 business of insurance whether calculated as a percentage of  
21 income, gross receipts, premium, or otherwise.

22 (4) Nothing contained in this Section or Section 409 or  
23 Section 444.1 is intended to authorize or expand any power of  
24 local governmental units or municipalities to impose taxes,  
25 fees, or charges.

26 (5) This Section is subject to the provisions of Section

1 10 of the New Markets Development Program Act.

2 (Source: P.A. 98-1169, eff. 1-9-15.)

3 (215 ILCS 5/444.1) (from Ch. 73, par. 1056.1)

4 Sec. 444.1. Payment of retaliatory taxes.

5 (1) Every foreign or non-domestic ~~alien~~ company doing  
6 insurance business in this State shall pay the Director the  
7 retaliatory tax determined in accordance with Section 444.

8 (2) (a) All companies subject to the provisions of this  
9 Section shall make an annual return for the preceding calendar  
10 year on or before March 15 setting forth such information on  
11 such forms as the Director may reasonably require. Payments of  
12 quarterly installments of the taxpayer's total estimated  
13 retaliatory tax for the current calendar year shall be due on  
14 or before April 15, June 15, September 15, and December 15 of  
15 such year, except that all companies transacting insurance  
16 business in this State whose annual tax for the immediately  
17 preceding calendar year was less than \$5,000 shall make only  
18 an annual return. Failure of a company to make the annual  
19 payment, or to make the quarterly payments, if required, of at  
20 least one-fourth of either (i) the total tax paid during the  
21 previous calendar year or (ii) 80% of the actual tax for the  
22 current calendar year shall subject it to the penalty  
23 provisions set forth in Section 412 of this Code.

24 (b) Notwithstanding the foregoing provisions of paragraph  
25 (a) of this subsection, the retaliatory tax liability of

1 companies under Section 444 of this Code for the calendar year  
2 ended December 31, 1997 shall be determined in accordance with  
3 this amendatory Act of 1998 and shall include in the aggregate  
4 comparative tax burden for the State of Illinois, any tax  
5 offset allowed under Section 531.13 of this Code and any  
6 income taxes paid for the year 1997 under subsections (a)  
7 through (d) of Section 201 of the Illinois Income Tax Act after  
8 any tax offset allowed under Section 531.13 of this Code.

9 (i) Any annual retaliatory tax returns and payments  
10 made for the year ended December 31, 1997 and any  
11 quarterly installments of the taxpayer's total estimated  
12 1998 retaliatory tax liability paid prior to the effective  
13 date of this Amendatory Act of 1998 that do not include the  
14 items specified by subsection (1) of this Section shall be  
15 amended and restated, at the taxpayer's election, on forms  
16 prepared by the Director so as to provide for the  
17 inclusion of such items. An amended and restated return  
18 for the year ended December 31, 1997 filed under this  
19 subparagraph shall treat any payment of estimated  
20 privilege taxes under Section 409 as in effect prior to  
21 October 23, 1997 as a payment of estimated retaliatory  
22 taxes for the year ended December 31, 1997.

23 (ii) Any overpayment resulting from such amended  
24 return and restated tax liability shall be allowed as a  
25 credit against any subsequent privilege or retaliatory tax  
26 obligations of the taxpayer.

1           (iii) In the year 1999 and thereafter all companies  
2           shall make annual and quarterly installments of their  
3           estimated tax as provided by paragraph (a) of this  
4           subsection.

5           (3) Any tax payment made under this Section and any tax  
6           returns prepared in compliance with Section 410 shall give  
7           full consideration to the impact of any future reduction in or  
8           elimination of a taxpayer's liability under Section 409,  
9           whether such reduction or elimination is due to an operation  
10          of law or an Act of the General Assembly.

11          (4) Any foreign or non-domestic ~~alien~~ taxpayer who makes,  
12          under protest, a tax payment required by Section 409 shall, at  
13          the time of payment, file a retaliatory tax return sufficient  
14          to disclose the full amount of retaliatory taxes which would  
15          be due and owing for the tax period in question if the protest  
16          were upheld. Notwithstanding the provisions of the State  
17          Officers and Employees Money Disposition Act or any other laws  
18          of this State, the protested payment, to the extent of the  
19          retaliatory tax so disclosed, shall be deposited directly in  
20          the General Revenue Fund; and the balance of the payment, if  
21          any, shall be deposited in a protest account pursuant to the  
22          provisions of the aforesaid Act, as now or hereafter amended.

23          (5) The failure of a company to make the annual payment or  
24          to make the quarterly payments, if required, of at least  
25          one-fourth of either (i) the total tax paid during the  
26          preceding calendar year or (ii) 80% of the actual tax for the

1 current calendar year shall subject it to the penalty  
2 provisions set forth in Section 412 of this Code.

3 (6) This Section is subject to the provisions of Section  
4 10 of the New Markets Development Program Act.

5 (Source: P.A. 95-1024, eff. 12-31-08.)

6 (215 ILCS 5/445) (from Ch. 73, par. 1057)

7 Sec. 445. Surplus line.

8 (1) Definitions. For the purposes of this Section:

9 "Affiliate" means, with respect to an insured, any entity  
10 that controls, is controlled by, or is under common control  
11 with the insured. For the purpose of this definition, an  
12 entity has control over another entity if:

13 (A) the entity directly or indirectly or acting  
14 through one or more other persons owns, controls, or has  
15 the power to vote 25% or more of any class of voting  
16 securities of the other entity; or

17 (B) the entity controls in any manner the election of  
18 a majority of the directors or trustees of the other  
19 entity.

20 "Affiliated group" means any group of entities that are  
21 all affiliated.

22 "Authorized insurer" means an insurer that holds a  
23 certificate of authority issued by the Director but, for the  
24 purposes of this Section, does not include a domestic surplus  
25 line insurer as defined in Section 445a or any residual market



1 mechanism.

2 "Exempt commercial purchaser" means any person purchasing  
3 commercial insurance that, at the time of placement, meets the  
4 following requirements:

5 (A) The person employs or retains a qualified risk  
6 manager to negotiate insurance coverage.

7 (B) The person has paid aggregate nationwide  
8 commercial property and casualty insurance premiums in  
9 excess of \$100,000 in the immediately preceding 12 months.

10 (C) The person meets at least one of the following  
11 criteria:

12 (I) The person possesses a net worth in excess of  
13 \$20,000,000, as such amount is adjusted pursuant to  
14 the provision in this definition concerning percentage  
15 change.

16 (II) The person generates annual revenues in  
17 excess of \$50,000,000, as such amount is adjusted  
18 pursuant to the provision in this definition  
19 concerning percentage change.

20 (III) The person employs more than 500 full-time  
21 or full-time equivalent employees per individual  
22 insured or is a member of an affiliated group  
23 employing more than 1,000 employees in the aggregate.

24 (IV) The person is a not-for-profit organization  
25 or public entity generating annual budgeted  
26 expenditures of at least \$30,000,000, as such amount

1 is adjusted pursuant to the provision in this  
2 definition concerning percentage change.

3 (V) The person is a municipality with a population  
4 in excess of 50,000 persons.

5 Effective on January 1, 2015 and each fifth January 1  
6 occurring thereafter, the amounts in subitems (I), (II), and  
7 (IV) of item (C) of this definition shall be adjusted to  
8 reflect the percentage change for such 5-year period in the  
9 Consumer Price Index for All Urban Consumers published by the  
10 Bureau of Labor Statistics of the Department of Labor.

11 "Home state" means the following:

12 (A) With respect to an insured, except as provided in  
13 item (B) of this definition:

14 (I) the state in which an insured maintains its  
15 principal place of business or, in the case of an  
16 individual, the individual's principal residence; or

17 (II) if 100% of the insured risk is located out of  
18 the state referred to in subitem (I), the state to  
19 which the greatest percentage of the insured's taxable  
20 premium for that insurance contract is allocated.

21 (B) If more than one insured from an affiliated group  
22 are named insureds on a single surplus line insurance  
23 contract, then "home state" means the home state, as  
24 determined pursuant to item (A) of this definition, of the  
25 member of the affiliated group that has the largest  
26 percentage of premium attributed to it under such

1 insurance contract.

2 If more than one insured from a group that is not  
3 affiliated are named insureds on a single surplus line  
4 insurance contract, then:

5 (I) if individual group members pay 100% of the  
6 premium for the insurance from their own funds, "home  
7 state" means the home state, as determined pursuant to  
8 item (A) of this definition, of each individual group  
9 member; each individual group member's coverage under  
10 the surplus line insurance contract shall be treated  
11 as a separate surplus line contract for the purposes  
12 of this Section;

13 (II) otherwise, "home state" means the home state,  
14 as determined pursuant to item (A) of this definition,  
15 of the group.

16 Nothing in this definition shall be construed to alter the  
17 terms of the surplus line insurance contract.

18 "Master policy" means a surplus line insurance contract  
19 with a single set of general contractual terms that are  
20 designed to apply on a group basis to multiple insureds who may  
21 or may not be affiliated and who may be added to or removed  
22 from the contract throughout the course of the contract  
23 period. A master policy may include certain provisions that  
24 vary for each insured depending on the insured's  
25 characteristics and the coverage sought.

26 "Multi-State risk" means a risk with insured exposures in

1 more than one State.

2 "NAIC" means the National Association of Insurance  
3 Commissioners or any successor entity.

4 "Personal lines insurance" means insurance as defined in  
5 subsection (a), (b), or (c) of Section 143.13 of this Code.

6 "Premium" means any amount designated as premium on the  
7 declarations page or elsewhere in a policy and on any  
8 endorsement, but does not include taxes, the Surplus Line  
9 Association of Illinois recording fee, or any other fee.

10 "Program business" means a clearly defined group of  
11 insurance contracts procured by a licensed surplus line  
12 producer from an unauthorized insurer, under a single  
13 agreement between the producer and insurer, for insureds with  
14 the same or similar characteristics and containing the same or  
15 similar contract terms.

16 "Qualified risk manager" means, with respect to a  
17 policyholder of commercial insurance, a person who meets all  
18 of the following requirements:

19 (A) The person is an employee of, or third-party  
20 consultant retained by, the commercial policyholder.

21 (B) The person provides skilled services in loss  
22 prevention, loss reduction, or risk and insurance coverage  
23 analysis, and purchase of insurance.

24 (C) With regard to the person:

25 (I) the person has:

26 (a) a bachelor's degree or higher from an

1 accredited college or university in risk  
2 management, business administration, finance,  
3 economics, or any other field determined by the  
4 Director or his designee to demonstrate minimum  
5 competence in risk management; and

6 (b) the following:

7 (i) three years of experience in risk  
8 financing, claims administration, loss  
9 prevention, risk and insurance analysis, or  
10 purchasing commercial lines of insurance; or

11 (ii) alternatively has:

12 (AA) a designation as a Chartered  
13 Property and Casualty Underwriter (in this  
14 subparagraph (ii) referred to as "CPCU")  
15 issued by the American Institute for  
16 CPCU/Insurance Institute of America;

17 (BB) a designation as an Associate in  
18 Risk Management (ARM) issued by the  
19 American Institute for CPCU/Insurance  
20 Institute of America;

21 (CC) a designation as Certified Risk  
22 Manager (CRM) issued by the National  
23 Alliance for Insurance Education &  
24 Research;

25 (DD) a designation as a RIMS Fellow  
26 (RF) issued by the Global Risk Management

1                   Institute; or  
2                   (EE) any other designation,  
3                   certification, or license determined by  
4                   the Director or his designee to  
5                   demonstrate minimum competency in risk  
6                   management;

7                   (II) the person has:

8                   (a) at least 7 years of experience in risk  
9                   financing, claims administration, loss prevention,  
10                  risk and insurance coverage analysis, or  
11                  purchasing commercial lines of insurance; and

12                  (b) has any one of the designations specified  
13                  in subparagraph (ii) of paragraph (b);

14                  (III) the person has at least 10 years of  
15                  experience in risk financing, claims administration,  
16                  loss prevention, risk and insurance coverage analysis,  
17                  or purchasing commercial lines of insurance; or

18                  (IV) the person has a graduate degree from an  
19                  accredited college or university in risk management,  
20                  business administration, finance, economics, or any  
21                  other field determined by the Director or his or her  
22                  designee to demonstrate minimum competence in risk  
23                  management.

24                  "Residual market mechanism" means an association,  
25                  organization, or other entity described in Article XXXIII of  
26                  this Code or Section 7-501 of the Illinois Vehicle Code or any

1 similar association, organization, or other entity.

2 "State" means any state of the United States, the District  
3 of Columbia, the Commonwealth of Puerto Rico, Guam, the  
4 Northern Mariana Islands, the Virgin Islands, and American  
5 Samoa.

6 "Surplus line insurance" means insurance on a risk:

7 (A) of the kinds specified in Classes 2 and 3 of  
8 Section 4 of this Code; and

9 (B) that is procured from an unauthorized insurer  
10 after the insurance producer representing the insured or  
11 the surplus line producer is unable, after diligent  
12 effort, to procure the insurance from authorized insurers;  
13 and

14 (C) where Illinois is the home state of the insured,  
15 for policies effective, renewed or extended on July 21,  
16 2011 or later and for multiyear policies upon the policy  
17 anniversary that falls on or after July 21, 2011; and

18 (D) that is located in Illinois, for policies  
19 effective prior to July 21, 2011.

20 "Taxable premium" means a premium for any risk that is  
21 located in or attributed to any state.

22 "Unauthorized insurer" means an insurer that does not hold  
23 a valid certificate of authority issued by the Director but,  
24 for the purposes of this Section, shall also include a  
25 domestic surplus line insurer as defined in Section 445a.

26 (1.5) Procuring surplus line insurance; surplus line

1 insurer requirements.

2 (a) License required. Insurance producers may procure  
3 surplus line insurance only if licensed as a surplus line  
4 producer under this Section.

5 (b) Domestic and foreign insurer eligibility. Licensed  
6 surplus line producers may procure surplus line insurance  
7 from an unauthorized insurer domiciled in any state only  
8 if the insurer:

9 (i) is permitted in its domiciliary jurisdiction  
10 to write the type of insurance involved; and

11 (ii) has, based upon information available to the  
12 surplus line producer, a policyholders surplus of not  
13 less than \$15,000,000 determined in accordance with  
14 the laws of its domiciliary jurisdiction; and

15 (iii) has standards of solvency and management  
16 that are adequate for the protection of policyholders.

17 Where an unauthorized insurer does not meet the  
18 standards set forth in (ii) and (iii) above, a surplus  
19 line producer may, if necessary, procure insurance from  
20 that insurer only if prior written warning of such fact or  
21 condition is given to the insured by the insurance  
22 producer or surplus line producer.

23 (c) Non-domestic ~~Alien~~ insurer eligibility. Licensed  
24 surplus line producers may procure surplus line insurance  
25 from an unauthorized insurer not domiciled in any state  
26 only if the insurer meets the standards for unauthorized



1 insurers domiciled in any state in paragraph (b) of this  
2 subsection (1.5) or is listed on the Quarterly Listing of  
3 Alien Insurers maintained by the International Insurers  
4 Department of the NAIC at the time of procurement. The  
5 Director shall make the Quarterly Listing of Alien  
6 Insurers available to surplus line producers without  
7 charge.

8 (d) Prohibited transactions. Insurance producers shall  
9 not procure from an unauthorized insurer an insurance  
10 policy:

11 (i) that is designed to satisfy the proof of  
12 financial responsibility and insurance requirements in  
13 any Illinois law where the law requires that the proof  
14 of insurance is issued by an authorized insurer or  
15 residual market mechanism;

16 (ii) that covers the risk of accidental injury to  
17 employees arising out of and in the course of  
18 employment according to the provisions of the Workers'  
19 Compensation Act; or

20 (iii) that insures any Illinois personal lines  
21 risk that is eligible for residual market mechanism  
22 coverage, unless the insured or prospective insured  
23 requests limits of liability greater than the limits  
24 provided by the residual market mechanism. In the  
25 course of making a diligent effort to procure  
26 insurance from authorized insurers, an insurance

1 producer shall not be required to submit a risk to a  
2 residual market mechanism when the risk is not  
3 eligible for coverage or exceeds the limits available  
4 in the residual market mechanism.

5 Where there is an insurance policy issued by an  
6 authorized insurer or residual market mechanism insuring a  
7 risk described in item (i), (ii), or (iii) above, nothing  
8 in this paragraph shall be construed to prohibit a surplus  
9 line producer from procuring from an unauthorized insurer  
10 a policy insuring the risk on an excess or umbrella basis  
11 where the excess or umbrella policy is written over one or  
12 more underlying policies.

13 (e) Exempt commercial purchaser diligent effort.  
14 Licensed surplus line producers may procure surplus line  
15 insurance from an unauthorized insurer for an exempt  
16 commercial purchaser without making the required diligent  
17 effort to procure the insurance from authorized insurers  
18 if:

19 (i) the producer has disclosed to the exempt  
20 commercial purchaser that such insurance may or may  
21 not be available from authorized insurers that may  
22 provide greater protection with more regulatory  
23 oversight; and

24 (ii) the exempt commercial purchaser has  
25 subsequently in writing requested the producer to  
26 procure such insurance from an unauthorized insurer.

1           (f) Commercial wholesale transaction diligent effort.  
2           A licensed surplus line producer may procure a surplus  
3           line insurance contract, other than a personal lines  
4           insurance contract, from an unauthorized insurer without  
5           making the required diligent effort to procure the  
6           insurance from authorized insurers if the risk was  
7           referred to the surplus line producer by an  
8           Illinois-licensed insurance producer who is not affiliated  
9           with the surplus line producer.

10           (g) Master policy diligent effort. For a master policy  
11           insurance contract, a licensed surplus line producer may  
12           make the required diligent effort to procure the insurance  
13           from authorized insurers annually for the master policy  
14           rather than individually for each insured that is added  
15           during the policy period. The diligent effort shall  
16           include all variable provisions of the master policy.

17           (h) Program business diligent effort. For program  
18           business, a licensed surplus line producer may make the  
19           required diligent effort to procure the insurance from  
20           authorized insurers annually for the program rather than  
21           individually for each contract. The diligent effort shall  
22           include all variable provisions of the master policy.

23           (2) Surplus line producer; license. Any licensed producer  
24           who is a resident of this State, or any nonresident who  
25           qualifies under Section 500-40, may be licensed as a surplus  
26           line producer upon payment of an annual license fee of \$400.

1           A surplus line producer so licensed shall keep a separate  
2 account of the business transacted thereunder for 7 years from  
3 the policy effective date which shall be open at all times to  
4 the inspection of the Director or his representative.

5           No later than July 21, 2012, the State of Illinois shall  
6 participate in the national insurance producer database of the  
7 NAIC, or any other equivalent uniform national database, for  
8 the licensure of surplus line producers and the renewal of  
9 such licenses.

10          (3) Taxes and reports.

11           (a) Surplus line tax and penalty for late payment. The  
12 surplus line tax rate for a surplus line insurance policy  
13 or contract is determined as follows:

14                   (i) 3% for policies or contracts with an effective  
15 date prior to July 1, 2003;

16                   (ii) 3.5% for policies or contracts with an  
17 effective date of July 1, 2003 or later.

18           A surplus line producer shall file with the Director  
19 on or before February 1 and August 1 of each year a report  
20 in the form prescribed by the Director on all surplus line  
21 insurance procured from unauthorized insurers and  
22 submitted to the Surplus Line Association of Illinois  
23 during the preceding 6 month period ending December 31 or  
24 June 30 respectively, and on the filing of such report  
25 shall pay to the Director for the use and benefit of the  
26 State a sum equal to the surplus line tax rate multiplied

1 by the gross taxable premiums less returned taxable  
2 premiums upon all surplus line insurance submitted to the  
3 Surplus Line Association of Illinois during the preceding  
4 6 months.

5 Any surplus line producer who fails to pay the full  
6 amount due under this subsection is liable, in addition to  
7 the amount due, for such late fee, penalty, and interest  
8 charges as are provided for under Section 412 of this  
9 Code. The Director, through the Attorney General, may  
10 institute an action in the name of the People of the State  
11 of Illinois, in any court of competent jurisdiction, for  
12 the recovery of the amount of such taxes, late fees,  
13 interest, and penalties due, and prosecute the same to  
14 final judgment, and take such steps as are necessary to  
15 collect the same.

16 (b) Fire Marshal Tax. Each surplus line producer shall  
17 file with the Director on or before February 1 of each year  
18 a report in the form prescribed by the Director on all fire  
19 insurance procured from unauthorized insurers and  
20 submitted to the Surplus Line Association of Illinois  
21 during the previous year that is subject to tax under  
22 Section 12 of the Fire Investigation Act and shall pay to  
23 the Director the fire marshal tax required thereunder.

24 (c) Taxes and fees charged to insured. The taxes  
25 imposed under this subsection and the recording fees  
26 charged by the Surplus Line Association of Illinois may be

1 charged to and collected from surplus line insureds.

2 (4) (Blank).

3 (5) Submission of documents to Surplus Line Association of  
4 Illinois. A surplus line producer shall submit every insurance  
5 contract and premium-bearing endorsement issued under his or  
6 her license to the Surplus Line Association of Illinois for  
7 recording. The submission and recording may be effected  
8 through electronic means. The submission shall set forth:

9 (a) the name of the insured;

10 (b) the description and location of the insured  
11 property or risk;

12 (c) (blank);

13 (d) the gross premiums charged or returned;

14 (e) the name of the unauthorized insurer from whom  
15 coverage has been procured;

16 (f) the kind or kinds of insurance procured; and

17 (g) amount of premium subject to tax required by  
18 Section 12 of the Fire Investigation Act.

19 Proposals, endorsements, and other documents which are  
20 incidental to the insurance but which do not affect the  
21 premium charged are exempted from the submission and recording  
22 requirements.

23 The submission of insuring contracts to the Surplus Line  
24 Association of Illinois constitutes a certification by the  
25 surplus line producer or by the insurance producer who  
26 presented the risk to the surplus line producer for placement

1 as a surplus line risk that after diligent effort, where  
2 required, the required insurance could not be procured from  
3 authorized insurers and that such procurement was otherwise in  
4 accordance with the surplus line law.

5 (6) Evidence of recording required. It shall be unlawful  
6 for an insurance producer to deliver any unauthorized insurer  
7 contract or premium-bearing endorsement unless it contains  
8 evidence of recording by the Surplus Line Association of  
9 Illinois.

10 (7) Inspection of records. A surplus line producer shall  
11 maintain separate records of the business transacted under his  
12 or her license for 7 years from the policy effective date,  
13 including complete copies of surplus line insurance contracts  
14 maintained on paper or by electronic means, which records  
15 shall be open at all times for inspection by the Director and  
16 by the Surplus Line Association of Illinois.

17 (8) Violations and penalties. The Director may suspend or  
18 revoke or refuse to renew a surplus line producer license for  
19 any violation of this Code. In addition to or in lieu of  
20 suspension or revocation, the Director may subject a surplus  
21 line producer to a civil penalty of up to \$2,000 for each cause  
22 for suspension or revocation. Such penalty is enforceable  
23 under subsection (5) of Section 403A of this Code.

24 Whenever it appears to the satisfaction of the Director  
25 that a surplus line producer has made a documented good faith  
26 determination of the home state for a surplus line insurance

1 contract and has paid the surplus line taxes to a state other  
2 than Illinois, and the Director determines that the producer's  
3 good faith determination was incorrect and the home state is  
4 Illinois, the surplus line producer may, at the discretion of  
5 the Director, be required to submit the contract to the  
6 Surplus Line Association of Illinois and pay applicable taxes  
7 and recording fees, but there shall be no penalty, interest,  
8 or late fee assessed.

9 (9) Director may declare insurer ineligible. If the  
10 Director determines that the further assumption of risks might  
11 be hazardous to the policyholders of an unauthorized insurer,  
12 the Director may order the Surplus Line Association of  
13 Illinois not to accept and record insurance contracts  
14 evidencing insurance in such insurer and order surplus line  
15 producers to cease procuring insurance from such insurer.

16 (10) Service of process upon Director. Insurance contracts  
17 delivered under this Section from unauthorized insurers, other  
18 than domestic surplus line insurers as defined in Section  
19 445a, shall contain a provision designating the Director and  
20 his successors in office the true and lawful attorney of the  
21 insurer upon whom may be served all lawful process in any  
22 action, suit or proceeding arising out of such insurance.  
23 Service of process made upon the Director to be valid  
24 hereunder must state the name of the insured, the name of the  
25 unauthorized insurer and identify the contract of insurance.  
26 The Director at his option is authorized to forward a copy of



1 the process to the Surplus Line Association of Illinois for  
2 delivery to the unauthorized insurer or the Director may  
3 deliver the process to the unauthorized insurer by other means  
4 which he considers to be reasonably prompt and certain.

5 (10.5) Required notice to policyholder. Insurance  
6 contracts delivered under this Section from unauthorized  
7 insurers, other than domestic surplus line insurers as defined  
8 in Section 445a, shall have stamped or imprinted on the first  
9 page thereof in not less than 12-pt. bold face type the  
10 following legend: "Notice to Policyholder: This contract is  
11 issued, pursuant to Section 445 of the Illinois Insurance  
12 Code, by a company not authorized and licensed to transact  
13 business in Illinois and as such is not covered by the Illinois  
14 Insurance Guaranty Fund." Insurance contracts delivered under  
15 this Section from domestic surplus line insurers as defined in  
16 Section 445a shall have stamped or imprinted on the first page  
17 thereof in not less than 12-pt. bold face type the following  
18 legend: "Notice to Policyholder: This contract is issued by a  
19 domestic surplus line insurer, as defined in Section 445a of  
20 the Illinois Insurance Code, pursuant to Section 445, and as  
21 such is not covered by the Illinois Insurance Guaranty Fund."

22 (11) Marine, aviation, and transportation. The Illinois  
23 Surplus Line law does not apply to insurance of property and  
24 operations of railroads or aircraft engaged in interstate or  
25 foreign commerce, insurance of vessels, crafts or hulls,  
26 cargoes, marine builder's risks, marine protection and

1 indemnity, or other risks including strikes and war risks  
2 insured under ocean or wet marine forms of policies.

3 (12) Applicability of Illinois Insurance Code. Surplus  
4 line insurance procured under this Section, including  
5 insurance procured from a domestic surplus line insurer, is  
6 not subject to the provisions of the Illinois Insurance Code  
7 other than Sections 123, 123.1, 401, 401.1, 402, 403, 403A,  
8 408, 412, 445, 445a, 445.1, 445.2, 445.3, 445.4, and all of the  
9 provisions of Article XXXI to the extent that the provisions  
10 of Article XXXI are not inconsistent with the terms of this  
11 Act.

12 (Source: P.A. 102-224, eff. 1-1-22.)

13 (215 ILCS 5/448) (from Ch. 73, par. 1060)

14 Sec. 448. Certain powers reserved to General Assembly.

15 The General Assembly shall at all times have power to  
16 prescribe such regulations, provisions, and limitations as it  
17 may deem advisable, which regulations, provisions, and  
18 limitations shall be binding upon any and all companies,  
19 domestic, foreign or non-domestic ~~alien~~, subject to the  
20 provisions of this Code, and the General Assembly shall have  
21 power to amend, repeal, or modify this Code at pleasure.

22 (Source: Laws 1937, p. 696.)

23 (215 ILCS 5/451) (from Ch. 73, par. 1063)

24 Sec. 451. Companies not subject to Code. This Code shall

1 not apply to companies now or hereafter organized or  
2 transacting business under the Title Insurance Act, or Act  
3 amendatory thereof, supplementary thereto, or in replacement  
4 thereof; nor to corporations now or hereafter organized and  
5 transacting business under "An Act to provide for the  
6 incorporation and regulation of nonprofit hospital service  
7 corporations" approved July 6, 1935, or Act amendatory thereof  
8 or supplementary thereto; nor shall any part of this Code  
9 other than Articles X, XI, XIII, and XXIV apply to companies  
10 now or hereafter organized or transacting business under an  
11 Act entitled, "An Act relating to local mutual district,  
12 county and township insurance companies," approved March 13,  
13 1936, or Act amendatory thereof or supplementary thereto. No  
14 domestic company shall be organized under this Code, nor shall  
15 any foreign or non-domestic ~~alien~~ company receive a  
16 certificate of authority under this Code, to transact the  
17 business of title insurance. The changes made to this Section  
18 by Public Act 96-334 are a statement and clarification of  
19 existing law.

20 (Source: P.A. 96-334, eff. 1-1-10; 96-1000, eff. 7-2-10.)

21 (215 ILCS 5/531.09) (from Ch. 73, par. 1065.80-9)

22 Sec. 531.09. Assessments.

23 (1) For the purpose of providing the funds necessary to  
24 carry out the powers and duties of the Association, the board  
25 of directors shall assess the member insurers, separately for

1 each account, at such times and for such amounts as the board  
2 finds necessary. Assessments shall be due not less than 30  
3 days after written notice to the member insurers and shall  
4 accrue interest from the due date at such adjusted rate as is  
5 established under Section 6621 of Chapter 26 of the United  
6 States Code and such interest shall be compounded daily.

7 (2) There shall be 2 classes of assessments, as follows:

8 (a) Class A assessments shall be made for the purpose  
9 of meeting administrative costs and other general expenses  
10 and examinations conducted under the authority of the  
11 Director under subsection (5) of Section 531.12.

12 (b) Class B assessments shall be made to the extent  
13 necessary to carry out the powers and duties of the  
14 Association under Section 531.08 with regard to an  
15 impaired or insolvent domestic insurer or insolvent  
16 foreign or non-domestic ~~alien~~ insurers.

17 (3) (a) The amount of any Class A assessment shall be  
18 determined at the discretion of the board of directors and  
19 such assessments shall be authorized and called on a non-pro  
20 rata basis. The amount of any Class B assessment, except for  
21 assessments related to long-term care insurance, shall be  
22 allocated for assessment purposes among the accounts and  
23 subaccounts pursuant to an allocation formula which may be  
24 based on the premiums or reserves of the impaired or insolvent  
25 insurer or any other standard deemed by the board in its sole  
26 discretion as being fair and reasonable under the

1 circumstances.

2 (b) Class B assessments against member insurers for each  
3 account and subaccount shall be in the proportion that the  
4 premiums received on business in this State by each assessed  
5 member insurer on policies or contracts covered by each  
6 account or subaccount for the three most recent calendar years  
7 for which information is available preceding the year in which  
8 the member insurer became impaired or insolvent, as the case  
9 may be, bears to such premiums received on business in this  
10 State for such calendar years by all assessed member insurers.

11 (b-5) The amount of the Class B assessment for long-term  
12 care insurance written by the impaired or insolvent insurer  
13 shall be allocated according to a methodology included in the  
14 plan of operation and approved by the Director. The  
15 methodology shall provide for 50% of the assessment to be  
16 allocated to accident and health member insurers and 50% to be  
17 allocated to life and annuity member insurers.

18 (c) Assessments for funds to meet the requirements of the  
19 Association with respect to an impaired or insolvent insurer  
20 shall not be made until necessary to implement the purposes of  
21 this Article. Classification of assessments under subsection  
22 (2) and computations of assessments under this subsection  
23 shall be made with a reasonable degree of accuracy,  
24 recognizing that exact determinations may not always be  
25 possible.

26 (4) The Association may abate or defer, in whole or in

1 part, the assessment of a member insurer if, in the opinion of  
2 the board, payment of the assessment would endanger the  
3 ability of the member insurer to fulfill its contractual  
4 obligations. In the event an assessment against a member  
5 insurer is abated or deferred in whole or in part the amount by  
6 which the assessment is abated or deferred may be assessed  
7 against the other member insurers in a manner consistent with  
8 the basis for assessments set forth in this Section. Once the  
9 conditions that caused a deferral have been removed or  
10 rectified, the member insurer shall pay all assessments that  
11 were deferred pursuant to a repayment plan approved by the  
12 Association.

13 (5) (a) Subject to the provisions of this paragraph, the  
14 total of all assessments authorized by the Association with  
15 respect to a member insurer for each subaccount of the life  
16 insurance and annuity account and for the health account shall  
17 not in one calendar year exceed 2% of that member insurer's  
18 average annual premiums received in this State on the policies  
19 and contracts covered by the subaccount or account during the  
20 3 calendar years preceding the year in which the member  
21 insurer became an impaired or insolvent insurer.

22 If 2 or more assessments are authorized in one calendar  
23 year with respect to member insurers that become impaired or  
24 insolvent in different calendar years, the average annual  
25 premiums for purposes of the aggregate assessment percentage  
26 limitation referenced in subparagraph (a) of this paragraph

1 shall be equal and limited to the higher of the 3-year average  
2 annual premiums for the applicable subaccount or account as  
3 calculated pursuant to this Section.

4 If the maximum assessment, together with the other assets  
5 of the Association in an account, does not provide in one year  
6 in either account an amount sufficient to carry out the  
7 responsibilities of the Association, the necessary additional  
8 funds shall be assessed as soon thereafter as permitted by  
9 this Article.

10 (b) The board may provide in the plan of operation a method  
11 of allocating funds among claims, whether relating to one or  
12 more impaired or insolvent insurers, when the maximum  
13 assessment will be insufficient to cover anticipated claims.

14 (c) If the maximum assessment for a subaccount of the life  
15 insurance and annuity account in one year does not provide an  
16 amount sufficient to carry out the responsibilities of the  
17 Association, then pursuant to paragraph (b) of subsection (3),  
18 the board shall assess the other subaccounts of the life  
19 insurance and annuity account for the necessary additional  
20 amount, subject to the maximum stated in paragraph (a) of this  
21 subsection.

22 (6) The board may, by an equitable method as established  
23 in the plan of operation, refund to member insurers, in  
24 proportion to the contribution of each member insurer to that  
25 account, the amount by which the assets of the account exceed  
26 the amount the board finds is necessary to carry out during the

1 coming year the obligations of the Association with regard to  
2 that account, including assets accruing from net realized  
3 gains and income from investments. A reasonable amount may be  
4 retained in any account to provide funds for the continuing  
5 expenses of the Association and for future losses.

6 (7) An assessment is deemed to occur on the date upon which  
7 the board votes such assessment. The board may defer calling  
8 the payment of the assessment or may call for payment in one or  
9 more installments.

10 (8) It is proper for any member insurer, in determining  
11 its premium rates and policy owner dividends as to any kind of  
12 insurance or health maintenance organization business within  
13 the scope of this Article, to consider the amount reasonably  
14 necessary to meet its assessment obligations under this  
15 Article.

16 (9) The Association must issue to each member insurer  
17 paying a Class B assessment under this Article a certificate  
18 of contribution, in a form acceptable to the Director, for the  
19 amount of the assessment so paid. All outstanding certificates  
20 are of equal dignity and priority without reference to amounts  
21 or dates of issue. A certificate of contribution may be shown  
22 by the member insurer in its financial statement as an asset in  
23 such form and for such amount, if any, and period of time as  
24 the Director may approve, provided the member insurer shall in  
25 any event at its option have the right to show a certificate of  
26 contribution as an admitted asset at percentages of the



1 original face amount for calendar years as follows:

2 100% for the calendar year after the year of issuance;

3 80% for the second calendar year after the year of  
4 issuance;

5 60% for the third calendar year after the year of  
6 issuance;

7 40% for the fourth calendar year after the year of  
8 issuance;

9 20% for the fifth calendar year after the year of  
10 issuance.

11 (10) The Association may request information of member  
12 insurers in order to aid in the exercise of its power under  
13 this Section and member insurers shall promptly comply with a  
14 request.

15 (Source: P.A. 100-687, eff. 8-3-18.)

16 (215 ILCS 5/531.11) (from Ch. 73, par. 1065.80-11)

17 Sec. 531.11. Duties and powers of the Director. In  
18 addition to the duties and powers enumerated elsewhere in this  
19 Article:

20 (1) The Director must do all of the following:

21 (a) Upon request of the board of directors,  
22 provide the Association with a statement of the  
23 premiums in the appropriate accounts for each member  
24 insurer.

25 (b) Notify the board of directors of the existence

1 of an impaired or insolvent insurer not later than 3  
2 days after a determination of impairment or insolvency  
3 is made or when the Director receives notice of  
4 impairment or insolvency.

5 (c) Give notice to an impaired insurer as required  
6 by Sections 34 or 60. Notice to the impaired insurer  
7 shall constitute notice to its shareholders, if any.

8 (d) In any liquidation or rehabilitation  
9 proceeding involving a domestic member insurer, be  
10 appointed as the liquidator or rehabilitator. If a  
11 foreign or non-domestic ~~alien~~ member insurer is  
12 subject to a liquidation proceeding in its domiciliary  
13 jurisdiction or state of entry, the Director shall be  
14 appointed conservator.

15 (2) The Director may suspend or revoke, after notice  
16 and hearing, the certificate of authority to transact  
17 business in this State of any member insurer which fails  
18 to pay an assessment when due or fails to comply with the  
19 plan of operation. As an alternative the Director may levy  
20 a forfeiture on any member insurer which fails to pay an  
21 assessment when due. Such forfeiture may not exceed 5% of  
22 the unpaid assessment per month, but no forfeiture may be  
23 less than \$100 per month.

24 (3) Any action of the board of directors or the  
25 Association may be appealed to the Director by any member  
26 insurer or any other person adversely affected by such

1 action if such appeal is taken within 30 days of the action  
2 being appealed. Any final action or order of the Director  
3 is subject to judicial review in a court of competent  
4 jurisdiction.

5 (4) The liquidator, rehabilitator, or conservator of  
6 any impaired insurer may notify all interested persons of  
7 the effect of this Article.

8 (Source: P.A. 100-687, eff. 8-3-18.)

9 (215 ILCS 5/534.5) (from Ch. 73, par. 1065.84-5)

10 Sec. 534.5. Member company. "Member Company" means any  
11 insurance company organized as a stock company, mutual  
12 company, reciprocal or Lloyds, which holds a certificate of  
13 authority to transact any kind of insurance in this State to  
14 which this Article applies, and which is either:

15 (a) a domestic insurance company formed before or after  
16 the effective date of this Article; or

17 (b) a foreign or non-domestic ~~alien~~ insurance company.

18 An insurance company shall cease to be a member company  
19 effective on the day following the termination or expiration  
20 of its license to transact the kinds of insurance to which this  
21 Article applies; provided, however, that the insurance company  
22 shall remain liable as a member company for any and all  
23 obligations, including obligations for assessments levied  
24 before the termination or expiration of the insurance  
25 company's license and assessments levied after the termination

1 or expiration, based on any insolvency as to which the  
2 determination of insolvency by a court of competent  
3 jurisdiction occurs before the termination or expiration of  
4 the insurance company's license.

5 (Source: P.A. 89-97, eff. 7-7-95.)

6 (215 ILCS 5/543.1) (from Ch. 73, par. 1065.93-1)

7 Sec. 543.1. The Director shall serve a copy of the  
8 complaint seeking an Order of Liquidation with a finding of  
9 insolvency against a domestic member company on the Fund at  
10 the same time that such complaint is filed with the circuit  
11 court or shall forward to the Fund notice of the filing of such  
12 a complaint against a foreign or non-domestic ~~alien~~ member  
13 company promptly upon receipt thereof. The Director also shall  
14 serve on the Fund a copy of an Order of Liquidation with a  
15 finding of insolvency against a domestic member company  
16 immediately after it is entered by the circuit court or shall  
17 forward to the Fund a copy of such order against a foreign or  
18 non-domestic ~~alien~~ member company promptly upon receipt  
19 thereof.

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

21 (215 ILCS 5/1103) (from Ch. 73, par. 1065.803)

22 Sec. 1103. Name. The corporate name of any trust organized  
23 under this Article shall not be the same as or deceptively  
24 similar to the name of any domestic insurance company or of any

1 foreign or non-domestic ~~alien~~ insurance company authorized to  
2 transact business in this State.

3 (Source: P.A. 84-1431.)

4 Section 95. The Reinsurance Intermediary Act is amended by  
5 changing Section 5 as follows:

6 (215 ILCS 100/5) (from Ch. 73, par. 1605)

7 Sec. 5. Definitions.

8 "Actuary" means a person who is a member in good standing  
9 of the American Academy of Actuaries.

10 "Controlling person" means any person, firm, association,  
11 or corporation that directly or indirectly has the power to  
12 direct or cause to be directed the management, control, or  
13 activities of the reinsurance intermediary.

14 "Director" means the Director of the Department of  
15 Insurance.

16 "Insurer" means any person, firm, association, or  
17 corporation duly licensed in this State under the applicable  
18 provisions of law as an insurer.

19 "Licensed producer" means an agent, broker, or reinsurance  
20 intermediary licensed under the applicable provision of the  
21 insurance law.

22 "Reinsurance intermediary" means an intermediary broker or  
23 a manager.

24 "Intermediary broker" means any person, other than an

1 officer or employee of the ceding insurer, firm, association,  
2 or corporation, who solicits, negotiates, or places  
3 reinsurance cessions or retrocessions on behalf of a ceding  
4 insurer without the authority or power to bind reinsurance on  
5 behalf of the insurer.

6 "Intermediary manager" means any person, firm,  
7 association, or corporation that has authority to bind or  
8 manages all or part of the assumed reinsurance business of a  
9 reinsurer (including the management of a separate division,  
10 department, or underwriting office) and acts as an agent for  
11 the reinsurer. However, the following persons shall not be  
12 considered an intermediary manager, with respect to the  
13 reinsurer, for the purposes of this Act:

14 (1) An employee of the reinsurer.

15 (2) A U.S. Manager of the United States branch of a  
16 non-domestic ~~an alien~~ reinsurer.

17 (3) An underwriting manager that, under a contract,  
18 manages all the reinsurance operations of the reinsurer,  
19 is under common control with the reinsurer, subject to  
20 Article VIII 1/2 of the Illinois Insurance Code, and whose  
21 compensation is not based on the volume of premiums  
22 written.

23 (4) The manager of a group, association, pool, or  
24 organization of insurers that engage in joint underwriting  
25 or joint reinsurance and who are subject to examinations  
26 by the insurance regulatory authority of the state in

1 which the manager's principal business office is located.

2 "Reinsurer" means any person, firm, association, or  
3 corporation duly licensed in this State under the applicable  
4 provisions of law as an insurer with the authority to assume  
5 reinsurance.

6 "To be in violation" means that the reinsurance  
7 intermediary, insurer, or reinsurer for whom the reinsurance  
8 intermediary was acting failed to substantially comply with  
9 the provisions of this Act.

10 "Qualified United States financial institution" means an  
11 institution that:

12 (1) is organized or (in the case of a U.S. office of a  
13 foreign banking organization) licensed under the laws of  
14 the United States or any state thereof;

15 (2) is regulated, supervised, and examined by federal  
16 or state authorities having regulatory authority over  
17 banks and trust companies; and

18 (3) has been determined by either the Director or the  
19 Securities Valuation Office of the National Association of  
20 Insurance Commissioners to meet the standards of financial  
21 condition and standing as are considered necessary and  
22 appropriate to regulate the quality of financial  
23 institutions whose letters of credit will be acceptable to  
24 the Director.

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

1 Section 100. The Comprehensive Health Insurance Plan Act  
2 is amended by changing Section 7 as follows:

3 (215 ILCS 105/7) (from Ch. 73, par. 1307)

4 Sec. 7. Eligibility.

5 a. Except as provided in subsection (e) of this Section or  
6 in Section 15 of this Act, any person who is either a citizen  
7 of the United States or a noncitizen ~~an alien~~ lawfully  
8 admitted for permanent residence and who has been for a period  
9 of at least 180 days and continues to be a resident of this  
10 State shall be eligible for Plan coverage under this Section  
11 if evidence is provided of:

12 (1) A notice of rejection or refusal to issue  
13 substantially similar individual health insurance coverage  
14 for health reasons by a health insurance issuer;

15 (2) A refusal by a health insurance issuer to issue  
16 individual health insurance coverage except at a rate  
17 exceeding the applicable Plan rate for which the person is  
18 responsible; or

19 (3) The absence of available health insurance coverage  
20 for a person under 19 years of age.

21 A rejection or refusal by a group health plan or health  
22 insurance issuer offering only stop-loss or excess of loss  
23 insurance or contracts, agreements, or other arrangements for  
24 reinsurance coverage with respect to the applicant shall not  
25 be sufficient evidence under this subsection.



1           b. The Board shall promulgate a list of medical or health  
2 conditions for which a person who is either a citizen of the  
3 United States or a noncitizen ~~an alien~~ lawfully admitted for  
4 permanent residence and a resident of this State would be  
5 eligible for Plan coverage without applying for health  
6 insurance coverage pursuant to subsection a. of this Section.  
7 Persons who can demonstrate the existence or history of any  
8 medical or health conditions on the list promulgated by the  
9 Board shall not be required to provide the evidence specified  
10 in subsection a. of this Section. The list shall be effective  
11 on the first day of the operation of the Plan and may be  
12 amended from time to time as appropriate.

13           c. Family members of the same household who each are  
14 covered persons are eligible for optional family coverage  
15 under the Plan.

16           d. For persons qualifying for coverage in accordance with  
17 Section 7 of this Act, the Board shall, if it determines that  
18 such appropriations as are made pursuant to Section 12 of this  
19 Act are insufficient to allow the Board to accept all of the  
20 eligible persons which it projects will apply for enrollment  
21 under the Plan, limit or close enrollment to ensure that the  
22 Plan is not over-subscribed and that it has sufficient  
23 resources to meet its obligations to existing enrollees. The  
24 Board shall not limit or close enrollment for federally  
25 eligible individuals.

26           e. A person shall not be eligible for coverage under the

1 Plan if:

2 (1) He or she has or obtains other coverage under a  
3 group health plan or health insurance coverage  
4 substantially similar to or better than a Plan policy as  
5 an insured or covered dependent or would be eligible to  
6 have that coverage if he or she elected to obtain it.  
7 Persons otherwise eligible for Plan coverage may, however,  
8 solely for the purpose of having coverage for a  
9 pre-existing condition, maintain other coverage only while  
10 satisfying any pre-existing condition waiting period under  
11 a Plan policy or a subsequent replacement policy of a Plan  
12 policy.

13 (1.1) His or her prior coverage under a group health  
14 plan or health insurance coverage, provided or arranged by  
15 an employer of more than 10 employees was discontinued for  
16 any reason without the entire group or plan being  
17 discontinued and not replaced, provided he or she remains  
18 an employee, or dependent thereof, of the same employer.

19 (2) He or she is a recipient of or is approved to  
20 receive medical assistance, except that a person may  
21 continue to receive medical assistance through the medical  
22 assistance no grant program, but only while satisfying the  
23 requirements for a preexisting condition under Section 8,  
24 subsection f. of this Act. Payment of premiums pursuant to  
25 this Act shall be allocable to the person's spenddown for  
26 purposes of the medical assistance no grant program, but

1           that person shall not be eligible for any Plan benefits  
2           while that person remains eligible for medical assistance.  
3           If the person continues to receive or be approved to  
4           receive medical assistance through the medical assistance  
5           no grant program at or after the time that requirements  
6           for a preexisting condition are satisfied, the person  
7           shall not be eligible for coverage under the Plan. In that  
8           circumstance, coverage under the Plan shall terminate as  
9           of the expiration of the preexisting condition limitation  
10          period. Under all other circumstances, coverage under the  
11          Plan shall automatically terminate as of the effective  
12          date of any medical assistance.

13           (3) Except as provided in Section 15, the person has  
14          previously participated in the Plan and voluntarily  
15          terminated Plan coverage, unless 12 months have elapsed  
16          since the person's latest voluntary termination of  
17          coverage.

18           (4) The person fails to pay the required premium under  
19          the covered person's terms of enrollment and  
20          participation, in which event the liability of the Plan  
21          shall be limited to benefits incurred under the Plan for  
22          the time period for which premiums had been paid and the  
23          covered person remained eligible for Plan coverage.

24           (5) The Plan has paid a total of \$5,000,000 in  
25          benefits on behalf of the covered person.

26           (6) The person is a resident of a public institution.

1           (7) The person's premium is paid for or reimbursed  
2 under any government sponsored program or by any  
3 government agency or health care provider, except as an  
4 otherwise qualifying full-time employee, or dependent of  
5 such employee, of a government agency or health care  
6 provider or, except when a person's premium is paid by the  
7 U.S. Treasury Department pursuant to the federal Trade Act  
8 of 2002.

9           (8) The person has or later receives other benefits or  
10 funds from any settlement, judgement, or award resulting  
11 from any accident or injury, regardless of the date of the  
12 accident or injury, or any other circumstances creating a  
13 legal liability for damages due that person by a third  
14 party, whether the settlement, judgment, or award is in  
15 the form of a contract, agreement, or trust on behalf of a  
16 minor or otherwise and whether the settlement, judgment,  
17 or award is payable to the person, his or her dependent,  
18 estate, personal representative, or guardian in a lump sum  
19 or over time, so long as there continues to be benefits or  
20 assets remaining from those sources in an amount in excess  
21 of \$300,000.

22           (9) Within the 5 years prior to the date a person's  
23 Plan application is received by the Board, the person's  
24 coverage under any health care benefit program as defined  
25 in 18 U.S.C. 24, including any public or private plan or  
26 contract under which any medical benefit, item, or service

1 is provided, was terminated as a result of any act or  
2 practice that constitutes fraud under State or federal law  
3 or as a result of an intentional misrepresentation of  
4 material fact; or if that person knowingly and willfully  
5 obtained or attempted to obtain, or fraudulently aided or  
6 attempted to aid any other person in obtaining, any  
7 coverage or benefits under the Plan to which that person  
8 was not entitled.

9 f. The Board or the administrator shall require  
10 verification of residency and may require any additional  
11 information or documentation, or statements under oath, when  
12 necessary to determine residency upon initial application and  
13 for the entire term of the policy.

14 g. Coverage shall cease (i) on the date a person is no  
15 longer a resident of Illinois, (ii) on the date a person  
16 requests coverage to end, (iii) upon the death of the covered  
17 person, (iv) on the date State law requires cancellation of  
18 the policy, or (v) at the Plan's option, 30 days after the Plan  
19 makes any inquiry concerning a person's eligibility or place  
20 of residence to which the person does not reply.

21 h. Except under the conditions set forth in subsection g  
22 of this Section, the coverage of any person who ceases to meet  
23 the eligibility requirements of this Section shall be  
24 terminated at the end of the current policy period for which  
25 the necessary premiums have been paid.

26 (Source: P.A. 96-938, eff. 6-24-10; 97-661, eff. 1-13-12.)

1           Section 105. The Religious and Charitable Risk Pooling  
2 Trust Act is amended by changing Section 15 as follows:

3           (215 ILCS 150/15) (from Ch. 148, par. 215)

4           Sec. 15. Ineligible beneficiaries. A beneficiary is  
5 ineligible (1) if it is not exempt from taxation under  
6 paragraph (3) of subsection (c) of Section 501 of the Internal  
7 Revenue Code of 1954 as amended, or an affiliate of a  
8 corporation exempt from taxation under paragraph (3) of  
9 subsection (c) of Section 501 of the Internal Revenue Code, as  
10 amended, and exempt from taxation under paragraph (2) of  
11 subsection (c) of Section 501 of the Internal Revenue Code of  
12 1954, as amended, or tax exempt as a unit of local government  
13 or as a hospital owned and operated by a unit of local  
14 government; (2) if a corporation, it is not incorporated as a  
15 not-for-profit corporation; or (3) if a foreign or  
16 non-domestic ~~alien~~ corporation, it no longer has a Certificate  
17 of Authority issued by the Secretary of State.

18           (Source: P.A. 92-99, eff. 7-20-01.)

19           Section 110. The Title Insurance Act is amended by  
20 changing Sections 11 and 15.1 as follows:

21           (215 ILCS 155/11) (from Ch. 73, par. 1411)

22           Sec. 11. Statutory premium reserve.

1 (a) A domestic title insurance company shall establish and  
2 maintain a statutory premium reserve computed in accordance  
3 with this Section. The reserve shall be reported as a  
4 liability of the title insurance company in its financial  
5 statements. The statutory premium reserve shall be maintained  
6 by the title insurance company for the protection of holders  
7 of title insurance policies. Except as provided in this  
8 Section, assets equal in value to the statutory premium  
9 reserve are not subject to distribution among creditors or  
10 stockholders of the title insurance company until all claims  
11 of policyholders or claims under reinsurance contracts have  
12 been paid in full and discharged, lawfully reinsured, or  
13 otherwise assumed by another title insurance company  
14 authorized to do business under this Act.

15 (b) A foreign or non-domestic ~~alien~~ title insurance  
16 company authorized to do business under this Act shall  
17 maintain at least the same reserves on title insurance  
18 policies issued on properties located in this State as are  
19 required of domestic title insurance companies.

20 (c) The statutory premium reserve shall consist of:

21 (1) the amount of the statutory premium reserve on  
22 January 1, 1990; and

23 (2) a sum equal to 12 1/2 cents for each \$1,000 of net  
24 retained liability under each title insurance policy on a  
25 single risk written on properties located in this State  
26 after January 1, 1990.

1 (d) Amounts placed in the statutory premium reserve in any  
2 year in accordance with this Section shall be deducted in  
3 determining the net profit of the title insurance company for  
4 that year.

5 (e) A title insurance company shall release from the  
6 statutory premium reserve a sum equal to 10% of the amount  
7 added to the reserve during a calendar year on July 1 of each  
8 of the 5 years following the year in which the sum was added,  
9 and shall release from the statutory premium reserve a sum  
10 equal to 3 1/3% of the amount added to the reserve during that  
11 year on each succeeding July 1 until the entire amount for that  
12 year has been released. The amount of the statutory premium  
13 reserve or similar premium reserve maintained before January  
14 1, 1990, shall be released in accordance with the law in effect  
15 before January 1, 1990.

16 (f) This reserve is independent of the deposit  
17 requirements of Section 4 of this Act.

18 (Source: P.A. 94-893, eff. 6-20-06.)

19 (215 ILCS 155/15.1)

20 Sec. 15.1. No taxes to be imposed by political  
21 subdivisions. The fees, charges, and taxes provided for by  
22 this Act shall be in lieu of all license fees or privilege or  
23 occupation taxes or other fees levied or assessed by any  
24 municipality, county, or other political subdivision of this  
25 State. No municipality, county, or other political subdivision



1 of this State shall impose any license fee or privilege or  
2 occupation tax or fee upon any domestic, foreign, or  
3 non-domestic ~~alien~~ company, or upon any of its agents, for the  
4 privilege of doing insurance business therein. This Section  
5 shall not be construed to prohibit the levy and collection of  
6 State, county, or municipal taxes upon the real and personal  
7 property of the company, including the tax imposed by  
8 subsections (c) and (d) of Section 201 of the Illinois Income  
9 Tax Act. This Section 15.1 is declared to be a denial and  
10 limitation of the powers of home rule units pursuant to  
11 paragraph (g) of Section 6 of Article VII of the Illinois  
12 Constitution of 1970.

13 (Source: P.A. 90-317, eff. 8-1-97.)

14 Section 115. The Viatical Settlements Act of 2009 is  
15 amended by changing Sections 5 and 30 as follows:

16 (215 ILCS 159/5)

17 Sec. 5. Definitions.

18 "Accredited investor" means an accredited investor as  
19 defined in Rule 501(a) promulgated under the Securities Act of  
20 1933 (15 U.S.C. 77 et seq.), as amended.

21 "Advertising" means any written, electronic, or printed  
22 communication or any communication by means of recorded  
23 telephone messages or transmitted on radio, television, the  
24 Internet, or similar communications media, including film

1 strips, digital picture slides, motion pictures, and videos  
2 published, disseminated, circulated, or placed before the  
3 public in this State, for the purpose of creating an interest  
4 in or inducing a person to sell, assign, devise, bequest, or  
5 transfer the death benefit or ownership of a policy pursuant  
6 to a viatical settlement contract.

7 "Non-domestic ~~Alien~~ licensee" means a licensee  
8 incorporated or organized under the laws of any country other  
9 than the United States.

10 "Business of viatical settlements" means any activity  
11 involved in, but not limited to, the offering, soliciting,  
12 negotiating, procuring, effectuating, purchasing, investing,  
13 financing, monitoring, tracking, underwriting, selling,  
14 transferring, assigning, pledging, or hypothecating or in any  
15 other manner acquiring an interest in a life insurance policy  
16 by means of a viatical settlement contract or other agreement.

17 "Chronically ill" means having been certified within the  
18 preceding 12-month period by a licensed health professional  
19 as:

20 (1) being unable to perform, without substantial  
21 assistance from another individual and for at least 90  
22 days due to a loss of functional capacity, at least 2  
23 activities of daily living, including, but not limited to,  
24 eating, toileting, transferring, bathing, dressing, or  
25 continence;

26 (2) requiring substantial supervision to protect the

1 individual from threats to health and safety due to severe  
2 cognitive impairment; or

3 (3) having a level of disability similar to that  
4 described in paragraph (1) as determined by the Secretary  
5 of Health and Human Services.

6 "Controlling person" means any person, firm, association,  
7 or corporation that directly or indirectly has the power to  
8 direct or cause to be directed the management, control, or  
9 activities of the viatical settlement provider.

10 "Director" means the Director of the Division of Insurance  
11 of the Department of Financial and Professional Regulation.

12 "Division" means the Division of Insurance of the  
13 Department of Financial and Professional Regulation.

14 "Escrow agent" means an independent third-party person  
15 who, pursuant to a written agreement signed by the viatical  
16 settlement provider and viator, provides escrow services  
17 related to the acquisition of a life insurance policy pursuant  
18 to a viatical settlement contract. "Escrow agent" does not  
19 include any person associated or affiliated with or under the  
20 control of a licensee.

21 "Financial institution" means a financial institution as  
22 defined by the Financial Institutions Insurance Sales Law in  
23 Article XLIV of the Illinois Insurance Code.

24 "Financing entity" means an underwriter, placement agent,  
25 lender, purchaser of securities, purchaser of a policy or  
26 certificate from a viatical settlement provider, credit

1 enhancer, or an entity that has a direct ownership in a policy  
2 that is the subject of a viatical settlement contract, and to  
3 which both of the following apply:

4 (1) its principal activity related to the transaction  
5 is providing funds to effect the viatical settlement or  
6 purchase of one or more viaticated policies; and

7 (2) it has an agreement in writing with one or more  
8 licensed viatical settlement providers to finance the  
9 acquisition of viatical settlement contracts.

10 "Financing entity" does not include an investor that is not an  
11 accredited investor.

12 "Financing transaction" means a transaction in which a  
13 viatical settlement provider obtains financing from a  
14 financing entity, including, without limitation, any secured  
15 or unsecured financing, securitization transaction, or  
16 securities offering that either is registered or exempt from  
17 registration under federal and State securities law.

18 "Foreign licensee" means any viatical settlement provider  
19 incorporated or organized under the laws of any state of the  
20 United States other than this State.

21 "Insurance producer" means an insurance producer as  
22 defined by Section 10 of Article XXXI of the Illinois  
23 Insurance Code.

24 "Licensee" means a viatical settlement provider or  
25 viatical settlement broker.

26 "Life expectancy provider" means a person who determines

1 or holds himself or herself out as determining life  
2 expectancies or mortality ratings used to determine life  
3 expectancies on behalf of or in connection with any of the  
4 following:

5 (1) A viatical settlement provider, viatical  
6 settlement broker, or person engaged in the business of  
7 viatical settlements.

8 (2) A viatical investment as defined by Section 2.33  
9 of the Illinois Securities Law of 1953 or a viatical  
10 settlement contract.

11 "NAIC" means the National Association of Insurance  
12 Commissioners.

13 "Person" means an individual or a legal entity, including,  
14 without limitation, a partnership, limited liability company,  
15 limited liability partnership, association, trust, business  
16 trust, or corporation.

17 "Policy" means an individual or group policy, group  
18 certificate, contract, or arrangement of insurance of the  
19 class defined by subsection (a) of Section 4 of the Illinois  
20 Insurance Code owned by a resident of this State, regardless  
21 of whether delivered or issued for delivery in this State.

22 "Qualified institutional buyer" means a qualified  
23 institutional buyer as defined in Rule 144 promulgated under  
24 the Securities Act of 1933, as amended.

25 "Related provider trust" means a titling trust or other  
26 trust established by a licensed viatical settlement provider

1 or a financing entity for the sole purpose of holding the  
2 ownership or beneficial interest in purchased policies in  
3 connection with a financing transaction. The trust shall have  
4 a written agreement with the licensed viatical settlement  
5 provider under which the licensed viatical settlement provider  
6 is responsible for ensuring compliance with all statutory and  
7 regulatory requirements and under which the trust agrees to  
8 make all records and files related to viatical settlement  
9 transactions available to the Director as if those records and  
10 files were maintained directly by the licensed viatical  
11 settlement provider.

12 "Special purpose entity" means a corporation, partnership,  
13 trust, limited liability company, or other similar entity  
14 formed only to provide, directly or indirectly, access to  
15 institutional capital markets (i) for a financing entity or  
16 licensed viatical settlement provider; or (ii) in connection  
17 with a transaction in which the securities in the special  
18 purposes entity are acquired by the viator or by qualified  
19 institutional buyers or the securities pay a fixed rate of  
20 return commensurate with established asset-backed  
21 institutional capital markets.

22 "Stranger-originated life insurance" or "STOLI" means an  
23 act, practice, or arrangement to initiate a life insurance  
24 policy for the benefit of a third-party investor who, at the  
25 time of policy origination, has no insurable interest in the  
26 insured. STOLI practices include, but are not limited to,

1 cases in which life insurance is purchased with resources or  
2 guarantees from or through a person or entity who, at the time  
3 of policy inception, could not lawfully initiate the policy  
4 himself or itself and where, at the time of policy inception,  
5 there is an arrangement or agreement, whether verbal or  
6 written, to directly or indirectly transfer the ownership of  
7 the policy or policy benefits to a third party. Trusts created  
8 to give the appearance of an insurable interest and used to  
9 initiate policies for investors violate insurance interest  
10 laws and the prohibition against wagering on life. STOLI  
11 arrangements do not include lawful viatical settlement  
12 contracts as permitted by this Act.

13 "Terminally ill" means certified by a physician as having  
14 an illness or physical condition that reasonably is expected  
15 to result in death in 24 months or less.

16 "Viatical settlement broker" means a licensed insurance  
17 producer who has been issued a license pursuant to paragraph  
18 (1) or (2) of subsection (a) of Section 500-35 of the Illinois  
19 Insurance Code who, working exclusively on behalf of a viator  
20 and for a fee, commission, or other valuable consideration,  
21 offers, solicits, promotes, or attempts to negotiate viatical  
22 settlement contracts between a viator and one or more viatical  
23 settlement providers or one or more viatical settlement  
24 brokers. "Viatical settlement broker" does not include an  
25 attorney, certified public accountant, or a financial planner  
26 accredited by a nationally recognized accreditation agency,

1 who is retained to represent the viator and whose compensation  
2 is not paid directly or indirectly by the viatical settlement  
3 provider or purchaser.

4 "Viatical settlement contract" means any of the following:

5 (1) A written agreement between a viator and a  
6 viatical settlement provider establishing the terms under  
7 which compensation or anything of value is or will be  
8 paid, which compensation or value is less than the  
9 expected death benefits of the policy, in return for the  
10 viator's present or future assignment, transfer, sale,  
11 devise, or bequest of the death benefit or ownership of  
12 any portion of the insurance policy.

13 (2) A written agreement for a loan or other lending  
14 transaction, secured primarily by an individual life  
15 insurance policy or an individual certificate of a group  
16 life insurance policy.

17 (3) The transfer for compensation or value of  
18 ownership of a beneficial interest in a trust or other  
19 entity that owns such policy, if the trust or other entity  
20 was formed or availed of for the principal purpose of  
21 acquiring one or more life insurance contracts and the  
22 life insurance contract insures the life of a person  
23 residing in this State.

24 (4) A premium finance loan made for a life insurance  
25 policy by a lender to a viator on, before, or after the  
26 date of issuance of the policy in either of the following



1 situations:

2 (A) The viator or the insured receives a guarantee  
3 of the viatical settlement value of the policy.

4 (B) The viator or the insured agrees to sell the  
5 policy or any portion of the policy's death benefit on  
6 any date before or after issuance of the policy.

7 "Viatical settlement contract" does not include any of the  
8 following acts, practices, or arrangements listed below in  
9 subparagraphs (a) through (i) of this definition of "viatical  
10 settlement contract", unless part of a plan, scheme, device,  
11 or artifice to avoid application of this Act; provided,  
12 however, that the list of excluded items contained in  
13 subparagraphs (a) through (i) is not intended to be an  
14 exhaustive list and that an act, practice, or arrangement that  
15 is not described below in subparagraphs (a) through (i) does  
16 not necessarily constitute a viatical settlement contract:

17 (a) A policy loan or accelerated death benefit made by  
18 the insurer pursuant to the policy's terms;

19 (b) Loan proceeds that are used solely to pay: (i)  
20 premiums for the policy and (ii) the costs of the loan,  
21 including, without limitation, interest, arrangement fees,  
22 utilization fees and similar fees, closing costs, legal  
23 fees and expenses, trustee fees and expenses, and third  
24 party collateral provider fees and expenses, including  
25 fees payable to letter of credit issuers;

26 (c) A loan made by a bank or other financial

1 institution in which the lender takes an interest in a  
2 life insurance policy solely to secure repayment of a loan  
3 or, if there is a default on the loan and the policy is  
4 transferred, the transfer of such a policy by the lender,  
5 provided that neither the default itself nor the transfer  
6 of the policy in connection with the default is pursuant  
7 to an agreement or understanding with any other person for  
8 the purpose of evading regulation under this Act;

9 (d) A loan made by a lender that does not violate  
10 Article XXXIIa of the Illinois Insurance Code, provided  
11 that the premium finance loan is not described in this  
12 Act;

13 (e) An agreement in which all the parties (i) are  
14 closely related to the insured by blood or law or (ii) have  
15 a lawful substantial economic interest in the continued  
16 life, health, and bodily safety of the person insured, or  
17 trusts established primarily for the benefit of such  
18 parties;

19 (f) Any designation, consent, or agreement by an  
20 insured who is an employee of an employer in connection  
21 with the purchase by the employer, or trust established by  
22 the employer, of life insurance on the life of the  
23 employee;

24 (g) A bona fide business succession planning  
25 arrangement: (i) between one or more shareholders in a  
26 corporation or between a corporation and one or more of

1 its shareholders or one or more trusts established by its  
2 shareholders; (ii) between one or more partners in a  
3 partnership or between a partnership and one or more of  
4 its partners or one or more trusts established by its  
5 partners; or (iii) between one or more members in a  
6 limited liability company or between a limited liability  
7 company and one or more of its members or one or more  
8 trusts established by its members;

9 (h) An agreement entered into by a service recipient,  
10 or a trust established by the service recipient, and a  
11 service provider, or a trust established by the service  
12 provider, who performs significant services for the  
13 service recipient's trade or business; or

14 (i) Any other contract, transaction, or arrangement  
15 exempted from the definition of viatical settlement  
16 contract by the Director based on the Director's  
17 determination that the contract, transaction, or  
18 arrangement is not of the type intended to be regulated by  
19 this Act.

20 "Viatical settlement investment agent" means a person who  
21 is an appointed or contracted agent of a licensed viatical  
22 settlement provider who solicits or arranges the funding for  
23 the purchase of a viatical settlement by a viatical settlement  
24 purchaser and who is acting on behalf of a viatical settlement  
25 provider. A viatical settlement investment agent is deemed to  
26 represent the viatical settlement provider of whom the

1 viatical settlement investment agent is an appointed or  
2 contracted agent.

3 "Viatical settlement provider" means a person, other than  
4 a viator, who enters into or effectuates a viatical settlement  
5 contract with a viator. "Viatical settlement provider" does  
6 not include:

7 (1) a bank, savings bank, savings and loan  
8 association, credit union, or other financial institution  
9 that takes an assignment of a policy as collateral for a  
10 loan;

11 (2) a financial institution or premium finance company  
12 making premium finance loans and exempted by the Director  
13 from the licensing requirement under the premium finance  
14 laws where the institution or company takes an assignment  
15 of a life insurance policy solely as collateral for a  
16 premium finance loan;

17 (3) the issuer of the life insurance policy;

18 (4) an authorized or eligible insurer that provides  
19 stop loss coverage or financial guaranty insurance to a  
20 viatical settlement provider, purchaser, financing entity,  
21 special purpose entity, or related provider trust;

22 (5) An individual person who enters into or  
23 effectuates no more than one viatical settlement contract  
24 in a calendar year for the transfer of policies for any  
25 value less than the expected death benefit;

26 (6) a financing entity;

- 1 (7) a special purpose entity;
- 2 (8) a related provider trust;
- 3 (9) a viatical settlement purchaser; or
- 4 (10) any other person that the Director determines is
- 5 consistent with the definition of viatical settlement
- 6 provider.

7 "Viatical settlement purchaser" means a person who  
8 provides a sum of money as consideration for a life insurance  
9 policy or an interest in the death benefits of a life insurance  
10 policy, or a person who owns or acquires or is entitled to a  
11 beneficial interest in a trust that owns a viatical settlement  
12 contract or is the beneficiary of a life insurance policy, in  
13 each case where such policy has been or will be the subject of  
14 a viatical settlement contract, for the purpose of deriving an  
15 economic benefit. "Viatical settlement purchaser" does not  
16 include: (i) a licensee under this Act; (ii) an accredited  
17 investor or qualified institutional buyer; (iii) a financing  
18 entity; (iv) a special purpose entity; or (v) a related  
19 provider trust.

20 "Viaticated policy" means a life insurance policy that has  
21 been acquired by a viatical settlement provider pursuant to a  
22 viatical settlement contract.

23 "Viator" means the owner of a life insurance policy or a  
24 certificate holder under a group policy who enters or seeks to  
25 enter into a viatical settlement contract. For the purposes of  
26 this Act, a viator is not limited to an owner of a life

1 insurance policy or a certificate holder under a group policy  
2 insuring the life of an individual with a terminal or chronic  
3 illness or condition, except where specifically addressed.

4 "Viator" does not include:

- 5 (1) a licensee;
- 6 (2) a qualified institutional buyer;
- 7 (3) a financing entity;
- 8 (4) a special purpose entity; or
- 9 (5) a related provider trust.

10 (Source: P.A. 100-863, eff. 8-14-18.)

11 (215 ILCS 159/30)

12 Sec. 30. Examination or investigation.

13 (a) The Director may when and as often as the Director  
14 deems it reasonably necessary to protect the interests of the  
15 public, examine the business affairs of any licensee.

16 In scheduling and determining the nature, scope, and  
17 frequency of the examinations, the Director shall consider  
18 such matters as consumer complaints, results of financial  
19 statement analyses and ratios, changes in management or  
20 ownership, actuarial opinions, report of independent certified  
21 public accountants, and other relevant criteria as determined  
22 by the Director.

23 (b) For purposes of completing an examination of a  
24 licensee under this Act, the Director may examine or  
25 investigate any person, or the business of any person, in so

1 far as the examination or investigation is, in the sole  
2 discretion of the Director, necessary or material to the  
3 examination.

4 (c) In lieu of an examination under this Act of any foreign  
5 licensee or non-domestic ~~alien~~ licensee licensed in this  
6 State, the Director may, at the Director's discretion, accept  
7 an examination report on the licensee as prepared by the chief  
8 insurance regulatory official for the licensee's state of  
9 domicile or port-of-entry state.

10 (d) As far as practical, the examination of a foreign  
11 licensee or non-domestic ~~alien~~ licensee shall be made in  
12 cooperation with the insurance supervisory officials of other  
13 states in which the licensee transacts business.

14 (e) Licensees shall for 5 years retain copies of:

15 (1) all proposed, offered, or executed contracts,  
16 purchase agreements, underwriting documents, policy forms,  
17 and applications from the date of the proposal, offer, or  
18 execution of the contract or purchase agreement, whichever  
19 is later;

20 (2) all checks, drafts, or other evidence and  
21 documentation related to the payment, transfer, deposit,  
22 or release of funds from the date of the transaction;

23 (3) all other records and documents in any format  
24 related to the requirements of this Act, including a  
25 record of complaints received against the licensee and  
26 agents representing the licensee and a list of all life

1           expectancy providers that have provider services to the  
2           licensee.

3           This subsection (e) does not relieve a person of the  
4           obligation to produce records required by this subsection to  
5           the Director after the retention period has expired if the  
6           person has retained the documents.

7           Records required to be retained by this subsection (e)  
8           must be legible and complete and may be retained in paper,  
9           photograph, microprocessor, magnetic, mechanical, or  
10          electronic media, or by any process that accurately reproduces  
11          or forms a durable medium for the reproduction of a record.

12          (f) Upon determining that an examination should be  
13          conducted, the Director shall appoint one or more examiners to  
14          perform the examination and instruct them as to the scope of  
15          the examination. The Director may employ any guidelines or  
16          procedures for purposes of this subsection (f) that the  
17          Director deems appropriate.

18          Every licensee or person, including all officers,  
19          partners, members, directors, employees, controlling persons,  
20          and agents of any licensee or person, from whom information is  
21          sought shall provide to the examiners timely, convenient, and  
22          free access at all reasonable hours at the licensee's or  
23          person's offices to all books, records, accounts, papers,  
24          documents, assets, and computer or other recordings relating  
25          to the property, assets, business, and affairs of the licensee  
26          being examined. The officers, directors, employees, and agents



1 of the licensee or person shall facilitate the examination and  
2 aid in the examination so far as it is in their power to do so.  
3 The refusal of a licensee by its officers, directors,  
4 employees, or agents to submit to examination or to comply  
5 with any reasonable written request of the Director shall be  
6 grounds for revocation, denial of issuance, or non-renewal of  
7 any license or authority held by the licensee to engage in the  
8 viatical settlement business or other business subject to the  
9 Director's jurisdiction.

10 The Director shall have the power to issue subpoenas, to  
11 administer oaths, and to examine under oath any person as to  
12 any matter pertinent to the examination. Upon the failure or  
13 refusal of a person to obey a subpoena, the Director may  
14 petition a court of competent jurisdiction, and upon proper  
15 showing, the court may enter an order compelling the witness  
16 to appear and testify or produce documentary evidence. Failure  
17 to obey the court order shall be punishable as contempt of  
18 court. Subpoenas may be enforced pursuant to Section 403 of  
19 the Illinois Insurance Code.

20 When making an examination under this Act, the Director  
21 may retain attorneys, appraisers, independent actuaries,  
22 independent certified public accountants, or other  
23 professionals and specialists as examiners, the reasonable  
24 cost of which shall be borne by the licensee that is the  
25 subject of the examination.

26 (g) Nothing contained in this Act limits the Director's

1 authority to terminate or suspend an examination in order to  
2 pursue other legal or regulatory action pursuant to the  
3 insurance laws of this State. Findings of fact and conclusions  
4 made pursuant to any examination shall be prima facie evidence  
5 in any legal or regulatory action.

6 (h) Nothing contained in this Act shall be construed to  
7 limit the Director's authority to use and, if appropriate, to  
8 make public any final or preliminary examination report, any  
9 examiner or licensee workpapers or other documents, or any  
10 other information discovered or developed during the course of  
11 any examination in the furtherance of any legal or regulatory  
12 action that the Director may, in the Director's discretion,  
13 deem appropriate.

14 (i) No later than 60 days following completion of the  
15 examination, the examiner in charge shall file with the  
16 Director a verified written report of examination under oath.  
17 Upon receipt of the verified report, the Director shall  
18 transmit the report to the licensee examined.

19 (j) Examination reports shall be comprised only of facts  
20 appearing upon the books, records, or other documents of the  
21 licensee, its agents, or other persons examined, or as  
22 ascertained from the testimony of its officers or agents or  
23 other persons examined concerning its affairs and the  
24 conclusions and recommendations that the examiners find  
25 reasonably warranted from the facts.

26 (k) The licensee may request a hearing within 10 days

1 after receipt of the examination report by giving the Director  
2 written notice of that request, together with a statement of  
3 its objections. The Director then must conduct a hearing in  
4 conjunction with Sections 402 and 403 of the Illinois  
5 Insurance Code. The Director must issue a written order based  
6 upon the examination report and upon the hearing within 90  
7 days after the report is filed or within 90 days after the  
8 hearing. After the hearing, the Director may make such order  
9 or orders as may be reasonably necessary to correct,  
10 eliminate, or remedy unlawful conduct.

11 (l) If the Director determines that regulatory action is  
12 appropriate as a result of an examination, the Director may  
13 initiate any proceedings or actions provided by law.

14 (m) Names and individual identification data for all  
15 viators in the possession and control of the Director shall be  
16 considered private and confidential and shall not be disclosed  
17 by the Director unless required by law.

18 Except as otherwise provided in this Act, all examination  
19 reports, working papers, recorded information, documents, and  
20 copies thereof produced by, obtained by or disclosed to the  
21 Director or any other person in the course of an examination  
22 made under this Act or the law of another state or jurisdiction  
23 that is substantially similar to this Act, or in the course of  
24 analysis or investigation by the Director of the financial  
25 condition or market conduct of a licensee are (i) confidential  
26 by law and privileged, (ii) not subject to the Freedom of

1 Information Act, (iii) not subject to subpoena, and (iv) not  
2 subject to discovery or admissible in evidence in any private  
3 civil action.

4 The Director is authorized to use the documents,  
5 materials, or other information in the furtherance of any  
6 regulatory or legal action brought as part of the Director's  
7 official duties.

8 Documents, materials, or other information, including, but  
9 not limited to, all working papers and copies thereof, in the  
10 possession or control of the NAIC and its affiliates and  
11 subsidiaries are:

12 (1) confidential by law and privileged;

13 (2) not subject to subpoena; and

14 (3) not subject to discovery or admissible in evidence  
15 in any private civil action if they are:

16 (A) created, produced or obtained by, or disclosed  
17 to the NAIC and its affiliates and subsidiaries in the  
18 course of assisting an examination made under this Act  
19 or assisting the Director or the chief insurance  
20 regulatory official in another state in the analysis  
21 or investigation of the financial condition or market  
22 conduct of a licensee; or

23 (B) disclosed under this subsection (m) by the  
24 Director or disclosed under a comparable provision in  
25 law of another state by that state's chief insurance  
26 regulatory official to the NAIC and its affiliates and

1 subsidiaries.

2 Neither the Director nor any person that received the  
3 documents, material, or other information while acting under  
4 the authority of the Director, including the NAIC and its  
5 affiliates and subsidiaries, shall be permitted to testify in  
6 any private civil action concerning any confidential  
7 documents, materials, or information subject to this  
8 subsection (m).

9 (n) In order to assist in the performance of the  
10 Director's duties, the Director may:

11 (1) share documents, materials, or other information,  
12 including the confidential and privileged documents,  
13 materials, or information subject to subsection (m) of  
14 this Section, with other state, federal, and international  
15 regulatory agencies, with the NAIC and its affiliates and  
16 subsidiaries, and with state, federal, and international  
17 law enforcement authorities, provided that the recipient  
18 agrees to maintain the confidentiality and privileged  
19 status of the document, material, communication, or other  
20 information;

21 (2) receive documents, materials, communications, or  
22 information, including otherwise confidential and  
23 privileged documents, materials, or information, from the  
24 NAIC and its affiliates and subsidiaries and from  
25 regulatory and law enforcement officials of other foreign  
26 or domestic jurisdictions, and shall maintain as

1 confidential or privileged any document, material, or  
2 information received with notice or the understanding that  
3 it is confidential or privileged under the laws of the  
4 jurisdiction that is the source of the document, material,  
5 or information; and

6 (3) enter into agreements governing sharing and use of  
7 information consistent with this Section.

8 (o) No waiver of any applicable privilege or claim of  
9 confidentiality in the documents, materials, or information  
10 shall occur as a result of disclosure to the Director under  
11 this Section or as a result of sharing as authorized in  
12 subsection (n) of this Section.

13 (p) A privilege established under the law of any state or  
14 jurisdiction that is substantially similar to the privilege  
15 established under this Section shall be available and enforced  
16 in any proceeding in, and in any court of, this State.

17 (q) Nothing contained in this Act prevents or prohibits  
18 the Director from disclosing the content of an examination  
19 report, preliminary examination report or results, or any  
20 matter relating to those reports or results, to the chief  
21 insurance regulatory official of any other state or country,  
22 or to law enforcement officials of this or any other state or  
23 agency of the federal government at any time or to the NAIC, if  
24 the agency or office receiving the report or matters relating  
25 to it agrees in writing to hold it confidential and in a manner  
26 consistent with this Act.

1           (r) The expenses incurred in conducting an examination  
2 shall be paid by the licensee.

3           (s) No cause of action shall arise nor shall any liability  
4 be imposed against the Director, the Director's authorized  
5 representatives, or any examiner appointed by the Director for  
6 any statements made or conduct performed in good faith while  
7 carrying out the provisions of this Act.

8           No cause of action shall arise, nor shall any liability be  
9 imposed against any person for the act of communicating or  
10 delivering information or data to the Director or the  
11 Director's authorized representative or examiner pursuant to  
12 an examination made under this Section, if the act of  
13 communication or delivery was performed in good faith and  
14 without fraudulent intent or the intent to deceive. This  
15 subsection (s) does not abrogate or modify in any way any  
16 common law or statutory privilege or immunity heretofore  
17 enjoyed by any person identified in this subsection (s).

18           A person identified in this subsection (s) shall be  
19 entitled to an award of attorney's fees and costs if he or she  
20 is the prevailing party in a civil cause of action for libel,  
21 slander, or any other relevant tort arising out of activities  
22 in carrying out the provisions of this Section and the party  
23 bringing the action was not substantially justified in doing  
24 so. For purposes of this Section, a proceeding is  
25 "substantially justified" if it had a reasonable basis in law  
26 or fact at the time that it was initiated.

1 (t) The Director may investigate suspected viatical  
2 settlement fraud and persons engaged in the business of  
3 viatical settlements.

4 (Source: P.A. 96-736, eff. 7-1-10.)

5 Section 120. The Hearing Instrument Consumer Protection  
6 Act is amended by changing Section 8 as follows:

7 (225 ILCS 50/8) (from Ch. 111, par. 7408)

8 (Section scheduled to be repealed on January 1, 2026)

9 Sec. 8. Applicant qualifications; examination.

10 (a) In order to protect persons who are deaf or hard of  
11 hearing, the Department shall authorize or shall conduct an  
12 appropriate examination, which may be the International  
13 Hearing Society's licensure examination, for persons who  
14 dispense, test, select, recommend, fit, or service hearing  
15 instruments. The frequency of holding these examinations shall  
16 be determined by the Department by rule. Those who  
17 successfully pass such an examination shall be issued a  
18 license as a hearing instrument dispenser, which shall be  
19 effective for a 2-year period.

20 (b) Applicants shall be:

21 (1) at least 18 years of age;

22 (2) of good moral character;

23 (3) the holder of an associate's degree or the  
24 equivalent;



1 (4) free of contagious or infectious disease; and

2 (5) a citizen or person who has the status as a legal  
3 noncitizen alien.

4 Felony convictions of the applicant and findings against  
5 the applicant involving matters set forth in Sections 17 and  
6 18 shall be considered in determining moral character, but  
7 such a conviction or finding shall not make an applicant  
8 ineligible to register for examination.

9 (c) Prior to engaging in the practice of fitting,  
10 dispensing, or servicing hearing instruments, an applicant  
11 shall demonstrate, by means of written and practical  
12 examinations, that such person is qualified to practice the  
13 testing, selecting, recommending, fitting, selling, or  
14 servicing of hearing instruments as defined in this Act. An  
15 applicant must obtain a license within 12 months after passing  
16 either the written or practical examination, whichever is  
17 passed first, or must take and pass those examinations again  
18 in order to be eligible to receive a license.

19 The Department shall, by rule, determine the conditions  
20 under which an individual is examined.

21 (d) Proof of having met the minimum requirements of  
22 continuing education as determined by the Board shall be  
23 required of all license renewals. Pursuant to rule, the  
24 continuing education requirements may, upon petition to the  
25 Board, be waived in whole or in part if the hearing instrument  
26 dispenser can demonstrate that he or she served in the Coast

1 Guard or Armed Forces, had an extreme hardship, or obtained  
2 his or her license by examination or endorsement within the  
3 preceding renewal period.

4 (e) Persons applying for an initial license must  
5 demonstrate having earned, at a minimum, an associate degree  
6 or its equivalent from an accredited institution of higher  
7 education that is recognized by the U.S. Department of  
8 Education or that meets the U.S. Department of Education  
9 equivalency as determined through a National Association of  
10 Credential Evaluation Services (NACES) member, and meet the  
11 other requirements of this Section. In addition, the applicant  
12 must demonstrate the successful completion of (1) 12 semester  
13 hours or 18 quarter hours of academic undergraduate course  
14 work in an accredited institution consisting of 3 semester  
15 hours of anatomy and physiology of the hearing mechanism, 3  
16 semester hours of hearing science, 3 semester hours of  
17 introduction to audiology, and 3 semester hours of aural  
18 rehabilitation, or the quarter hour equivalent or (2) an  
19 equivalent program as determined by the Department that is  
20 consistent with the scope of practice of a hearing instrument  
21 dispenser as defined in Section 3 of this Act. Persons  
22 licensed before January 1, 2003 who have a valid license on  
23 that date may have their license renewed without meeting the  
24 requirements of this subsection.

25 (Source: P.A. 98-827, eff. 1-1-15; 99-204, eff. 7-30-15;  
26 99-847, eff. 8-19-16.)

1 Section 125. The Appraisal Management Company Registration  
2 Act is amended by changing Section 10 as follows:

3 (225 ILCS 459/10)

4 Sec. 10. Definitions. In this Act:

5 "Address of record" means the principal address recorded  
6 by the Department in the applicant's or registrant's  
7 application file or registration file maintained by the  
8 Department's registration maintenance unit.

9 "Applicant" means a person or entity who applies to the  
10 Department for a registration under this Act.

11 "Appraisal" means (noun) the act or process of developing  
12 an opinion of value; an opinion of value (adjective) of or  
13 pertaining to appraising and related functions.

14 "Appraisal firm" means an appraisal entity that is 100%  
15 owned and controlled by a person or persons licensed in  
16 Illinois as a certified general real estate appraiser or a  
17 certified residential real estate appraiser. An appraisal firm  
18 does not include an appraisal management company.

19 "Appraisal management company" means any corporation,  
20 limited liability company, partnership, sole proprietorship,  
21 subsidiary, unit, or other business entity that directly or  
22 indirectly: (1) provides appraisal management services to  
23 creditors or secondary mortgage market participants, including  
24 affiliates; (2) provides appraisal management services in

1 connection with valuing the consumer's principal dwelling as  
2 security for a consumer credit transaction (including consumer  
3 credit transactions incorporated into securitizations); and  
4 (3) any appraisal management company that, within a given  
5 12-month period, oversees an appraiser panel of 16 or more  
6 State-certified appraisers in Illinois or 25 or more  
7 State-certified or State-licensed appraisers in 2 or more  
8 jurisdictions. "Appraisal management company" includes a  
9 hybrid entity.

10 "Appraisal management company national registry fee" means  
11 the fee implemented pursuant to Title XI of the federal  
12 Financial Institutions Reform, Recovery, and Enforcement Act  
13 of 1989 for an appraiser management company's national  
14 registry.

15 "Appraisal management services" means one or more of the  
16 following:

- 17 (1) recruiting, selecting, and retaining appraisers;
- 18 (2) contracting with State-certified or State-licensed  
19 appraisers to perform appraisal assignments;
- 20 (3) managing the process of having an appraisal  
21 performed, including providing administrative services  
22 such as receiving appraisal orders and appraisal reports;  
23 submitting completed appraisal reports to creditors and  
24 secondary market participants; collecting compensation  
25 from creditors, underwriters, or secondary market  
26 participants for services provided; or paying appraisers

1 for services performed; or

2 (4) reviewing and verifying the work of appraisers.

3 "Appraiser panel" means a network, list, or roster of  
4 licensed or certified appraisers approved by the appraisal  
5 management company or by the end-user client to perform  
6 appraisals as independent contractors for the appraisal  
7 management company. "Appraiser panel" includes both appraisers  
8 accepted by an appraisal management company for consideration  
9 for future appraisal assignments and appraisers engaged by an  
10 appraisal management company to perform one or more  
11 appraisals. For the purposes of determining the size of an  
12 appraiser panel, only independent contractors of hybrid  
13 entities shall be counted towards the appraiser panel.

14 "Appraiser panel fee" means the amount collected from a  
15 registrant that, where applicable, includes an appraisal  
16 management company's national registry fee.

17 "Appraisal report" means a written appraisal by an  
18 appraiser to a client.

19 "Appraisal practice service" means valuation services  
20 performed by an individual acting as an appraiser, including,  
21 but not limited to, appraisal or appraisal review.

22 "Appraisal subcommittee" means the appraisal subcommittee  
23 of the Federal Financial Institutions Examination Council as  
24 established by Title XI.

25 "Appraiser" means a person who performs real estate or  
26 real property appraisals.

1 "Assignment result" means an appraiser's opinions and  
2 conclusions developed specific to an assignment.

3 "Audit" includes, but is not limited to, an annual or  
4 special audit, visit, or review necessary under this Act or  
5 required by the Secretary or the Secretary's authorized  
6 representative in carrying out the duties and responsibilities  
7 under this Act.

8 "Client" means the party or parties who engage an  
9 appraiser by employment or contract in a specific appraisal  
10 assignment.

11 "Controlling person" means:

12 (1) an owner, officer, or director of an entity  
13 seeking to offer appraisal management services;

14 (2) an individual employed, appointed, or authorized  
15 by an appraisal management company who has the authority  
16 to:

17 (A) enter into a contractual relationship with a  
18 client for the performance of an appraisal management  
19 service or appraisal practice service; and

20 (B) enter into an agreement with an appraiser for  
21 the performance of a real estate appraisal activity;

22 (3) an individual who possesses, directly or  
23 indirectly, the power to direct or cause the direction of  
24 the management or policies of an appraisal management  
25 company; or

26 (4) an individual who will act as the sole compliance

1 officer with regard to this Act and any rules adopted  
2 under this Act.

3 "Covered transaction" means a consumer credit transaction  
4 secured by a consumer's principal dwelling.

5 "Department" means the Department of Financial and  
6 Professional Regulation.

7 "Email address of record" means the designated email  
8 address recorded by the Department in the applicant's  
9 application file or the registrant's registration file  
10 maintained by the Department's registration maintenance unit.

11 "Entity" means a corporation, a limited liability company,  
12 partnership, a sole proprietorship, or other entity providing  
13 services or holding itself out to provide services as an  
14 appraisal management company or an appraisal management  
15 service.

16 "End-user client" means any person who utilizes or engages  
17 the services of an appraiser through an appraisal management  
18 company.

19 "Federally regulated appraisal management company" means  
20 an appraisal management company that is owned and controlled  
21 by an insured depository institution, as defined in 12 U.S.C.  
22 1813, or an insured credit union, as defined in 12 U.S.C. 1752,  
23 and regulated by the Office of the Comptroller of the  
24 Currency, the Federal Reserve Board, the National Credit Union  
25 Association, or the Federal Deposit Insurance Corporation.

26 "Financial institution" means any bank, savings bank,

1 savings and loan association, credit union, mortgage broker,  
2 mortgage banker, registrant under the Consumer Installment  
3 Loan Act or the Sales Finance Agency Act, or a corporate  
4 fiduciary, subsidiary, affiliate, parent company, or holding  
5 company of any registrant, or any institution involved in real  
6 estate financing that is regulated by State or federal law.

7 "Foreign appraisal management company" means any appraisal  
8 management company organized under the laws of any other state  
9 of the United States, the District of Columbia, or any other  
10 jurisdiction of the United States.

11 "Hybrid entity" means an appraisal management company that  
12 hires an appraiser as an employee to perform an appraisal and  
13 engages an independent contractor to perform an appraisal.

14 "Multi-state licensing system" means a web-based platform  
15 that allows an applicant to submit the application or  
16 registration renewal to the Department online.

17 "Person" means individuals, entities, sole  
18 proprietorships, corporations, limited liability companies,  
19 and non-domestic ~~alien~~, foreign, or domestic partnerships,  
20 except that when the context otherwise requires, the term may  
21 refer to a single individual or other described entity.

22 "Principal dwelling" means a residential structure that  
23 contains one to 4 units, whether or not that structure is  
24 attached to real property. "Principal dwelling" includes an  
25 individual condominium unit, cooperative unit, manufactured  
26 home, mobile home, and trailer, if it is used as a residence.



1 "Principal office" means the actual, physical business  
2 address, which shall not be a post office box or a virtual  
3 business address, of a registrant, at which (i) the Department  
4 may contact the registrant and (ii) records required under  
5 this Act are maintained.

6 "Qualified to transact business in this State" means being  
7 in compliance with the requirements of the Business  
8 Corporation Act of 1983.

9 "Quality control review" means a review of an appraisal  
10 report for compliance and completeness, including grammatical,  
11 typographical, or other similar errors, unrelated to  
12 developing an opinion of value.

13 "Real estate" means an identified parcel or tract of land,  
14 including any improvements.

15 "Real estate related financial transaction" means any  
16 transaction involving:

17 (1) the sale, lease, purchase, investment in, or  
18 exchange of real property, including interests in property  
19 or the financing thereof;

20 (2) the refinancing of real property or interests in  
21 real property; and

22 (3) the use of real property or interest in property  
23 as security for a loan or investment, including mortgage  
24 backed securities.

25 "Real property" means the interests, benefits, and rights  
26 inherent in the ownership of real estate.

1 "Secretary" means the Secretary of Financial and  
2 Professional Regulation.

3 "USPAP" means the Uniform Standards of Professional  
4 Appraisal Practice as adopted by the Appraisal Standards Board  
5 under Title XI.

6 "Valuation" means any estimate of the value of real  
7 property in connection with a creditor's decision to provide  
8 credit, including those values developed under a policy of a  
9 government sponsored enterprise or by an automated valuation  
10 model or other methodology or mechanism.

11 "Written notice" means a communication transmitted by mail  
12 or by electronic means that can be verified between an  
13 appraisal management company and a licensed or certified real  
14 estate appraiser.

15 (Source: P.A. 102-20, eff. 1-1-22; 102-687, eff. 12-17-21.)

16 Section 130. The Illinois Public Aid Code is amended by  
17 changing Section 5-3 as follows:

18 (305 ILCS 5/5-3) (from Ch. 23, par. 5-3)

19 Sec. 5-3. Residence.) Any person who has established his  
20 residence in this State and lives therein, including any  
21 person who is a migrant worker, may qualify for medical  
22 assistance. A person who, while temporarily in this State,  
23 suffers injury or illness endangering his life and health and  
24 necessitating emergency care, may also qualify.

1 Temporary absence from the State shall not disqualify a  
2 person from maintaining his eligibility under this Article.

3 As used in this Section, "migrant worker" means any person  
4 residing temporarily and employed in Illinois who moves  
5 seasonally from one place to another for the purpose of  
6 employment in agricultural activities, including the planting,  
7 raising or harvesting of any agricultural or horticultural  
8 commodities and the handling, packing or processing of such  
9 commodities on the farm where produced or at the point of first  
10 processing, in animal husbandry, or in other activities  
11 connected with the care of animals. Dependents of such person  
12 shall be considered eligible if they are living with the  
13 person during his or her temporary residence and employment in  
14 Illinois.

15 In order to be eligible for medical assistance under this  
16 section, each migrant worker shall show proof of citizenship  
17 or legal noncitizen ~~alien~~ status.

18 (Source: P.A. 81-746.)

19 Section 135. The Housing Development and Construction Act  
20 is amended by changing Section 5 as follows:

21 (310 ILCS 20/5) (from Ch. 67 1/2, par. 57)

22 Sec. 5. Any grants paid hereunder to a housing authority  
23 shall be deposited in a separate fund and, subject to the  
24 approval of the Department of Commerce and Economic

1 Opportunity, may be used for any or all of the following  
2 purposes as the needs of the community may require: the  
3 acquisition of land by purchase, gift or condemnation and the  
4 improvement thereof, the purchase and installation of  
5 temporary housing facilities, the construction of housing  
6 units for rent or sale to veterans, the families of deceased  
7 servicemen, and for persons and families who by reason of  
8 overcrowded housing conditions or displacement by eviction,  
9 fires or other calamities, or slum clearance or other private  
10 or public project involving relocation, are in urgent need of  
11 safe and sanitary housing, the making of grants in connection  
12 with the sale or lease of real property as provided in the  
13 following paragraph of this section, and for any and all  
14 purposes authorized by the "Housing Authorities Act," approved  
15 March 19, 1934, as amended, including administrative expenses  
16 of the housing authorities in relation to the aforesaid  
17 objectives, to the extent and for the purposes authorized and  
18 approved by the Department of Commerce and Economic  
19 Opportunity. Each housing authority is vested with power to  
20 exercise the right of eminent domain for the purposes  
21 authorized by this Act. Condemnation proceedings instituted by  
22 any such authority shall be in all respects in the manner  
23 provided for the exercise of the right of eminent domain under  
24 the Eminent Domain Act.

25 In addition to the foregoing, and for the purpose of  
26 facilitating the development and construction of housing,

1 housing authorities may, with the approval of the Department  
2 of Commerce and Economic Opportunity, enter into contracts and  
3 agreements for the sale or lease of real property acquired by  
4 the Authority through the use of the grant hereunder, and may  
5 sell or lease such property to (1) housing corporations  
6 operating under "An Act in relation to housing," approved July  
7 12, 1933, as amended; (2) neighborhood redevelopment  
8 corporations operating under the "Neighborhood Redevelopment  
9 Corporation Law," approved July 9, 1941; (3) insurance  
10 companies operating under Article VIII of the Illinois  
11 Insurance Code; (4) non-profit corporations organized for the  
12 purpose of constructing, managing and operating housing  
13 projects and the improvement of housing conditions, including  
14 the sale or rental of housing units to persons in need thereof;  
15 or (5) to any other individual, association or corporation,  
16 including bona fide housing cooperatives, desiring to engage  
17 in a development or redevelopment project. The term  
18 "corporation" as used in this section, means a corporation  
19 organized under the laws of this or any other state of the  
20 United States, or of any country, which may legally make  
21 investments in this State of the character herein prescribed,  
22 including foreign and non-domestic ~~alien~~ insurance companies  
23 as defined in Section 2 of the "Illinois Insurance Code." No  
24 sale or lease shall be made hereunder to any of the aforesaid  
25 corporations, associations or individuals unless a plan  
26 approved by the Authority has been presented by the purchaser

1 or lessee for the development or redevelopment of such  
2 property, together with a bond, with satisfactory sureties, of  
3 not less than 10% of the cost of such development or  
4 redevelopment, conditioned upon the completion of such  
5 development or redevelopment; provided that the requirement of  
6 the bond may be waived by the Department of Commerce and  
7 Economic Opportunity if it is satisfied of the financial  
8 ability of the purchaser or lessee to complete such  
9 development or redevelopment in accordance with the presented  
10 plan. To further assure that the real property so sold or  
11 leased shall be used in accordance with the plan, the  
12 Department of Commerce and Economic Opportunity may require  
13 the purchaser or lessee to execute in writing such  
14 undertakings as the Department deems necessary to obligate  
15 such purchaser or lessee (1) to use the property for the  
16 purposes presented in the plan; (2) to commence and complete  
17 the building of the improvements designated in the plan within  
18 the periods of time that the Department of Commerce and  
19 Economic Opportunity fixes as reasonable, and (3) to comply  
20 with such other conditions as are necessary to carry out the  
21 purposes of this Act. Any such property may be sold pursuant to  
22 this section for any legal consideration in an amount to be  
23 approved by the Department of Commerce and Economic  
24 Opportunity. Subject to the approval of the Department of  
25 Commerce and Economic Opportunity, a housing authority may pay  
26 to any non-profit corporation of the character described in

1 this section from grants made available from state funds, such  
2 sum of money which, when added to the value of the land so sold  
3 or leased to such non-profit corporation and the value of  
4 other assets of such non-profit corporation available for use  
5 in the project, will enable such non-profit corporation to  
6 obtain Federal Housing Administration insured construction  
7 mortgages. Any such authority may also sell, transfer, convey  
8 or assign to any such non-profit corporation any personal  
9 property, including building materials and supplies, as it  
10 deems necessary to facilitate the completion of the  
11 development or redevelopment by such non-profit corporation.

12 If the area of operation of a housing authority includes a  
13 city, village or incorporated town having a population in  
14 excess of 500,000, as determined by the last preceding Federal  
15 Census, no real property or interest in real property shall be  
16 acquired in such municipality by the housing authority until  
17 such time as the housing authority has advised the governing  
18 body of such municipality of the description of the real  
19 property, or interest therein, proposed to be acquired, and  
20 the governing body of the municipality has approved the  
21 acquisition thereof by the housing authority.

22 (Source: P.A. 94-793, eff. 5-19-06; 94-1055, eff. 1-1-07.)

23 Section 140. The Urban Renewal Consolidation Act of 1961  
24 is amended by changing Section 18 as follows:

1 (315 ILCS 30/18) (from Ch. 67 1/2, par. 91.118)

2 Sec. 18. The Department may at such times as it deems  
3 expedient transfer and sell the fee simple title, or such  
4 lesser estate as the Department may have acquired, or as may  
5 theretofore have been acquired by a land clearance commission,  
6 to all or any part of the real property within the area of a  
7 redevelopment project not disposed of in accordance with  
8 Sections 15, 16, and 17 hereof to (1) Neighborhood  
9 Redevelopment Corporations operating under the "Neighborhood  
10 Redevelopment Corporation Law," approved July 9, 1941, as  
11 amended, (2) Insurance Companies operating under Section 125a  
12 of the "Illinois Insurance Code," approved June 29, 1937, as  
13 amended, (3) any individual, association, or corporation,  
14 organized under the laws of this State or of any other State or  
15 country, which may legally make such investments in this  
16 State, including foreign and non-domestic ~~alien~~ insurance  
17 companies, as defined in Section 2 of said "Illinois Insurance  
18 Code", or (4) bodies politic and corporate, public  
19 corporations, or any private interest empowered by law to  
20 acquire, develop and use such real property for such uses,  
21 public or private, as are in accordance with an approved plan;  
22 provided, however, that any sale of real property to a housing  
23 authority shall be made only in accordance with the provisions  
24 of Sections 16 and 17 hereof. To assure that the real property  
25 so sold is used in accordance with the approved plan referred  
26 to in Section 19 hereof, the Department shall inquire into and



1 satisfy itself concerning the financial ability of the  
2 purchaser to complete the redevelopment in accordance with the  
3 approved plan and shall require the purchaser to execute in  
4 writing such undertakings as the Department may deem necessary  
5 to obligate the purchaser: (1) to use the land for the purposes  
6 designated in the approved plan, (2) to commence and complete  
7 the building of the improvements within the periods of time  
8 which the Department fixes as reasonable, and (3) to comply  
9 with such other conditions as are necessary to carry out the  
10 purposes of this Act. Any such area may be sold either as an  
11 entirety or in such parcels as the Department shall deem  
12 expedient. It shall not be necessary that title be acquired to  
13 all real property within the area of a redevelopment project  
14 before the sale of a part thereof may be made as provided  
15 herein. Any real property sold pursuant to the foregoing  
16 provisions of this Section shall be sold at its use value  
17 (which may be less than its acquisition cost), which  
18 represents the value at which the Department determines such  
19 land should be made available in order that it may be developed  
20 or redeveloped for the purposes specified in the approved  
21 plan.

22 Any real property lying within the area of the  
23 redevelopment project which has not been sold by the  
24 Department within five years after the Department has acquired  
25 title to all the real property within the area of that  
26 redevelopment project, shall be forthwith sold by the

1 Department at public sale for cash to the highest bidder  
2 obligating himself in the manner set forth in the preceding  
3 paragraph of this Section to redevelop the property in  
4 accordance with the approved plan. Notice of such sale and of  
5 the place where the approved plan may be inspected shall be  
6 published once in a newspaper having a general circulation in  
7 the municipality in which the real property is situated at  
8 least twenty (20) days prior to the date of such public sale,  
9 and shall contain a description of the real property to be  
10 sold.

11 The Department may reject the bids received if, in the  
12 opinion of the Department, the highest bid does not equal or  
13 exceed the use value (as hereinabove defined) of the land to be  
14 sold. At the expiration of six (6) months from the date of  
15 rejecting bids, the Department shall again advertise for sale  
16 any real property then remaining unsold. Each publication  
17 shall be subject to the same requirements and conditions as  
18 the original publication.

19 (Source: P.A. 83-333.)

20 Section 145. The Service Member Employment and  
21 Reemployment Rights Act is amended by changing Section 1-10 as  
22 follows:

23 (330 ILCS 61/1-10)

24 Sec. 1-10. Definitions. As used in this Act:

1 "Accrue" means to accumulate in regular or increasing  
2 amounts over time subject to customary allocation of cost.

3 "Active duty" means any full-time military service  
4 regardless of length or voluntariness including, but not  
5 limited to, annual training, full-time National Guard duty,  
6 and State active duty. "Active duty" does not include any form  
7 of inactive duty service such as drill duty or muster duty.  
8 "Active duty", unless provided otherwise, includes active duty  
9 without pay.

10 "Active service" means all forms of active and inactive  
11 duty regardless of voluntariness including, but not limited  
12 to, annual training, active duty for training, initial active  
13 duty training, overseas training duty, full-time National  
14 Guard duty, active duty other than training, State active  
15 duty, mobilizations, and muster duty. "Active service", unless  
16 provided otherwise, includes active service without pay.  
17 "Active service" includes:

18 (1) Reserve component voluntary active service means  
19 service under one of the following authorities:

20 (A) any duty under 32 U.S.C. 502(f)(1)(B);

21 (B) active guard reserve duty, operational  
22 support, or additional duty under 10 U.S.C. 12301(d)  
23 or 32 U.S.C. 502(f)(1)(B);

24 (C) funeral honors under 10 U.S.C. 12503 or 32  
25 U.S.C. 115;

26 (D) duty at the National Guard Bureau under 10

1 U.S.C. 12402;

2 (E) unsatisfactory participation under 10 U.S.C.  
3 10148 or 10 U.S.C. 12303;

4 (F) discipline under 10 U.S.C. 802(d);

5 (G) extended active duty under 10 U.S.C. 12311;  
6 and

7 (H) reserve program administrator under 10 U.S.C.  
8 10211.

9 (2) Reserve component involuntary active service  
10 includes, but is not limited to, service under one of the  
11 following authorities:

12 (A) annual training or drill requirements under 10  
13 U.S.C. 10147, 10 U.S.C. 12301(b) or 32 U.S.C. 502(a).

14 (B) additional training duty or other duty under  
15 32 U.S.C. 502(f) (1) (A);

16 (C) pre-planned or pre-programmed combatant  
17 commander support under 10 U.S.C. 12304b;

18 (D) mobilization under 10 U.S.C. 12301(a) or 10  
19 U.S.C. 12302;

20 (E) presidential reserve call-up under 10 U.S.C.  
21 12304;

22 (F) emergencies and natural disasters under 10  
23 U.S.C. 12304a or 14 U.S.C. 712;

24 (G) muster duty under 10 U.S.C. 12319;

25 (H) retiree recall under 10 U.S.C. 688;

26 (I) captive status under 10 U.S.C. 12301(g);

1 (J) insurrection under 10 U.S.C. 331, 10 U.S.C.  
2 332, or 10 U.S.C. 12406;

3 (K) pending line of duty determination for  
4 response to sexual assault under 10 U.S.C. 12323; and

5 (L) initial active duty for training under 10  
6 U.S.C. 671.

7 Reserve component active service not listed in paragraph  
8 (1) or (2) shall be considered involuntary active service  
9 under paragraph (2).

10 "Active service without pay" means active service  
11 performed under any authority in which base pay is not  
12 received regardless of other allowances.

13 "Annual training" means any active duty performed under  
14 Section 10147 or 12301(b) of Title 10 of the United States Code  
15 or under Section 502(a) of Title 32 of the United States Code.

16 "Base pay" means the main component of military pay,  
17 whether active or inactive, based on rank and time in service.  
18 It does not include the addition of conditional funds for  
19 specific purposes such as allowances, incentive and special  
20 pay. Base pay, also known as basic pay, can be determined by  
21 referencing the appropriate military pay chart covering the  
22 time period in question located on the federal Defense Finance  
23 and Accounting Services website or as reflected on a federal  
24 Military Leave and Earnings Statement.

25 "Benefits" includes, but is not limited to, the terms,  
26 conditions, or privileges of employment, including any

1 advantage, profit, privilege, gain, status, account, or  
2 interest, including wages or salary for work performed, that  
3 accrues by reason of an employment contract or agreement or an  
4 employer policy, plan, or practice and includes rights and  
5 benefits under a pension plan, a health plan, an employee  
6 stock ownership plan, insurance coverage and awards, bonuses,  
7 severance pay, supplemental unemployment benefits, vacations,  
8 and the opportunity to select work hours or location of  
9 employment.

10 "Differential compensation" means pay due when the  
11 employee's daily rate of compensation for military service is  
12 less than his or her daily rate of compensation as a public  
13 employee.

14 "Employee" means anyone employed by an employer.  
15 "Employee" includes any person who is a citizen, national, or  
16 permanent resident noncitizen ~~alien~~ of the United States  
17 employed in a workplace that the State has legal authority to  
18 regulate business and employment. "Employee" does not include  
19 an independent contractor.

20 "Employer" means any person, institution, organization, or  
21 other entity that pays salary or wages for work performed or  
22 that has control over employment opportunities, including:

23 (1) a person, institution, organization, or other  
24 entity to whom the employer has delegated the performance  
25 of employment-related responsibilities;

26 (2) an employer of a public employee;

1           (3) any successor in interest to a person,  
2           institution, organization, or other entity referred to  
3           under this definition; and

4           (4) a person, institution, organization, or other  
5           entity that has been denied initial employment in  
6           violation of Section 5-15.

7           "Inactive duty" means inactive duty training, including  
8           drills, consisting of regularly scheduled unit training  
9           assemblies, additional training assemblies, periods of  
10          appropriate duty or equivalent training, and any special  
11          additional duties authorized for reserve component personnel  
12          by appropriate military authority. "Inactive duty" does not  
13          include active duty.

14          "Military leave" means a furlough or leave of absence  
15          while performing active service. It cannot be substituted for  
16          accrued vacation, annual, or similar leave with pay except at  
17          the sole discretion of the service member employee. It is not a  
18          benefit of employment that is requested but a legal  
19          requirement upon receiving notice of pending military service.

20          "Military service" means:

21               (1) Service in the Armed Forces of the United States,  
22               the National Guard of any state or territory regardless of  
23               status, and the State Guard as defined in the State Guard  
24               Act. "Military service", whether active or reserve,  
25               includes service under the authority of U.S.C. Titles 10,  
26               14, or 32, or State active duty.

1           (2) Service in a federally recognized auxiliary of the  
2           United States Armed Forces when performing official duties  
3           in support of military or civilian authorities as a result  
4           of an emergency.

5           (3) A period for which an employee is absent from a  
6           position of employment for the purpose of medical or  
7           dental treatment for a condition, illness, or injury  
8           sustained or aggravated during a period of active service  
9           in which treatment is paid by the United States Department  
10          of Defense Military Health System.

11          "Public employee" means any person classified as a  
12          full-time employee of the State of Illinois, a unit of local  
13          government, a public institution of higher education as  
14          defined in Section 1 of the Board of Higher Education Act, or a  
15          school district, other than an independent contractor.

16          "Reserve component" means the reserve components of  
17          Illinois and the United States Armed Forces regardless of  
18          status.

19          "Service member" means any person who is a member of a  
20          military service.

21          "State active duty" means full-time State-funded military  
22          duty under the command and control of the Governor and subject  
23          to the Military Code of Illinois.

24          "Unit of local government" means any city, village, town,  
25          county, or special district.

26          (Source: P.A. 100-1101, eff. 1-1-19.)



1 Section 150. The Firearm Owners Identification Card Act is  
2 amended by changing Sections 4 and 8 as follows:

3 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

4 Sec. 4. Application for Firearm Owner's Identification  
5 Cards.

6 (a) Each applicant for a Firearm Owner's Identification  
7 Card must:

8 (1) Submit an application as made available by the  
9 Illinois State Police; and

10 (2) Submit evidence to the Illinois State Police that:

11 (i) This subparagraph (i) applies through the  
12 180th day following July 12, 2019 (the effective date  
13 of Public Act 101-80) ~~this amendatory Act of the 101st~~  
14 ~~General Assembly~~. He or she is 21 years of age or over,  
15 or if he or she is under 21 years of age that he or she  
16 has the written consent of his or her parent or legal  
17 guardian to possess and acquire firearms and firearm  
18 ammunition and that he or she has never been convicted  
19 of a misdemeanor other than a traffic offense or  
20 adjudged delinquent, provided, however, that such  
21 parent or legal guardian is not an individual  
22 prohibited from having a Firearm Owner's  
23 Identification Card and files an affidavit with the  
24 Department as prescribed by the Department stating

1 that he or she is not an individual prohibited from  
2 having a Card;

3 (i-5) This subparagraph (i-5) applies on and after  
4 the 181st day following July 12, 2019 (the effective  
5 date of Public Act 101-80) ~~this amendatory Act of the~~  
6 ~~101st General Assembly~~. He or she is 21 years of age or  
7 over, or if he or she is under 21 years of age that he  
8 or she has never been convicted of a misdemeanor other  
9 than a traffic offense or adjudged delinquent and is  
10 an active duty member of the United States Armed  
11 Forces or has the written consent of his or her parent  
12 or legal guardian to possess and acquire firearms and  
13 firearm ammunition, provided, however, that such  
14 parent or legal guardian is not an individual  
15 prohibited from having a Firearm Owner's  
16 Identification Card and files an affidavit with the  
17 Illinois State Police Department as prescribed by the  
18 Illinois State Police Department stating that he or  
19 she is not an individual prohibited from having a Card  
20 or the active duty member of the United States Armed  
21 Forces under 21 years of age annually submits proof to  
22 the Illinois State Police, in a manner prescribed by  
23 the Illinois State Police Department;

24 (ii) He or she has not been convicted of a felony  
25 under the laws of this or any other jurisdiction;

26 (iii) He or she is not addicted to narcotics;

1 (iv) He or she has not been a patient in a mental  
2 health facility within the past 5 years or, if he or  
3 she has been a patient in a mental health facility more  
4 than 5 years ago submit the certification required  
5 under subsection (u) of Section 8 of this Act;

6 (v) He or she is not a person with an intellectual  
7 disability;

8 (vi) He or she is not a noncitizen ~~an alien~~ who is  
9 unlawfully present in the United States under the laws  
10 of the United States;

11 (vii) He or she is not subject to an existing order  
12 of protection prohibiting him or her from possessing a  
13 firearm;

14 (viii) He or she has not been convicted within the  
15 past 5 years of battery, assault, aggravated assault,  
16 violation of an order of protection, or a  
17 substantially similar offense in another jurisdiction,  
18 in which a firearm was used or possessed;

19 (ix) He or she has not been convicted of domestic  
20 battery, aggravated domestic battery, or a  
21 substantially similar offense in another jurisdiction  
22 committed before, on or after January 1, 2012 (the  
23 effective date of Public Act 97-158). If the applicant  
24 knowingly and intelligently waives the right to have  
25 an offense described in this clause (ix) tried by a  
26 jury, and by guilty plea or otherwise, results in a

1 conviction for an offense in which a domestic  
2 relationship is not a required element of the offense  
3 but in which a determination of the applicability of  
4 18 U.S.C. 922(g) (9) is made under Section 112A-11.1 of  
5 the Code of Criminal Procedure of 1963, an entry by the  
6 court of a judgment of conviction for that offense  
7 shall be grounds for denying the issuance of a Firearm  
8 Owner's Identification Card under this Section;

9 (x) (Blank);

10 (xi) He or she is not a person ~~an alien~~ who has  
11 been admitted to the United States under a  
12 non-immigrant visa (as that term is defined in Section  
13 101(a) (26) of the Immigration and Nationality Act (8  
14 U.S.C. 1101(a) (26))), or that he or she is a  
15 noncitizen ~~an alien~~ who has been lawfully admitted to  
16 the United States under a non-immigrant visa if that  
17 person ~~alien~~ is:

18 (1) admitted to the United States for lawful  
19 hunting or sporting purposes;

20 (2) an official representative of a foreign  
21 government who is:

22 (A) accredited to the United States  
23 Government or the Government's mission to an  
24 international organization having its  
25 headquarters in the United States; or

26 (B) en route to or from another country to

1 which that noncitizen ~~alien~~ is accredited;

2 (3) an official of a foreign government or  
3 distinguished foreign visitor who has been so  
4 designated by the Department of State;

5 (4) a foreign law enforcement officer of a  
6 friendly foreign government entering the United  
7 States on official business; or

8 (5) one who has received a waiver from the  
9 Attorney General of the United States pursuant to  
10 18 U.S.C. 922 (y) (3);

11 (xii) He or she is not a minor subject to a  
12 petition filed under Section 5-520 of the Juvenile  
13 Court Act of 1987 alleging that the minor is a  
14 delinquent minor for the commission of an offense that  
15 if committed by an adult would be a felony;

16 (xiii) He or she is not an adult who had been  
17 adjudicated a delinquent minor under the Juvenile  
18 Court Act of 1987 for the commission of an offense that  
19 if committed by an adult would be a felony;

20 (xiv) He or she is a resident of the State of  
21 Illinois;

22 (xv) He or she has not been adjudicated as a person  
23 with a mental disability;

24 (xvi) He or she has not been involuntarily  
25 admitted into a mental health facility; and

26 (xvii) He or she is not a person with a

1           developmental disability; and

2           (3) Upon request by the Illinois State Police, sign a  
3           release on a form prescribed by the Illinois State Police  
4           waiving any right to confidentiality and requesting the  
5           disclosure to the Illinois State Police of limited mental  
6           health institution admission information from another  
7           state, the District of Columbia, any other territory of  
8           the United States, or a foreign nation concerning the  
9           applicant for the sole purpose of determining whether the  
10          applicant is or was a patient in a mental health  
11          institution and disqualified because of that status from  
12          receiving a Firearm Owner's Identification Card. No mental  
13          health care or treatment records may be requested. The  
14          information received shall be destroyed within one year of  
15          receipt.

16          (a-5) Each applicant for a Firearm Owner's Identification  
17          Card who is over the age of 18 shall furnish to the Illinois  
18          State Police either his or her Illinois driver's license  
19          number or Illinois Identification Card number, except as  
20          provided in subsection (a-10).

21          (a-10) Each applicant for a Firearm Owner's Identification  
22          Card, who is employed as a law enforcement officer, an armed  
23          security officer in Illinois, or by the United States Military  
24          permanently assigned in Illinois and who is not an Illinois  
25          resident, shall furnish to the Illinois State Police his or  
26          her driver's license number or state identification card

1 number from his or her state of residence. The Illinois State  
2 Police may adopt rules to enforce the provisions of this  
3 subsection (a-10).

4 (a-15) If an applicant applying for a Firearm Owner's  
5 Identification Card moves from the residence address named in  
6 the application, he or she shall immediately notify in a form  
7 and manner prescribed by the Illinois State Police of that  
8 change of address.

9 (a-20) Each applicant for a Firearm Owner's Identification  
10 Card shall furnish to the Illinois State Police his or her  
11 photograph. An applicant who is 21 years of age or older  
12 seeking a religious exemption to the photograph requirement  
13 must furnish with the application an approved copy of United  
14 States Department of the Treasury Internal Revenue Service  
15 Form 4029. In lieu of a photograph, an applicant regardless of  
16 age seeking a religious exemption to the photograph  
17 requirement shall submit fingerprints on a form and manner  
18 prescribed by the Illinois State Police ~~Department~~ with his or  
19 her application.

20 (a-25) Beginning January 1, 2023, each applicant for the  
21 issuance of a Firearm Owner's Identification Card may include  
22 a full set of his or her fingerprints in electronic format to  
23 the Illinois State Police, unless the applicant has previously  
24 provided a full set of his or her fingerprints to the Illinois  
25 State Police under this Act or the Firearm Concealed Carry  
26 Act.

1           The fingerprints must be transmitted through a live scan  
2 fingerprint vendor licensed by the Department of Financial and  
3 Professional Regulation. The fingerprints shall be checked  
4 against the fingerprint records now and hereafter filed in the  
5 Illinois State Police and Federal Bureau of Investigation  
6 criminal history records databases, including all available  
7 State and local criminal history record information files.

8           The Illinois State Police shall charge applicants a  
9 one-time fee for conducting the criminal history record check,  
10 which shall be deposited into the State Police Services Fund  
11 and shall not exceed the actual cost of the State and national  
12 criminal history record check.

13           (a-26) The Illinois State Police shall research, explore,  
14 and report to the General Assembly by January 1, 2022 on the  
15 feasibility of permitting voluntarily submitted fingerprints  
16 obtained for purposes other than Firearm Owner's  
17 Identification Card enforcement that are contained in the  
18 Illinois State Police database for purposes of this Act.

19           (b) Each application form shall include the following  
20 statement printed in bold type: "Warning: Entering false  
21 information on an application for a Firearm Owner's  
22 Identification Card is punishable as a Class 2 felony in  
23 accordance with subsection (d-5) of Section 14 of the Firearm  
24 Owners Identification Card Act.".

25           (c) Upon such written consent, pursuant to Section 4,  
26 paragraph (a)(2)(i), the parent or legal guardian giving the



1 consent shall be liable for any damages resulting from the  
2 applicant's use of firearms or firearm ammunition.

3 (Source: P.A. 101-80, eff. 7-12-19; 102-237, eff. 1-1-22;  
4 102-538, eff. 8-20-21; revised 10-12-21.)

5 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

6 Sec. 8. Grounds for denial and revocation. The Illinois  
7 State Police has authority to deny an application for or to  
8 revoke and seize a Firearm Owner's Identification Card  
9 previously issued under this Act only if the Illinois State  
10 Police Department finds that the applicant or the person to  
11 whom such card was issued is or was at the time of issuance:

12 (a) A person under 21 years of age who has been  
13 convicted of a misdemeanor other than a traffic offense or  
14 adjudged delinquent;

15 (b) This subsection (b) applies through the 180th day  
16 following July 12, 2019 (the effective date of Public Act  
17 101-80) ~~this amendatory Act of the 101st General Assembly.~~

18 A person under 21 years of age who does not have the  
19 written consent of his parent or guardian to acquire and  
20 possess firearms and firearm ammunition, or whose parent  
21 or guardian has revoked such written consent, or where  
22 such parent or guardian does not qualify to have a Firearm  
23 Owner's Identification Card;

24 (b-5) This subsection (b-5) applies on and after the  
25 181st day following July 12, 2019 (the effective date of

1 Public Act 101-80) ~~this amendatory Act of the 101st~~  
2 ~~General Assembly~~. A person under 21 years of age who is not  
3 an active duty member of the United States Armed Forces  
4 and does not have the written consent of his or her parent  
5 or guardian to acquire and possess firearms and firearm  
6 ammunition, or whose parent or guardian has revoked such  
7 written consent, or where such parent or guardian does not  
8 qualify to have a Firearm Owner's Identification Card;

9 (c) A person convicted of a felony under the laws of  
10 this or any other jurisdiction;

11 (d) A person addicted to narcotics;

12 (e) A person who has been a patient of a mental health  
13 facility within the past 5 years or a person who has been a  
14 patient in a mental health facility more than 5 years ago  
15 who has not received the certification required under  
16 subsection (u) of this Section. An active law enforcement  
17 officer employed by a unit of government or a Department  
18 of Corrections employee authorized to possess firearms who  
19 is denied, revoked, or has his or her Firearm Owner's  
20 Identification Card seized under this subsection (e) may  
21 obtain relief as described in subsection (c-5) of Section  
22 10 of this Act if the officer or employee did not act in a  
23 manner threatening to the officer or employee, another  
24 person, or the public as determined by the treating  
25 clinical psychologist or physician, and the officer or  
26 employee seeks mental health treatment;

1 (f) A person whose mental condition is of such a  
2 nature that it poses a clear and present danger to the  
3 applicant, any other person or persons, or the community;

4 (g) A person who has an intellectual disability;

5 (h) A person who intentionally makes a false statement  
6 in the Firearm Owner's Identification Card application;

7 (i) A noncitizen ~~An alien~~ who is unlawfully present in  
8 the United States under the laws of the United States;

9 (i-5) A person ~~An alien~~ who has been admitted to the  
10 United States under a non-immigrant visa (as that term is  
11 defined in Section 101(a)(26) of the Immigration and  
12 Nationality Act (8 U.S.C. 1101(a)(26))), except that this  
13 subsection (i-5) does not apply to any noncitizen ~~alien~~  
14 who has been lawfully admitted to the United States under  
15 a non-immigrant visa if that person ~~alien~~ is:

16 (1) admitted to the United States for lawful  
17 hunting or sporting purposes;

18 (2) an official representative of a foreign  
19 government who is:

20 (A) accredited to the United States Government  
21 or the Government's mission to an international  
22 organization having its headquarters in the United  
23 States; or

24 (B) en route to or from another country to  
25 which that noncitizen ~~alien~~ is accredited;

26 (3) an official of a foreign government or

1 distinguished foreign visitor who has been so  
2 designated by the Department of State;

3 (4) a foreign law enforcement officer of a  
4 friendly foreign government entering the United States  
5 on official business; or

6 (5) one who has received a waiver from the  
7 Attorney General of the United States pursuant to 18  
8 U.S.C. 922(y)(3);

9 (j) (Blank);

10 (k) A person who has been convicted within the past 5  
11 years of battery, assault, aggravated assault, violation  
12 of an order of protection, or a substantially similar  
13 offense in another jurisdiction, in which a firearm was  
14 used or possessed;

15 (l) A person who has been convicted of domestic  
16 battery, aggravated domestic battery, or a substantially  
17 similar offense in another jurisdiction committed before,  
18 on or after January 1, 2012 (the effective date of Public  
19 Act 97-158). If the applicant or person who has been  
20 previously issued a Firearm Owner's Identification Card  
21 under this Act knowingly and intelligently waives the  
22 right to have an offense described in this paragraph (l)  
23 tried by a jury, and by guilty plea or otherwise, results  
24 in a conviction for an offense in which a domestic  
25 relationship is not a required element of the offense but  
26 in which a determination of the applicability of 18 U.S.C.

1 922(g)(9) is made under Section 112A-11.1 of the Code of  
2 Criminal Procedure of 1963, an entry by the court of a  
3 judgment of conviction for that offense shall be grounds  
4 for denying an application for and for revoking and  
5 seizing a Firearm Owner's Identification Card previously  
6 issued to the person under this Act;

7 (m) (Blank);

8 (n) A person who is prohibited from acquiring or  
9 possessing firearms or firearm ammunition by any Illinois  
10 State statute or by federal law;

11 (o) A minor subject to a petition filed under Section  
12 5-520 of the Juvenile Court Act of 1987 alleging that the  
13 minor is a delinquent minor for the commission of an  
14 offense that if committed by an adult would be a felony;

15 (p) An adult who had been adjudicated a delinquent  
16 minor under the Juvenile Court Act of 1987 for the  
17 commission of an offense that if committed by an adult  
18 would be a felony;

19 (q) A person who is not a resident of the State of  
20 Illinois, except as provided in subsection (a-10) of  
21 Section 4;

22 (r) A person who has been adjudicated as a person with  
23 a mental disability;

24 (s) A person who has been found to have a  
25 developmental disability;

26 (t) A person involuntarily admitted into a mental

1 health facility; or

2 (u) A person who has had his or her Firearm Owner's  
3 Identification Card revoked or denied under subsection (e)  
4 of this Section or item (iv) of paragraph (2) of  
5 subsection (a) of Section 4 of this Act because he or she  
6 was a patient in a mental health facility as provided in  
7 subsection (e) of this Section, shall not be permitted to  
8 obtain a Firearm Owner's Identification Card, after the  
9 5-year period has lapsed, unless he or she has received a  
10 mental health evaluation by a physician, clinical  
11 psychologist, or qualified examiner as those terms are  
12 defined in the Mental Health and Developmental  
13 Disabilities Code, and has received a certification that  
14 he or she is not a clear and present danger to himself,  
15 herself, or others. The physician, clinical psychologist,  
16 or qualified examiner making the certification and his or  
17 her employer shall not be held criminally, civilly, or  
18 professionally liable for making or not making the  
19 certification required under this subsection, except for  
20 willful or wanton misconduct. This subsection does not  
21 apply to a person whose firearm possession rights have  
22 been restored through administrative or judicial action  
23 under Section 10 or 11 of this Act.

24 Upon revocation of a person's Firearm Owner's  
25 Identification Card, the Illinois State Police shall provide  
26 notice to the person and the person shall comply with Section

1 9.5 of this Act.

2 (Source: P.A. 101-80, eff. 7-12-19; 102-538, eff. 8-20-21;  
3 102-645, eff. 1-1-22; revised 10-14-21.)

4 Section 155. The Criminal Code of 2012 is amended by  
5 changing Section 17-6.5 as follows:

6 (720 ILCS 5/17-6.5)

7 Sec. 17-6.5. Persons under deportation order;  
8 ineligibility for benefits.

9 (a) An individual against whom a United States Immigration  
10 Judge has issued an order of deportation which has been  
11 affirmed by the Board of Immigration Review, as well as an  
12 individual who appeals such an order pending appeal, under  
13 paragraph 19 of Section 241(a) of the Immigration and  
14 Nationality Act relating to persecution of others on account  
15 of race, religion, national origin or political opinion under  
16 the direction of or in association with the Nazi government of  
17 Germany or its allies, shall be ineligible for the following  
18 benefits authorized by State law:

19 (1) The homestead exemptions and homestead improvement  
20 exemption under Sections 15-170, 15-175, 15-176, and  
21 15-180 of the Property Tax Code.

22 (2) Grants under the Senior Citizens and Persons with  
23 Disabilities Property Tax Relief Act.

24 (3) The double income tax exemption conferred upon

1 persons 65 years of age or older by Section 204 of the  
2 Illinois Income Tax Act.

3 (4) Grants provided by the Department on Aging.

4 (5) Reductions in vehicle registration fees under  
5 Section 3-806.3 of the Illinois Vehicle Code.

6 (6) Free fishing and reduced fishing license fees  
7 under Sections 20-5 and 20-40 of the Fish and Aquatic Life  
8 Code.

9 (7) Tuition free courses for senior citizens under the  
10 Senior Citizen Courses Act.

11 (8) Any benefits under the Illinois Public Aid Code.

12 (b) If a person has been found by a court to have knowingly  
13 received benefits in violation of subsection (a) and:

14 (1) the total monetary value of the benefits received  
15 is less than \$150, the person is guilty of a Class A  
16 misdemeanor; a second or subsequent violation is a Class 4  
17 felony;

18 (2) the total monetary value of the benefits received  
19 is \$150 or more but less than \$1,000, the person is guilty  
20 of a Class 4 felony; a second or subsequent violation is a  
21 Class 3 felony;

22 (3) the total monetary value of the benefits received  
23 is \$1,000 or more but less than \$5,000, the person is  
24 guilty of a Class 3 felony; a second or subsequent  
25 violation is a Class 2 felony;

26 (4) the total monetary value of the benefits received



1 is \$5,000 or more but less than \$10,000, the person is  
2 guilty of a Class 2 felony; a second or subsequent  
3 violation is a Class 1 felony; or

4 (5) the total monetary value of the benefits received  
5 is \$10,000 or more, the person is guilty of a Class 1  
6 felony.

7 (c) For purposes of determining the classification of an  
8 offense under this Section, all of the monetary value of the  
9 benefits received as a result of the unlawful act, practice,  
10 or course of conduct may be accumulated.

11 (d) Any grants awarded to persons described in subsection  
12 (a) may be recovered by the State of Illinois in a civil action  
13 commenced by the Attorney General in the circuit court of  
14 Sangamon County or the State's Attorney of the county of  
15 residence of the person described in subsection (a).

16 (e) An individual described in subsection (a) who has been  
17 deported shall be restored to any benefits which that  
18 individual has been denied under State law pursuant to  
19 subsection (a) if (i) the Attorney General of the United  
20 States has issued an order cancelling deportation and has  
21 adjusted the status of the individual to that of a noncitizen  
22 ~~an alien~~ lawfully admitted for permanent residence in the  
23 United States or (ii) the country to which the individual has  
24 been deported adjudicates or exonerates the individual in a  
25 judicial or administrative proceeding as not being guilty of  
26 the persecution of others on account of race, religion,

1 national origin, or political opinion under the direction of  
2 or in association with the Nazi government of Germany or its  
3 allies.

4 (Source: P.A. 99-143, eff. 7-27-15.)

5 Section 160. The Prevention of Cigarette and Electronic  
6 Cigarette Sales to Persons under 21 Years of Age Act is amended  
7 by changing Section 2 as follows:

8 (720 ILCS 678/2)

9 Sec. 2. Definitions. For the purpose of this Act:

10 "Cigarette", when used in this Act, means any roll for  
11 smoking made wholly or in part of tobacco irrespective of size  
12 or shape and whether or not the tobacco is flavored,  
13 adulterated, or mixed with any other ingredient, and the  
14 wrapper or cover of which is made of paper or any other  
15 substance or material except whole leaf tobacco.

16 "Clear and conspicuous statement" means the statement is  
17 of sufficient type size to be clearly readable by the  
18 recipient of the communication.

19 "Consumer" means an individual who acquires or seeks to  
20 acquire cigarettes or electronic cigarettes for personal use.

21 "Delivery sale" means any sale of cigarettes or electronic  
22 cigarettes to a consumer if:

23 (a) the consumer submits the order for such sale by  
24 means of a telephone or other method of voice

1 transmission, the mails, or the Internet or other online  
2 service, or the seller is otherwise not in the physical  
3 presence of the buyer when the request for purchase or  
4 order is made; or

5 (b) the cigarettes or electronic cigarettes are  
6 delivered by use of a common carrier, private delivery  
7 service, or the mails, or the seller is not in the physical  
8 presence of the buyer when the buyer obtains possession of  
9 the cigarettes or electronic cigarettes.

10 "Delivery service" means any person (other than a person  
11 that makes a delivery sale) who delivers to the consumer the  
12 cigarettes or electronic cigarettes sold in a delivery sale.

13 "Department" means the Department of Revenue.

14 "Electronic cigarette" means:

15 (1) any device that employs a battery or other  
16 mechanism to heat a solution or substance to produce a  
17 vapor or aerosol intended for inhalation;

18 (2) any cartridge or container of a solution or  
19 substance intended to be used with or in the device or to  
20 refill the device; or

21 (3) any solution or substance, whether or not it  
22 contains nicotine, intended for use in the device.

23 "Electronic cigarette" includes, but is not limited to,  
24 any electronic nicotine delivery system, electronic cigar,  
25 electronic cigarillo, electronic pipe, electronic hookah, vape  
26 pen, or similar product or device, and any component, part, or

1 accessory of a device used during the operation of the device,  
2 even if the part or accessory was sold separately. "Electronic  
3 cigarette" does not include: cigarettes, as defined in Section  
4 1 of the Cigarette Tax Act; any product approved by the United  
5 States Food and Drug Administration for sale as a tobacco  
6 cessation product, a tobacco dependence product, or for other  
7 medical purposes that is marketed and sold solely for that  
8 approved purpose; any asthma inhaler prescribed by a physician  
9 for that condition that is marketed and sold solely for that  
10 approved purpose; any device that meets the definition of  
11 cannabis paraphernalia under Section 1-10 of the Cannabis  
12 Regulation and Tax Act; or any cannabis product sold by a  
13 dispensing organization pursuant to the Cannabis Regulation  
14 and Tax Act or the Compassionate Use of Medical Cannabis  
15 Program Act.

16 "Government-issued identification" means a State driver's  
17 license, State identification card, passport, a military  
18 identification or an official naturalization or immigration  
19 document, such as a ~~an~~ alien registration recipient card  
20 (commonly known as a "green card") or an immigrant visa.

21 "Mails" or "mailing" mean the shipment of cigarettes or  
22 electronic cigarettes through the United States Postal  
23 Service.

24 "Out-of-state sale" means a sale of cigarettes or  
25 electronic cigarettes to a consumer located outside of this  
26 State where the consumer submits the order for such sale by

1 means of a telephonic or other method of voice transmission,  
2 the mails or any other delivery service, facsimile  
3 transmission, or the Internet or other online service and  
4 where the cigarettes or electronic cigarettes are delivered by  
5 use of the mails or other delivery service.

6 "Person" means any individual, corporation, partnership,  
7 limited liability company, association, or other organization  
8 that engages in any for-profit or not-for-profit activities.

9 "Shipping package" means a container in which packs or  
10 cartons of cigarettes or electronic cigarettes are shipped in  
11 connection with a delivery sale.

12 "Shipping documents" means bills of lading, air bills, or  
13 any other documents used to evidence the undertaking by a  
14 delivery service to deliver letters, packages, or other  
15 containers.

16 (Source: P.A. 102-575, eff. 1-1-22.)

17 Section 165. The Code of Criminal Procedure of 1963 is  
18 amended by changing Section 113-8 as follows:

19 (725 ILCS 5/113-8)

20 Sec. 113-8. Advisement concerning status as a noncitizen  
21 ~~an alien~~.

22 (a) Before the acceptance of a plea of guilty, guilty but  
23 mentally ill, or nolo contendere to a misdemeanor or felony  
24 offense, the court shall give the following advisement to the

1 defendant in open court:

2 "If you are not a citizen of the United States, you are  
3 hereby advised that conviction of the offense for which you  
4 have been charged may have the consequence of deportation,  
5 exclusion from admission to the United States, or denial of  
6 naturalization under the laws of the United States.".

7 (b) If the defendant is arraigned on or after the  
8 effective date of this amendatory Act of the 101st General  
9 Assembly, and the court fails to advise the defendant as  
10 required by subsection (a) of this Section, and the defendant  
11 shows that conviction of the offense to which the defendant  
12 pleaded guilty, guilty but mentally ill, or nolo contendere  
13 may have the consequence for the defendant of deportation,  
14 exclusion from admission to the United States, or denial of  
15 naturalization under the laws of the United States, the court,  
16 upon the defendant's motion, shall vacate the judgment and  
17 permit the defendant to withdraw the plea of guilty, guilty  
18 but mentally ill, or nolo contendere and enter a plea of not  
19 guilty. The motion shall be filed within 2 years of the date of  
20 the defendant's conviction.

21 (Source: P.A. 101-409, eff. 1-1-20.)

22 Section 170. The Unified Code of Corrections is amended by  
23 changing Sections 3-2-2 and 5-5-3 as follows:

24 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

1           Sec. 3-2-2. Powers and duties of the Department.

2           (1) In addition to the powers, duties, and  
3 responsibilities which are otherwise provided by law, the  
4 Department shall have the following powers:

5           (a) To accept persons committed to it by the courts of  
6 this State for care, custody, treatment, and  
7 rehabilitation, and to accept federal prisoners and  
8 noncitizens ~~aliens~~ over whom the Office of the Federal  
9 Detention Trustee is authorized to exercise the federal  
10 detention function for limited purposes and periods of  
11 time.

12           (b) To develop and maintain reception and evaluation  
13 units for purposes of analyzing the custody and  
14 rehabilitation needs of persons committed to it and to  
15 assign such persons to institutions and programs under its  
16 control or transfer them to other appropriate agencies. In  
17 consultation with the Department of Alcoholism and  
18 Substance Abuse (now the Department of Human Services),  
19 the Department of Corrections shall develop a master plan  
20 for the screening and evaluation of persons committed to  
21 its custody who have alcohol or drug abuse problems, and  
22 for making appropriate treatment available to such  
23 persons; the Department shall report to the General  
24 Assembly on such plan not later than April 1, 1987. The  
25 maintenance and implementation of such plan shall be  
26 contingent upon the availability of funds.

1           (b-1) To create and implement, on January 1, 2002, a  
2 pilot program to establish the effectiveness of  
3 pupillometer technology (the measurement of the pupil's  
4 reaction to light) as an alternative to a urine test for  
5 purposes of screening and evaluating persons committed to  
6 its custody who have alcohol or drug problems. The pilot  
7 program shall require the pupillometer technology to be  
8 used in at least one Department of Corrections facility.  
9 The Director may expand the pilot program to include an  
10 additional facility or facilities as he or she deems  
11 appropriate. A minimum of 4,000 tests shall be included in  
12 the pilot program. The Department must report to the  
13 General Assembly on the effectiveness of the program by  
14 January 1, 2003.

15           (b-5) To develop, in consultation with the Illinois  
16 State Police, a program for tracking and evaluating each  
17 inmate from commitment through release for recording his  
18 or her gang affiliations, activities, or ranks.

19           (c) To maintain and administer all State correctional  
20 institutions and facilities under its control and to  
21 establish new ones as needed. Pursuant to its power to  
22 establish new institutions and facilities, the Department  
23 may, with the written approval of the Governor, authorize  
24 the Department of Central Management Services to enter  
25 into an agreement of the type described in subsection (d)  
26 of Section 405-300 of the Department of Central Management



1 Services Law. The Department shall designate those  
2 institutions which shall constitute the State Penitentiary  
3 System. The Department of Juvenile Justice shall maintain  
4 and administer all State youth centers pursuant to  
5 subsection (d) of Section 3-2.5-20.

6 Pursuant to its power to establish new institutions  
7 and facilities, the Department may authorize the  
8 Department of Central Management Services to accept bids  
9 from counties and municipalities for the construction,  
10 remodeling, or conversion of a structure to be leased to  
11 the Department of Corrections for the purposes of its  
12 serving as a correctional institution or facility. Such  
13 construction, remodeling, or conversion may be financed  
14 with revenue bonds issued pursuant to the Industrial  
15 Building Revenue Bond Act by the municipality or county.  
16 The lease specified in a bid shall be for a term of not  
17 less than the time needed to retire any revenue bonds used  
18 to finance the project, but not to exceed 40 years. The  
19 lease may grant to the State the option to purchase the  
20 structure outright.

21 Upon receipt of the bids, the Department may certify  
22 one or more of the bids and shall submit any such bids to  
23 the General Assembly for approval. Upon approval of a bid  
24 by a constitutional majority of both houses of the General  
25 Assembly, pursuant to joint resolution, the Department of  
26 Central Management Services may enter into an agreement

1 with the county or municipality pursuant to such bid.

2 (c-5) To build and maintain regional juvenile  
3 detention centers and to charge a per diem to the counties  
4 as established by the Department to defray the costs of  
5 housing each minor in a center. In this subsection (c-5),  
6 "juvenile detention center" means a facility to house  
7 minors during pendency of trial who have been transferred  
8 from proceedings under the Juvenile Court Act of 1987 to  
9 prosecutions under the criminal laws of this State in  
10 accordance with Section 5-805 of the Juvenile Court Act of  
11 1987, whether the transfer was by operation of law or  
12 permissive under that Section. The Department shall  
13 designate the counties to be served by each regional  
14 juvenile detention center.

15 (d) To develop and maintain programs of control,  
16 rehabilitation, and employment of committed persons within  
17 its institutions.

18 (d-5) To provide a pre-release job preparation program  
19 for inmates at Illinois adult correctional centers.

20 (d-10) To provide educational and visitation  
21 opportunities to committed persons within its institutions  
22 through temporary access to content-controlled tablets  
23 that may be provided as a privilege to committed persons  
24 to induce or reward compliance.

25 (e) To establish a system of supervision and guidance  
26 of committed persons in the community.

1 (f) To establish in cooperation with the Department of  
2 Transportation to supply a sufficient number of prisoners  
3 for use by the Department of Transportation to clean up  
4 the trash and garbage along State, county, township, or  
5 municipal highways as designated by the Department of  
6 Transportation. The Department of Corrections, at the  
7 request of the Department of Transportation, shall furnish  
8 such prisoners at least annually for a period to be agreed  
9 upon between the Director of Corrections and the Secretary  
10 of Transportation. The prisoners used on this program  
11 shall be selected by the Director of Corrections on  
12 whatever basis he deems proper in consideration of their  
13 term, behavior and earned eligibility to participate in  
14 such program - where they will be outside of the prison  
15 facility but still in the custody of the Department of  
16 Corrections. Prisoners convicted of first degree murder,  
17 or a Class X felony, or armed violence, or aggravated  
18 kidnapping, or criminal sexual assault, aggravated  
19 criminal sexual abuse or a subsequent conviction for  
20 criminal sexual abuse, or forcible detention, or arson, or  
21 a prisoner adjudged a Habitual Criminal shall not be  
22 eligible for selection to participate in such program. The  
23 prisoners shall remain as prisoners in the custody of the  
24 Department of Corrections and such Department shall  
25 furnish whatever security is necessary. The Department of  
26 Transportation shall furnish trucks and equipment for the

1 highway cleanup program and personnel to supervise and  
2 direct the program. Neither the Department of Corrections  
3 nor the Department of Transportation shall replace any  
4 regular employee with a prisoner.

5 (g) To maintain records of persons committed to it and  
6 to establish programs of research, statistics, and  
7 planning.

8 (h) To investigate the grievances of any person  
9 committed to the Department and to inquire into any  
10 alleged misconduct by employees or committed persons; and  
11 for these purposes it may issue subpoenas and compel the  
12 attendance of witnesses and the production of writings and  
13 papers, and may examine under oath any witnesses who may  
14 appear before it; to also investigate alleged violations  
15 of a parolee's or releasee's conditions of parole or  
16 release; and for this purpose it may issue subpoenas and  
17 compel the attendance of witnesses and the production of  
18 documents only if there is reason to believe that such  
19 procedures would provide evidence that such violations  
20 have occurred.

21 If any person fails to obey a subpoena issued under  
22 this subsection, the Director may apply to any circuit  
23 court to secure compliance with the subpoena. The failure  
24 to comply with the order of the court issued in response  
25 thereto shall be punishable as contempt of court.

26 (i) To appoint and remove the chief administrative

1 officers, and administer programs of training and  
2 development of personnel of the Department. Personnel  
3 assigned by the Department to be responsible for the  
4 custody and control of committed persons or to investigate  
5 the alleged misconduct of committed persons or employees  
6 or alleged violations of a parolee's or releasee's  
7 conditions of parole shall be conservators of the peace  
8 for those purposes, and shall have the full power of peace  
9 officers outside of the facilities of the Department in  
10 the protection, arrest, retaking, and reconfining of  
11 committed persons or where the exercise of such power is  
12 necessary to the investigation of such misconduct or  
13 violations. This subsection shall not apply to persons  
14 committed to the Department of Juvenile Justice under the  
15 Juvenile Court Act of 1987 on aftercare release.

16 (j) To cooperate with other departments and agencies  
17 and with local communities for the development of  
18 standards and programs for better correctional services in  
19 this State.

20 (k) To administer all moneys and properties of the  
21 Department.

22 (l) To report annually to the Governor on the  
23 committed persons, institutions, and programs of the  
24 Department.

25 (1-5) (Blank).

26 (m) To make all rules and regulations and exercise all

1 powers and duties vested by law in the Department.

2 (n) To establish rules and regulations for  
3 administering a system of sentence credits, established in  
4 accordance with Section 3-6-3, subject to review by the  
5 Prisoner Review Board.

6 (o) To administer the distribution of funds from the  
7 State Treasury to reimburse counties where State penal  
8 institutions are located for the payment of assistant  
9 state's attorneys' salaries under Section 4-2001 of the  
10 Counties Code.

11 (p) To exchange information with the Department of  
12 Human Services and the Department of Healthcare and Family  
13 Services for the purpose of verifying living arrangements  
14 and for other purposes directly connected with the  
15 administration of this Code and the Illinois Public Aid  
16 Code.

17 (q) To establish a diversion program.

18 The program shall provide a structured environment for  
19 selected technical parole or mandatory supervised release  
20 violators and committed persons who have violated the  
21 rules governing their conduct while in work release. This  
22 program shall not apply to those persons who have  
23 committed a new offense while serving on parole or  
24 mandatory supervised release or while committed to work  
25 release.

26 Elements of the program shall include, but shall not

1 be limited to, the following:

2 (1) The staff of a diversion facility shall  
3 provide supervision in accordance with required  
4 objectives set by the facility.

5 (2) Participants shall be required to maintain  
6 employment.

7 (3) Each participant shall pay for room and board  
8 at the facility on a sliding-scale basis according to  
9 the participant's income.

10 (4) Each participant shall:

11 (A) provide restitution to victims in  
12 accordance with any court order;

13 (B) provide financial support to his  
14 dependents; and

15 (C) make appropriate payments toward any other  
16 court-ordered obligations.

17 (5) Each participant shall complete community  
18 service in addition to employment.

19 (6) Participants shall take part in such  
20 counseling, educational, and other programs as the  
21 Department may deem appropriate.

22 (7) Participants shall submit to drug and alcohol  
23 screening.

24 (8) The Department shall promulgate rules  
25 governing the administration of the program.

26 (r) To enter into intergovernmental cooperation

1 agreements under which persons in the custody of the  
2 Department may participate in a county impact  
3 incarceration program established under Section 3-6038 or  
4 3-15003.5 of the Counties Code.

5 (r-5) (Blank).

6 (r-10) To systematically and routinely identify with  
7 respect to each streetgang active within the correctional  
8 system: (1) each active gang; (2) every existing  
9 inter-gang affiliation or alliance; and (3) the current  
10 leaders in each gang. The Department shall promptly  
11 segregate leaders from inmates who belong to their gangs  
12 and allied gangs. "Segregate" means no physical contact  
13 and, to the extent possible under the conditions and space  
14 available at the correctional facility, prohibition of  
15 visual and sound communication. For the purposes of this  
16 paragraph (r-10), "leaders" means persons who:

17 (i) are members of a criminal streetgang;

18 (ii) with respect to other individuals within the  
19 streetgang, occupy a position of organizer,  
20 supervisor, or other position of management or  
21 leadership; and

22 (iii) are actively and personally engaged in  
23 directing, ordering, authorizing, or requesting  
24 commission of criminal acts by others, which are  
25 punishable as a felony, in furtherance of streetgang  
26 related activity both within and outside of the



1 Department of Corrections.

2 "Streetgang", "gang", and "streetgang related" have the  
3 meanings ascribed to them in Section 10 of the Illinois  
4 Streetgang Terrorism Omnibus Prevention Act.

5 (s) To operate a super-maximum security institution,  
6 in order to manage and supervise inmates who are  
7 disruptive or dangerous and provide for the safety and  
8 security of the staff and the other inmates.

9 (t) To monitor any unprivileged conversation or any  
10 unprivileged communication, whether in person or by mail,  
11 telephone, or other means, between an inmate who, before  
12 commitment to the Department, was a member of an organized  
13 gang and any other person without the need to show cause or  
14 satisfy any other requirement of law before beginning the  
15 monitoring, except as constitutionally required. The  
16 monitoring may be by video, voice, or other method of  
17 recording or by any other means. As used in this  
18 subdivision (1)(t), "organized gang" has the meaning  
19 ascribed to it in Section 10 of the Illinois Streetgang  
20 Terrorism Omnibus Prevention Act.

21 As used in this subdivision (1)(t), "unprivileged  
22 conversation" or "unprivileged communication" means a  
23 conversation or communication that is not protected by any  
24 privilege recognized by law or by decision, rule, or order  
25 of the Illinois Supreme Court.

26 (u) To establish a Women's and Children's Pre-release

1 Community Supervision Program for the purpose of providing  
2 housing and services to eligible female inmates, as  
3 determined by the Department, and their newborn and young  
4 children.

5 (u-5) To issue an order, whenever a person committed  
6 to the Department absconds or absents himself or herself,  
7 without authority to do so, from any facility or program  
8 to which he or she is assigned. The order shall be  
9 certified by the Director, the Supervisor of the  
10 Apprehension Unit, or any person duly designated by the  
11 Director, with the seal of the Department affixed. The  
12 order shall be directed to all sheriffs, coroners, and  
13 police officers, or to any particular person named in the  
14 order. Any order issued pursuant to this subdivision  
15 (1)(u-5) shall be sufficient warrant for the officer or  
16 person named in the order to arrest and deliver the  
17 committed person to the proper correctional officials and  
18 shall be executed the same as criminal process.

19 (u-6) To appoint a point of contact person who shall  
20 receive suggestions, complaints, or other requests to the  
21 Department from visitors to Department institutions or  
22 facilities and from other members of the public.

23 (v) To do all other acts necessary to carry out the  
24 provisions of this Chapter.

25 (2) The Department of Corrections shall by January 1,  
26 1998, consider building and operating a correctional facility

1 within 100 miles of a county of over 2,000,000 inhabitants,  
2 especially a facility designed to house juvenile participants  
3 in the impact incarceration program.

4 (3) When the Department lets bids for contracts for  
5 medical services to be provided to persons committed to  
6 Department facilities by a health maintenance organization,  
7 medical service corporation, or other health care provider,  
8 the bid may only be let to a health care provider that has  
9 obtained an irrevocable letter of credit or performance bond  
10 issued by a company whose bonds have an investment grade or  
11 higher rating by a bond rating organization.

12 (4) When the Department lets bids for contracts for food  
13 or commissary services to be provided to Department  
14 facilities, the bid may only be let to a food or commissary  
15 services provider that has obtained an irrevocable letter of  
16 credit or performance bond issued by a company whose bonds  
17 have an investment grade or higher rating by a bond rating  
18 organization.

19 (5) On and after the date 6 months after August 16, 2013  
20 (the effective date of Public Act 98-488), as provided in the  
21 Executive Order 1 (2012) Implementation Act, all of the  
22 powers, duties, rights, and responsibilities related to State  
23 healthcare purchasing under this Code that were transferred  
24 from the Department of Corrections to the Department of  
25 Healthcare and Family Services by Executive Order 3 (2005) are  
26 transferred back to the Department of Corrections; however,

1 powers, duties, rights, and responsibilities related to State  
2 healthcare purchasing under this Code that were exercised by  
3 the Department of Corrections before the effective date of  
4 Executive Order 3 (2005) but that pertain to individuals  
5 resident in facilities operated by the Department of Juvenile  
6 Justice are transferred to the Department of Juvenile Justice.  
7 (Source: P.A. 101-235, eff. 1-1-20; 102-350, eff. 8-13-21;  
8 102-535, eff. 1-1-22; 102-538, eff. 8-20-21; revised  
9 10-15-21.)

10 (730 ILCS 5/5-5-3)

11 Sec. 5-5-3. Disposition.

12 (a) (Blank).

13 (b) (Blank).

14 (c) (1) (Blank).

15 (2) A period of probation, a term of periodic imprisonment  
16 or conditional discharge shall not be imposed for the  
17 following offenses. The court shall sentence the offender to  
18 not less than the minimum term of imprisonment set forth in  
19 this Code for the following offenses, and may order a fine or  
20 restitution or both in conjunction with such term of  
21 imprisonment:

22 (A) First degree murder where the death penalty is not  
23 imposed.

24 (B) Attempted first degree murder.

25 (C) A Class X felony.

1 (D) A violation of Section 401.1 or 407 of the  
2 Illinois Controlled Substances Act, or a violation of  
3 subdivision (c)(1.5) of Section 401 of that Act which  
4 relates to more than 5 grams of a substance containing  
5 fentanyl or an analog thereof.

6 (D-5) A violation of subdivision (c)(1) of Section 401  
7 of the Illinois Controlled Substances Act which relates to  
8 3 or more grams of a substance containing heroin or an  
9 analog thereof.

10 (E) (Blank).

11 (F) A Class 1 or greater felony if the offender had  
12 been convicted of a Class 1 or greater felony, including  
13 any state or federal conviction for an offense that  
14 contained, at the time it was committed, the same elements  
15 as an offense now (the date of the offense committed after  
16 the prior Class 1 or greater felony) classified as a Class  
17 1 or greater felony, within 10 years of the date on which  
18 the offender committed the offense for which he or she is  
19 being sentenced, except as otherwise provided in Section  
20 40-10 of the Substance Use Disorder Act.

21 (F-3) A Class 2 or greater felony sex offense or  
22 felony firearm offense if the offender had been convicted  
23 of a Class 2 or greater felony, including any state or  
24 federal conviction for an offense that contained, at the  
25 time it was committed, the same elements as an offense now  
26 (the date of the offense committed after the prior Class 2

1 or greater felony) classified as a Class 2 or greater  
2 felony, within 10 years of the date on which the offender  
3 committed the offense for which he or she is being  
4 sentenced, except as otherwise provided in Section 40-10  
5 of the Substance Use Disorder Act.

6 (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6  
7 of the Criminal Code of 1961 or the Criminal Code of 2012  
8 for which imprisonment is prescribed in those Sections.

9 (G) Residential burglary, except as otherwise provided  
10 in Section 40-10 of the Substance Use Disorder Act.

11 (H) Criminal sexual assault.

12 (I) Aggravated battery of a senior citizen as  
13 described in Section 12-4.6 or subdivision (a)(4) of  
14 Section 12-3.05 of the Criminal Code of 1961 or the  
15 Criminal Code of 2012.

16 (J) A forcible felony if the offense was related to  
17 the activities of an organized gang.

18 Before July 1, 1994, for the purposes of this  
19 paragraph, "organized gang" means an association of 5 or  
20 more persons, with an established hierarchy, that  
21 encourages members of the association to perpetrate crimes  
22 or provides support to the members of the association who  
23 do commit crimes.

24 Beginning July 1, 1994, for the purposes of this  
25 paragraph, "organized gang" has the meaning ascribed to it  
26 in Section 10 of the Illinois Streetgang Terrorism Omnibus

1 Prevention Act.

2 (K) Vehicular hijacking.

3 (L) A second or subsequent conviction for the offense  
4 of hate crime when the underlying offense upon which the  
5 hate crime is based is felony aggravated assault or felony  
6 mob action.

7 (M) A second or subsequent conviction for the offense  
8 of institutional vandalism if the damage to the property  
9 exceeds \$300.

10 (N) A Class 3 felony violation of paragraph (1) of  
11 subsection (a) of Section 2 of the Firearm Owners  
12 Identification Card Act.

13 (O) A violation of Section 12-6.1 or 12-6.5 of the  
14 Criminal Code of 1961 or the Criminal Code of 2012.

15 (P) A violation of paragraph (1), (2), (3), (4), (5),  
16 or (7) of subsection (a) of Section 11-20.1 of the  
17 Criminal Code of 1961 or the Criminal Code of 2012.

18 (P-5) A violation of paragraph (6) of subsection (a)  
19 of Section 11-20.1 of the Criminal Code of 1961 or the  
20 Criminal Code of 2012 if the victim is a household or  
21 family member of the defendant.

22 (Q) A violation of subsection (b) or (b-5) of Section  
23 20-1, Section 20-1.2, or Section 20-1.3 of the Criminal  
24 Code of 1961 or the Criminal Code of 2012.

25 (R) A violation of Section 24-3A of the Criminal Code  
26 of 1961 or the Criminal Code of 2012.

1 (S) (Blank).

2 (T) (Blank).

3 (U) A second or subsequent violation of Section 6-303  
4 of the Illinois Vehicle Code committed while his or her  
5 driver's license, permit, or privilege was revoked because  
6 of a violation of Section 9-3 of the Criminal Code of 1961  
7 or the Criminal Code of 2012, relating to the offense of  
8 reckless homicide, or a similar provision of a law of  
9 another state.

10 (V) A violation of paragraph (4) of subsection (c) of  
11 Section 11-20.1B or paragraph (4) of subsection (c) of  
12 Section 11-20.3 of the Criminal Code of 1961, or paragraph  
13 (6) of subsection (a) of Section 11-20.1 of the Criminal  
14 Code of 2012 when the victim is under 13 years of age and  
15 the defendant has previously been convicted under the laws  
16 of this State or any other state of the offense of child  
17 pornography, aggravated child pornography, aggravated  
18 criminal sexual abuse, aggravated criminal sexual assault,  
19 predatory criminal sexual assault of a child, or any of  
20 the offenses formerly known as rape, deviate sexual  
21 assault, indecent liberties with a child, or aggravated  
22 indecent liberties with a child where the victim was under  
23 the age of 18 years or an offense that is substantially  
24 equivalent to those offenses.

25 (W) A violation of Section 24-3.5 of the Criminal Code  
26 of 1961 or the Criminal Code of 2012.



1 (X) A violation of subsection (a) of Section 31-1a of  
2 the Criminal Code of 1961 or the Criminal Code of 2012.

3 (Y) A conviction for unlawful possession of a firearm  
4 by a street gang member when the firearm was loaded or  
5 contained firearm ammunition.

6 (Z) A Class 1 felony committed while he or she was  
7 serving a term of probation or conditional discharge for a  
8 felony.

9 (AA) Theft of property exceeding \$500,000 and not  
10 exceeding \$1,000,000 in value.

11 (BB) Laundering of criminally derived property of a  
12 value exceeding \$500,000.

13 (CC) Knowingly selling, offering for sale, holding for  
14 sale, or using 2,000 or more counterfeit items or  
15 counterfeit items having a retail value in the aggregate  
16 of \$500,000 or more.

17 (DD) A conviction for aggravated assault under  
18 paragraph (6) of subsection (c) of Section 12-2 of the  
19 Criminal Code of 1961 or the Criminal Code of 2012 if the  
20 firearm is aimed toward the person against whom the  
21 firearm is being used.

22 (EE) A conviction for a violation of paragraph (2) of  
23 subsection (a) of Section 24-3B of the Criminal Code of  
24 2012.

25 (3) (Blank).

26 (4) A minimum term of imprisonment of not less than 10

1 consecutive days or 30 days of community service shall be  
2 imposed for a violation of paragraph (c) of Section 6-303 of  
3 the Illinois Vehicle Code.

4 (4.1) (Blank).

5 (4.2) Except as provided in paragraphs (4.3) and (4.8) of  
6 this subsection (c), a minimum of 100 hours of community  
7 service shall be imposed for a second violation of Section  
8 6-303 of the Illinois Vehicle Code.

9 (4.3) A minimum term of imprisonment of 30 days or 300  
10 hours of community service, as determined by the court, shall  
11 be imposed for a second violation of subsection (c) of Section  
12 6-303 of the Illinois Vehicle Code.

13 (4.4) Except as provided in paragraphs (4.5), (4.6), and  
14 (4.9) of this subsection (c), a minimum term of imprisonment  
15 of 30 days or 300 hours of community service, as determined by  
16 the court, shall be imposed for a third or subsequent  
17 violation of Section 6-303 of the Illinois Vehicle Code. The  
18 court may give credit toward the fulfillment of community  
19 service hours for participation in activities and treatment as  
20 determined by court services.

21 (4.5) A minimum term of imprisonment of 30 days shall be  
22 imposed for a third violation of subsection (c) of Section  
23 6-303 of the Illinois Vehicle Code.

24 (4.6) Except as provided in paragraph (4.10) of this  
25 subsection (c), a minimum term of imprisonment of 180 days  
26 shall be imposed for a fourth or subsequent violation of

1 subsection (c) of Section 6-303 of the Illinois Vehicle Code.

2 (4.7) A minimum term of imprisonment of not less than 30  
3 consecutive days, or 300 hours of community service, shall be  
4 imposed for a violation of subsection (a-5) of Section 6-303  
5 of the Illinois Vehicle Code, as provided in subsection (b-5)  
6 of that Section.

7 (4.8) A mandatory prison sentence shall be imposed for a  
8 second violation of subsection (a-5) of Section 6-303 of the  
9 Illinois Vehicle Code, as provided in subsection (c-5) of that  
10 Section. The person's driving privileges shall be revoked for  
11 a period of not less than 5 years from the date of his or her  
12 release from prison.

13 (4.9) A mandatory prison sentence of not less than 4 and  
14 not more than 15 years shall be imposed for a third violation  
15 of subsection (a-5) of Section 6-303 of the Illinois Vehicle  
16 Code, as provided in subsection (d-2.5) of that Section. The  
17 person's driving privileges shall be revoked for the remainder  
18 of his or her life.

19 (4.10) A mandatory prison sentence for a Class 1 felony  
20 shall be imposed, and the person shall be eligible for an  
21 extended term sentence, for a fourth or subsequent violation  
22 of subsection (a-5) of Section 6-303 of the Illinois Vehicle  
23 Code, as provided in subsection (d-3.5) of that Section. The  
24 person's driving privileges shall be revoked for the remainder  
25 of his or her life.

26 (5) The court may sentence a corporation or unincorporated

1 association convicted of any offense to:

2 (A) a period of conditional discharge;

3 (B) a fine;

4 (C) make restitution to the victim under Section 5-5-6  
5 of this Code.

6 (5.1) In addition to any other penalties imposed, and  
7 except as provided in paragraph (5.2) or (5.3), a person  
8 convicted of violating subsection (c) of Section 11-907 of the  
9 Illinois Vehicle Code shall have his or her driver's license,  
10 permit, or privileges suspended for at least 90 days but not  
11 more than one year, if the violation resulted in damage to the  
12 property of another person.

13 (5.2) In addition to any other penalties imposed, and  
14 except as provided in paragraph (5.3), a person convicted of  
15 violating subsection (c) of Section 11-907 of the Illinois  
16 Vehicle Code shall have his or her driver's license, permit,  
17 or privileges suspended for at least 180 days but not more than  
18 2 years, if the violation resulted in injury to another  
19 person.

20 (5.3) In addition to any other penalties imposed, a person  
21 convicted of violating subsection (c) of Section 11-907 of the  
22 Illinois Vehicle Code shall have his or her driver's license,  
23 permit, or privileges suspended for 2 years, if the violation  
24 resulted in the death of another person.

25 (5.4) In addition to any other penalties imposed, a person  
26 convicted of violating Section 3-707 of the Illinois Vehicle

1 Code shall have his or her driver's license, permit, or  
2 privileges suspended for 3 months and until he or she has paid  
3 a reinstatement fee of \$100.

4 (5.5) In addition to any other penalties imposed, a person  
5 convicted of violating Section 3-707 of the Illinois Vehicle  
6 Code during a period in which his or her driver's license,  
7 permit, or privileges were suspended for a previous violation  
8 of that Section shall have his or her driver's license,  
9 permit, or privileges suspended for an additional 6 months  
10 after the expiration of the original 3-month suspension and  
11 until he or she has paid a reinstatement fee of \$100.

12 (6) (Blank).

13 (7) (Blank).

14 (8) (Blank).

15 (9) A defendant convicted of a second or subsequent  
16 offense of ritualized abuse of a child may be sentenced to a  
17 term of natural life imprisonment.

18 (10) (Blank).

19 (11) The court shall impose a minimum fine of \$1,000 for a  
20 first offense and \$2,000 for a second or subsequent offense  
21 upon a person convicted of or placed on supervision for  
22 battery when the individual harmed was a sports official or  
23 coach at any level of competition and the act causing harm to  
24 the sports official or coach occurred within an athletic  
25 facility or within the immediate vicinity of the athletic  
26 facility at which the sports official or coach was an active

1 participant of the athletic contest held at the athletic  
2 facility. For the purposes of this paragraph (11), "sports  
3 official" means a person at an athletic contest who enforces  
4 the rules of the contest, such as an umpire or referee;  
5 "athletic facility" means an indoor or outdoor playing field  
6 or recreational area where sports activities are conducted;  
7 and "coach" means a person recognized as a coach by the  
8 sanctioning authority that conducted the sporting event.

9 (12) A person may not receive a disposition of court  
10 supervision for a violation of Section 5-16 of the Boat  
11 Registration and Safety Act if that person has previously  
12 received a disposition of court supervision for a violation of  
13 that Section.

14 (13) A person convicted of or placed on court supervision  
15 for an assault or aggravated assault when the victim and the  
16 offender are family or household members as defined in Section  
17 103 of the Illinois Domestic Violence Act of 1986 or convicted  
18 of domestic battery or aggravated domestic battery may be  
19 required to attend a Partner Abuse Intervention Program under  
20 protocols set forth by the Illinois Department of Human  
21 Services under such terms and conditions imposed by the court.  
22 The costs of such classes shall be paid by the offender.

23 (d) In any case in which a sentence originally imposed is  
24 vacated, the case shall be remanded to the trial court. The  
25 trial court shall hold a hearing under Section 5-4-1 of this  
26 Code which may include evidence of the defendant's life, moral

1 character and occupation during the time since the original  
2 sentence was passed. The trial court shall then impose  
3 sentence upon the defendant. The trial court may impose any  
4 sentence which could have been imposed at the original trial  
5 subject to Section 5-5-4 of this Code. If a sentence is vacated  
6 on appeal or on collateral attack due to the failure of the  
7 trier of fact at trial to determine beyond a reasonable doubt  
8 the existence of a fact (other than a prior conviction)  
9 necessary to increase the punishment for the offense beyond  
10 the statutory maximum otherwise applicable, either the  
11 defendant may be re-sentenced to a term within the range  
12 otherwise provided or, if the State files notice of its  
13 intention to again seek the extended sentence, the defendant  
14 shall be afforded a new trial.

15 (e) In cases where prosecution for aggravated criminal  
16 sexual abuse under Section 11-1.60 or 12-16 of the Criminal  
17 Code of 1961 or the Criminal Code of 2012 results in conviction  
18 of a defendant who was a family member of the victim at the  
19 time of the commission of the offense, the court shall  
20 consider the safety and welfare of the victim and may impose a  
21 sentence of probation only where:

22 (1) the court finds (A) or (B) or both are  
23 appropriate:

24 (A) the defendant is willing to undergo a court  
25 approved counseling program for a minimum duration of  
26 2 years; or

1 (B) the defendant is willing to participate in a  
2 court approved plan, including, but not limited to,  
3 the defendant's:

4 (i) removal from the household;

5 (ii) restricted contact with the victim;

6 (iii) continued financial support of the  
7 family;

8 (iv) restitution for harm done to the victim;

9 and

10 (v) compliance with any other measures that  
11 the court may deem appropriate; and

12 (2) the court orders the defendant to pay for the  
13 victim's counseling services, to the extent that the court  
14 finds, after considering the defendant's income and  
15 assets, that the defendant is financially capable of  
16 paying for such services, if the victim was under 18 years  
17 of age at the time the offense was committed and requires  
18 counseling as a result of the offense.

19 Probation may be revoked or modified pursuant to Section  
20 5-6-4; except where the court determines at the hearing that  
21 the defendant violated a condition of his or her probation  
22 restricting contact with the victim or other family members or  
23 commits another offense with the victim or other family  
24 members, the court shall revoke the defendant's probation and  
25 impose a term of imprisonment.

26 For the purposes of this Section, "family member" and



1 "victim" shall have the meanings ascribed to them in Section  
2 11-0.1 of the Criminal Code of 2012.

3 (f) (Blank).

4 (g) Whenever a defendant is convicted of an offense under  
5 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14,  
6 11-14.3, 11-14.4 except for an offense that involves keeping a  
7 place of juvenile prostitution, 11-15, 11-15.1, 11-16, 11-17,  
8 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14,  
9 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the  
10 Criminal Code of 2012, the defendant shall undergo medical  
11 testing to determine whether the defendant has any sexually  
12 transmissible disease, including a test for infection with  
13 human immunodeficiency virus (HIV) or any other identified  
14 causative agent of acquired immunodeficiency syndrome (AIDS).  
15 Any such medical test shall be performed only by appropriately  
16 licensed medical practitioners and may include an analysis of  
17 any bodily fluids as well as an examination of the defendant's  
18 person. Except as otherwise provided by law, the results of  
19 such test shall be kept strictly confidential by all medical  
20 personnel involved in the testing and must be personally  
21 delivered in a sealed envelope to the judge of the court in  
22 which the conviction was entered for the judge's inspection in  
23 camera. Acting in accordance with the best interests of the  
24 victim and the public, the judge shall have the discretion to  
25 determine to whom, if anyone, the results of the testing may be  
26 revealed. The court shall notify the defendant of the test

1 results. The court shall also notify the victim if requested  
2 by the victim, and if the victim is under the age of 15 and if  
3 requested by the victim's parents or legal guardian, the court  
4 shall notify the victim's parents or legal guardian of the  
5 test results. The court shall provide information on the  
6 availability of HIV testing and counseling at Department of  
7 Public Health facilities to all parties to whom the results of  
8 the testing are revealed and shall direct the State's Attorney  
9 to provide the information to the victim when possible. The  
10 court shall order that the cost of any such test shall be paid  
11 by the county and may be taxed as costs against the convicted  
12 defendant.

13 (g-5) When an inmate is tested for an airborne  
14 communicable disease, as determined by the Illinois Department  
15 of Public Health, including, but not limited to, tuberculosis,  
16 the results of the test shall be personally delivered by the  
17 warden or his or her designee in a sealed envelope to the judge  
18 of the court in which the inmate must appear for the judge's  
19 inspection in camera if requested by the judge. Acting in  
20 accordance with the best interests of those in the courtroom,  
21 the judge shall have the discretion to determine what if any  
22 precautions need to be taken to prevent transmission of the  
23 disease in the courtroom.

24 (h) Whenever a defendant is convicted of an offense under  
25 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
26 defendant shall undergo medical testing to determine whether

1 the defendant has been exposed to human immunodeficiency virus  
2 (HIV) or any other identified causative agent of acquired  
3 immunodeficiency syndrome (AIDS). Except as otherwise provided  
4 by law, the results of such test shall be kept strictly  
5 confidential by all medical personnel involved in the testing  
6 and must be personally delivered in a sealed envelope to the  
7 judge of the court in which the conviction was entered for the  
8 judge's inspection in camera. Acting in accordance with the  
9 best interests of the public, the judge shall have the  
10 discretion to determine to whom, if anyone, the results of the  
11 testing may be revealed. The court shall notify the defendant  
12 of a positive test showing an infection with the human  
13 immunodeficiency virus (HIV). The court shall provide  
14 information on the availability of HIV testing and counseling  
15 at Department of Public Health facilities to all parties to  
16 whom the results of the testing are revealed and shall direct  
17 the State's Attorney to provide the information to the victim  
18 when possible. The court shall order that the cost of any such  
19 test shall be paid by the county and may be taxed as costs  
20 against the convicted defendant.

21 (i) All fines and penalties imposed under this Section for  
22 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
23 Vehicle Code, or a similar provision of a local ordinance, and  
24 any violation of the Child Passenger Protection Act, or a  
25 similar provision of a local ordinance, shall be collected and  
26 disbursed by the circuit clerk as provided under the Criminal

1 and Traffic Assessment Act.

2 (j) In cases when prosecution for any violation of Section  
3 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-8, 11-9,  
4 11-11, 11-14, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17,  
5 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
6 11-20.1B, 11-20.3, 11-21, 11-30, 11-40, 12-13, 12-14, 12-14.1,  
7 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal  
8 Code of 2012, any violation of the Illinois Controlled  
9 Substances Act, any violation of the Cannabis Control Act, or  
10 any violation of the Methamphetamine Control and Community  
11 Protection Act results in conviction, a disposition of court  
12 supervision, or an order of probation granted under Section 10  
13 of the Cannabis Control Act, Section 410 of the Illinois  
14 Controlled Substances Act, or Section 70 of the  
15 Methamphetamine Control and Community Protection Act of a  
16 defendant, the court shall determine whether the defendant is  
17 employed by a facility or center as defined under the Child  
18 Care Act of 1969, a public or private elementary or secondary  
19 school, or otherwise works with children under 18 years of age  
20 on a daily basis. When a defendant is so employed, the court  
21 shall order the Clerk of the Court to send a copy of the  
22 judgment of conviction or order of supervision or probation to  
23 the defendant's employer by certified mail. If the employer of  
24 the defendant is a school, the Clerk of the Court shall direct  
25 the mailing of a copy of the judgment of conviction or order of  
26 supervision or probation to the appropriate regional

1 superintendent of schools. The regional superintendent of  
2 schools shall notify the State Board of Education of any  
3 notification under this subsection.

4 (j-5) A defendant at least 17 years of age who is convicted  
5 of a felony and who has not been previously convicted of a  
6 misdemeanor or felony and who is sentenced to a term of  
7 imprisonment in the Illinois Department of Corrections shall  
8 as a condition of his or her sentence be required by the court  
9 to attend educational courses designed to prepare the  
10 defendant for a high school diploma and to work toward a high  
11 school diploma or to work toward passing high school  
12 equivalency testing or to work toward completing a vocational  
13 training program offered by the Department of Corrections. If  
14 a defendant fails to complete the educational training  
15 required by his or her sentence during the term of  
16 incarceration, the Prisoner Review Board shall, as a condition  
17 of mandatory supervised release, require the defendant, at his  
18 or her own expense, to pursue a course of study toward a high  
19 school diploma or passage of high school equivalency testing.  
20 The Prisoner Review Board shall revoke the mandatory  
21 supervised release of a defendant who wilfully fails to comply  
22 with this subsection (j-5) upon his or her release from  
23 confinement in a penal institution while serving a mandatory  
24 supervised release term; however, the inability of the  
25 defendant after making a good faith effort to obtain financial  
26 aid or pay for the educational training shall not be deemed a

1 wilful failure to comply. The Prisoner Review Board shall  
2 recommit the defendant whose mandatory supervised release term  
3 has been revoked under this subsection (j-5) as provided in  
4 Section 3-3-9. This subsection (j-5) does not apply to a  
5 defendant who has a high school diploma or has successfully  
6 passed high school equivalency testing. This subsection (j-5)  
7 does not apply to a defendant who is determined by the court to  
8 be a person with a developmental disability or otherwise  
9 mentally incapable of completing the educational or vocational  
10 program.

11 (k) (Blank).

12 (l) (A) Except as provided in paragraph (C) of subsection  
13 (l), whenever a defendant, who is not a citizen or national of  
14 the United States ~~an alien as defined by the Immigration and~~  
15 ~~Nationality Act~~, is convicted of any felony or misdemeanor  
16 offense, the court after sentencing the defendant may, upon  
17 motion of the State's Attorney, hold sentence in abeyance and  
18 remand the defendant to the custody of the Attorney General of  
19 the United States or his or her designated agent to be deported  
20 when:

21 (1) a final order of deportation has been issued  
22 against the defendant pursuant to proceedings under the  
23 Immigration and Nationality Act, and

24 (2) the deportation of the defendant would not  
25 deprecate the seriousness of the defendant's conduct and  
26 would not be inconsistent with the ends of justice.

1           Otherwise, the defendant shall be sentenced as provided in  
2 this Chapter V.

3           (B) If the defendant has already been sentenced for a  
4 felony or misdemeanor offense, or has been placed on probation  
5 under Section 10 of the Cannabis Control Act, Section 410 of  
6 the Illinois Controlled Substances Act, or Section 70 of the  
7 Methamphetamine Control and Community Protection Act, the  
8 court may, upon motion of the State's Attorney to suspend the  
9 sentence imposed, commit the defendant to the custody of the  
10 Attorney General of the United States or his or her designated  
11 agent when:

12           (1) a final order of deportation has been issued  
13 against the defendant pursuant to proceedings under the  
14 Immigration and Nationality Act, and

15           (2) the deportation of the defendant would not  
16 deprecate the seriousness of the defendant's conduct and  
17 would not be inconsistent with the ends of justice.

18           (C) This subsection (1) does not apply to offenders who  
19 are subject to the provisions of paragraph (2) of subsection  
20 (a) of Section 3-6-3.

21           (D) Upon motion of the State's Attorney, if a defendant  
22 sentenced under this Section returns to the jurisdiction of  
23 the United States, the defendant shall be recommitted to the  
24 custody of the county from which he or she was sentenced.  
25 Thereafter, the defendant shall be brought before the  
26 sentencing court, which may impose any sentence that was

1 available under Section 5-5-3 at the time of initial  
2 sentencing. In addition, the defendant shall not be eligible  
3 for additional earned sentence credit as provided under  
4 Section 3-6-3.

5 (m) A person convicted of criminal defacement of property  
6 under Section 21-1.3 of the Criminal Code of 1961 or the  
7 Criminal Code of 2012, in which the property damage exceeds  
8 \$300 and the property damaged is a school building, shall be  
9 ordered to perform community service that may include cleanup,  
10 removal, or painting over the defacement.

11 (n) The court may sentence a person convicted of a  
12 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or  
13 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code  
14 of 1961 or the Criminal Code of 2012 (i) to an impact  
15 incarceration program if the person is otherwise eligible for  
16 that program under Section 5-8-1.1, (ii) to community service,  
17 or (iii) if the person has a substance use disorder, as defined  
18 in the Substance Use Disorder Act, to a treatment program  
19 licensed under that Act.

20 (o) Whenever a person is convicted of a sex offense as  
21 defined in Section 2 of the Sex Offender Registration Act, the  
22 defendant's driver's license or permit shall be subject to  
23 renewal on an annual basis in accordance with the provisions  
24 of license renewal established by the Secretary of State.

25 (Source: P.A. 101-81, eff. 7-12-19; 102-168, eff. 7-27-21;  
26 102-531, eff. 1-1-22; revised 10-12-21.)



1           Section 175. The Frauds Act is amended by changing Section  
2           12 as follows:

3           (740 ILCS 80/12) (from Ch. 59, par. 12)

4           Sec. 12. When any lands, tenements or hereditaments, or  
5           any rents or profits out of the same, shall descend to any  
6           heir, or be devised to any devisee, and the personal estate of  
7           the ancestor of such heir or devisor of such devisee shall be  
8           insufficient to discharge the just demands against such  
9           ancestor, or devisor's estate, such heir or devisee shall be  
10          liable to the creditor of their ancestor or devisor to the full  
11          amount of the lands, tenements or hereditaments, or rents and  
12          profits out of the same, as may descend or be devised to the  
13          said heir or devisee; and in all cases where any heir or  
14          devisee shall be liable to pay the debts of his executor or  
15          devisor, in regard of any lands, tenements or hereditaments,  
16          or any rent or profit arising out of the same, descending or  
17          being devised to him, and shall sell, transfer, ~~alien~~ or make  
18          over the same before any action brought, or process sued out  
19          against him, such heir at law or devisee shall be answerable  
20          for such debts to the value of the said lands, tenements and  
21          hereditaments, rents or profits so by him transferred ~~aliened~~  
22          or made over; and executions may be taken out upon any judgment  
23          so obtained against such heir or devisee, to the value of the  
24          said lands, tenements and hereditaments, rents and profits,

1 out of the same, as if the same were his own proper debts,  
2 saving and excepting that the lands and tenements, rents and  
3 profits, by him bona fide transferred ~~aliened~~, before the  
4 action brought, shall not be liable to such execution.

5 (Source: R.S. 1874, p. 540.)

6 Section 180. The Income Withholding for Support Act is  
7 amended by changing Section 20 as follows:

8 (750 ILCS 28/20)

9 Sec. 20. Entry of order for support containing income  
10 withholding provisions; income withholding notice.

11 (a) In addition to any content required under other laws,  
12 every order for support entered on or after July 1, 1997,  
13 shall:

14 (1) Require an income withholding notice to be  
15 prepared and served immediately upon any payor of the  
16 obligor by the obligee or public office, unless a written  
17 agreement is reached between and signed by both parties  
18 providing for an alternative arrangement, approved and  
19 entered into the record by the court, which ensures  
20 payment of support. In that case, the order for support  
21 shall provide that an income withholding notice is to be  
22 prepared and served only if the obligor becomes delinquent  
23 in paying the order for support; and

24 (2) Contain a dollar amount to be paid until payment

1 in full of any delinquency that accrues after entry of the  
2 order for support. The amount for payment of delinquency  
3 shall not be less than 20% of the total of the current  
4 support amount and the amount to be paid periodically for  
5 payment of any arrearage stated in the order for support;  
6 and

7 (3) Include the obligor's Social Security Number,  
8 which the obligor shall disclose to the court. If the  
9 obligor is not a United States citizen, the obligor shall  
10 disclose to the court, and the court shall include in the  
11 order for support, the obligor's ~~alien~~ registration number  
12 as a noncitizen, passport number, and home country's  
13 social security or national health number, if applicable.

14 (b) At the time the order for support is entered, the Clerk  
15 of the Circuit Court shall provide a copy of the order to the  
16 obligor and shall make copies available to the obligee and  
17 public office.

18 (c) The income withholding notice shall:

19 (1) be in the standard format prescribed by the  
20 federal Department of Health and Human Services; and

21 (1.1) state the date of entry of the order for support  
22 upon which the income withholding notice is based; and

23 (2) direct any payor to withhold the dollar amount  
24 required for current support under the order for support;  
25 and

26 (3) direct any payor to withhold the dollar amount

1 required to be paid periodically under the order for  
2 support for payment of the amount of any arrearage stated  
3 in the order for support; and

4 (4) direct any payor or labor union or trade union to  
5 enroll a child as a beneficiary of a health insurance plan  
6 and withhold or cause to be withheld, if applicable, any  
7 required premiums; and

8 (5) state the amount of the payor income withholding  
9 fee specified under this Section; and

10 (6) state that the amount actually withheld from the  
11 obligor's income for support and other purposes, including  
12 the payor withholding fee specified under this Section,  
13 may not be in excess of the maximum amount permitted under  
14 the federal Consumer Credit Protection Act; and

15 (7) in bold face type, the size of which equals the  
16 largest type on the notice, state the duties of the payor  
17 and the fines and penalties for failure to withhold and  
18 pay over income and for discharging, disciplining,  
19 refusing to hire, or otherwise penalizing the obligor  
20 because of the duty to withhold and pay over income under  
21 this Section; and

22 (8) state the rights, remedies, and duties of the  
23 obligor under this Section; and

24 (9) include the Social Security number of the obligor;  
25 and

26 (10) (blank); and

1           (11) contain the signature of the obligee or the  
2           printed name and telephone number of the authorized  
3           representative of the public office, except that the  
4           failure to contain the signature of the obligee or the  
5           printed name and telephone number of the authorized  
6           representative of the public office shall not affect the  
7           validity of the income withholding notice; and

8           (12) direct any payor to pay over amounts withheld for  
9           payment of support to the State Disbursement Unit.

10          (d) The accrual of a delinquency as a condition for  
11          service of an income withholding notice, under the exception  
12          to immediate withholding in subsection (a) of this Section,  
13          shall apply only to the initial service of an income  
14          withholding notice on a payor of the obligor.

15          (e) Notwithstanding the exception to immediate withholding  
16          contained in subsection (a) of this Section, if the court  
17          finds at the time of any hearing that an arrearage has accrued,  
18          the court shall order immediate service of an income  
19          withholding notice upon the payor.

20          (f) If the order for support, under the exception to  
21          immediate withholding contained in subsection (a) of this  
22          Section, provides that an income withholding notice is to be  
23          prepared and served only if the obligor becomes delinquent in  
24          paying the order for support, the obligor may execute a  
25          written waiver of that condition and request immediate service  
26          on the payor.

1           (g) The obligee or public office may serve the income  
2 withholding notice on the payor or its superintendent,  
3 manager, or other agent by ordinary mail or certified mail  
4 return receipt requested, by facsimile transmission or other  
5 electronic means, by personal delivery, or by any method  
6 provided by law for service of a summons. At the time of  
7 service on the payor and as notice that withholding has  
8 commenced, the obligee or public office shall serve a copy of  
9 the income withholding notice on the obligor by ordinary mail  
10 addressed to his or her last known address. A copy of an income  
11 withholding notice and proof of service shall be filed with  
12 the Clerk of the Circuit Court only when necessary in  
13 connection with a petition to contest, modify, suspend,  
14 terminate, or correct an income withholding notice, an action  
15 to enforce income withholding against a payor, or the  
16 resolution of other disputes involving an income withholding  
17 notice. The changes made to this subsection by this amendatory  
18 Act of the 96th General Assembly apply on and after September  
19 1, 2009.

20           (h) At any time after the initial service of an income  
21 withholding notice, any other payor of the obligor may be  
22 served with the same income withholding notice without further  
23 notice to the obligor. A copy of the income withholding notice  
24 together with a proof of service on the other payor shall be  
25 filed with the Clerk of the Circuit Court.

26           (i) New service of an income withholding notice is not

1 required in order to resume withholding of income in the case  
2 of an obligor with respect to whom an income withholding  
3 notice was previously served on the payor if withholding of  
4 income was terminated because of an interruption in the  
5 obligor's employment of less than 180 days.

6 (Source: P.A. 97-994, eff. 8-17-12; 98-81, eff. 7-15-13.)

7 Section 185. The Property Owned By Aliens Act is amended  
8 by changing the title of the Act and Sections 0.01, 7, and 8 as  
9 follows:

10 (765 ILCS 60/Act title)

11 An Act concerning the right of noncitizens ~~aliens~~ to  
12 acquire and hold real and personal property.

13 (765 ILCS 60/0.01) (from Ch. 6, par. 0.01)

14 Sec. 0.01. Short title. This Act may be cited as the  
15 Property Owned By Noncitizens ~~Aliens~~ Act.

16 (Source: P.A. 86-1324.)

17 (765 ILCS 60/7) (from Ch. 6, par. 7)

18 Sec. 7. All noncitizens ~~aliens~~ may acquire, hold, and  
19 dispose of real and personal property in the same manner and to  
20 the same extent as natural born citizens of the United States,  
21 and the personal estate of a noncitizen ~~an alien~~ dying  
22 intestate shall be distributed in the same manner as the

1 estates of natural born citizens, and all persons interested  
2 in such estate shall be entitled to proper distributive shares  
3 thereof under the laws of this state, whether they are  
4 noncitizens ~~aliens~~ or not.

5 This amendatory Act of 1992 does not apply to the  
6 Agricultural Foreign Investment Disclosure Act.

7 (Source: P.A. 87-1101.)

8 (765 ILCS 60/8) (from Ch. 6, par. 8)

9 Sec. 8. An act in regard to noncitizens ~~aliens~~ and to  
10 restrict their right to acquire and hold real and personal  
11 estate and to provide for the disposition of the lands now  
12 owned by non-resident noncitizens ~~aliens~~, approved June 16,  
13 1887, and in force July 1, 1887, and all other acts and parts  
14 of acts in conflict with this act, are hereby repealed.

15 (Source: Laws 1897, p. 5.)

16 Section 190. The Property Taxes of Alien Landlords Act is  
17 amended by changing the title of the Act and Sections 0.01 and  
18 1 as follows:

19 (765 ILCS 725/Act title)

20 An Act to prevent noncitizen ~~alien~~ landlords from  
21 including the payment of taxes in the rent of farm lands as a  
22 part of the rental thereof.



1 (765 ILCS 725/0.01) (from Ch. 6, par. 8.9)

2 Sec. 0.01. Short title. This Act may be cited as the  
3 Property Taxes Of Noncitizen ~~Alien~~ Landlords Act.

4 (Source: P.A. 86-1324.)

5 (765 ILCS 725/1) (from Ch. 6, par. 9)

6 Sec. 1. No contract, agreement or lease in writing or by  
7 parol, by which any lands or tenements therein are demised or  
8 leased by any noncitizen ~~alien~~ or his agents for the purpose of  
9 farming, cultivation or the raising of crops thereon, shall  
10 contain any provision requiring the tenant or other person for  
11 him, to pay taxes on said lands or tenements, or any part  
12 thereof, and all such provisions, agreements and leases so  
13 made are declared void as to the taxes aforesaid. If any  
14 noncitizen ~~alien~~ landlord or his agents shall receive in  
15 advance or at any other time any sum of money or article of  
16 value from any tenant in lieu of such taxes, directly or  
17 indirectly, the same may be recovered back by such tenant  
18 before any court having jurisdiction of the amount thereof,  
19 and all provisions or agreements in writing or otherwise to  
20 pay such taxes shall be held in all courts of this state to be  
21 void.

22 (Source: P.A. 81-1509.)

23 Section 195. The Illinois Human Rights Act is amended by  
24 changing Section 2-101 as follows:

1 (775 ILCS 5/2-101)

2 Sec. 2-101. Definitions. The following definitions are  
3 applicable strictly in the context of this Article.

4 (A) Employee.

5 (1) "Employee" includes:

6 (a) Any individual performing services for  
7 remuneration within this State for an employer;

8 (b) An apprentice;

9 (c) An applicant for any apprenticeship.

10 For purposes of subsection (D) of Section 2-102 of  
11 this Act, "employee" also includes an unpaid intern. An  
12 unpaid intern is a person who performs work for an  
13 employer under the following circumstances:

14 (i) the employer is not committed to hiring the  
15 person performing the work at the conclusion of the  
16 intern's tenure;

17 (ii) the employer and the person performing the  
18 work agree that the person is not entitled to wages for  
19 the work performed; and

20 (iii) the work performed:

21 (I) supplements training given in an  
22 educational environment that may enhance the  
23 employability of the intern;

24 (II) provides experience for the benefit of  
25 the person performing the work;

1 (III) does not displace regular employees;  
2 (IV) is performed under the close supervision  
3 of existing staff; and  
4 (V) provides no immediate advantage to the  
5 employer providing the training and may  
6 occasionally impede the operations of the  
7 employer.

8 (2) "Employee" does not include:

9 (a) (Blank);

10 (b) Individuals employed by persons who are not  
11 "employers" as defined by this Act;

12 (c) Elected public officials or the members of  
13 their immediate personal staffs;

14 (d) Principal administrative officers of the State  
15 or of any political subdivision, municipal corporation  
16 or other governmental unit or agency;

17 (e) A person in a vocational rehabilitation  
18 facility certified under federal law who has been  
19 designated an evaluatee, trainee, or work activity  
20 client.

21 (B) Employer.

22 (1) "Employer" includes:

23 (a) Any person employing one or more employees  
24 within Illinois during 20 or more calendar weeks  
25 within the calendar year of or preceding the alleged  
26 violation;

1           (b) Any person employing one or more employees  
2 when a complainant alleges civil rights violation due  
3 to unlawful discrimination based upon his or her  
4 physical or mental disability unrelated to ability,  
5 pregnancy, or sexual harassment;

6           (c) The State and any political subdivision,  
7 municipal corporation or other governmental unit or  
8 agency, without regard to the number of employees;

9           (d) Any party to a public contract without regard  
10 to the number of employees;

11           (e) A joint apprenticeship or training committee  
12 without regard to the number of employees.

13           (2) "Employer" does not include any place of worship,  
14 religious corporation, association, educational  
15 institution, society, or non-profit nursing institution  
16 conducted by and for those who rely upon treatment by  
17 prayer through spiritual means in accordance with the  
18 tenets of a recognized church or religious denomination  
19 with respect to the employment of individuals of a  
20 particular religion to perform work connected with the  
21 carrying on by such place of worship, corporation,  
22 association, educational institution, society or  
23 non-profit nursing institution of its activities.

24           (C) Employment Agency. "Employment Agency" includes both  
25 public and private employment agencies and any person, labor  
26 organization, or labor union having a hiring hall or hiring

1 office regularly undertaking, with or without compensation, to  
2 procure opportunities to work, or to procure, recruit, refer  
3 or place employees.

4 (D) Labor Organization. "Labor Organization" includes any  
5 organization, labor union, craft union, or any voluntary  
6 unincorporated association designed to further the cause of  
7 the rights of union labor which is constituted for the  
8 purpose, in whole or in part, of collective bargaining or of  
9 dealing with employers concerning grievances, terms or  
10 conditions of employment, or apprenticeships or applications  
11 for apprenticeships, or of other mutual aid or protection in  
12 connection with employment, including apprenticeships or  
13 applications for apprenticeships.

14 (E) Sexual Harassment. "Sexual harassment" means any  
15 unwelcome sexual advances or requests for sexual favors or any  
16 conduct of a sexual nature when (1) submission to such conduct  
17 is made either explicitly or implicitly a term or condition of  
18 an individual's employment, (2) submission to or rejection of  
19 such conduct by an individual is used as the basis for  
20 employment decisions affecting such individual, or (3) such  
21 conduct has the purpose or effect of substantially interfering  
22 with an individual's work performance or creating an  
23 intimidating, hostile or offensive working environment.

24 For purposes of this definition, the phrase "working  
25 environment" is not limited to a physical location an employee  
26 is assigned to perform his or her duties.

1 (E-1) Harassment. "Harassment" means any unwelcome conduct  
2 on the basis of an individual's actual or perceived race,  
3 color, religion, national origin, ancestry, age, sex, marital  
4 status, order of protection status, disability, military  
5 status, sexual orientation, pregnancy, unfavorable discharge  
6 from military service, citizenship status, or work  
7 authorization status that has the purpose or effect of  
8 substantially interfering with the individual's work  
9 performance or creating an intimidating, hostile, or offensive  
10 working environment. For purposes of this definition, the  
11 phrase "working environment" is not limited to a physical  
12 location an employee is assigned to perform his or her duties.

13 (F) Religion. "Religion" with respect to employers  
14 includes all aspects of religious observance and practice, as  
15 well as belief, unless an employer demonstrates that he is  
16 unable to reasonably accommodate an employee's or prospective  
17 employee's religious observance or practice without undue  
18 hardship on the conduct of the employer's business.

19 (G) Public Employer. "Public employer" means the State, an  
20 agency or department thereof, unit of local government, school  
21 district, instrumentality or political subdivision.

22 (H) Public Employee. "Public employee" means an employee  
23 of the State, agency or department thereof, unit of local  
24 government, school district, instrumentality or political  
25 subdivision. "Public employee" does not include public  
26 officers or employees of the General Assembly or agencies

1       thereof.

2           (I) Public Officer. "Public officer" means a person who is  
3       elected to office pursuant to the Constitution or a statute or  
4       ordinance, or who is appointed to an office which is  
5       established, and the qualifications and duties of which are  
6       prescribed, by the Constitution or a statute or ordinance, to  
7       discharge a public duty for the State, agency or department  
8       thereof, unit of local government, school district,  
9       instrumentality or political subdivision.

10          (J) Eligible Bidder. "Eligible bidder" means a person who,  
11       prior to contract award or prior to bid opening for State  
12       contracts for construction or construction-related services,  
13       has filed with the Department a properly completed, sworn and  
14       currently valid employer report form, pursuant to the  
15       Department's regulations. The provisions of this Article  
16       relating to eligible bidders apply only to bids on contracts  
17       with the State and its departments, agencies, boards, and  
18       commissions, and the provisions do not apply to bids on  
19       contracts with units of local government or school districts.

20          (K) Citizenship Status. "Citizenship status" means the  
21       status of being:

22               (1) a born U.S. citizen;

23               (2) a naturalized U.S. citizen;

24               (3) a U.S. national; or

25               (4) a person born outside the United States and not a  
26       U.S. citizen who is not an unauthorized noncitizen ~~alien~~

1 and who is protected from discrimination under the  
2 provisions of Section 1324b of Title 8 of the United  
3 States Code, as now or hereafter amended.

4 (L) Work Authorization Status. "Work authorization status"  
5 means the status of being a person born outside of the United  
6 States, and not a U.S. citizen, who is authorized by the  
7 federal government to work in the United States.

8 (Source: P.A. 101-221, eff. 1-1-20; 101-430, eff. 7-1-20;  
9 102-233, eff. 8-2-21; 102-558, eff. 8-20-21.)

10 Section 200. The Resident Alien Course Act is amended by  
11 changing the title of the Act and Sections 0.01, 1, 2, and 3 as  
12 follows:

13 (815 ILCS 400/Act title)

14 An Act concerning fees charged for courses offered to  
15 persons seeking permanent resident noncitizen ~~alien~~ status  
16 under the Immigration Reform and Control Act of 1986.

17 (815 ILCS 400/0.01) (from Ch. 111, par. 8050)

18 Sec. 0.01. Short title. This Act may be cited as the  
19 Resident Noncitizen ~~Alien~~ Course Act.

20 (Source: P.A. 86-1324.)

21 (815 ILCS 400/1) (from Ch. 111, par. 8051)

22 Sec. 1. No individual or agency, authorized by the U.S.



1 Immigration and Naturalization Service to offer a course  
2 leading to a certificate of satisfactory pursuit for issuance  
3 of permanent resident noncitizen ~~alien~~ status, may charge a  
4 fee for such course in excess of \$5 per hour per individual up  
5 to the first 60 hours of instruction or \$500 for up to 12  
6 months of instruction from the date of registration. As used  
7 in this Section, the term "fee" includes all costs associated  
8 with the course, including the costs of instruction and  
9 materials.

10 (Source: P.A. 86-831.)

11 (815 ILCS 400/2) (from Ch. 111, par. 8052)

12 Sec. 2. No individual or agency which offers any service  
13 or course with the promise of preparing the recipient or  
14 enrollee for the English and civics exam of the U.S.  
15 Immigration and Naturalization Service for issuance of  
16 permanent resident noncitizen ~~alien~~ status may charge a fee  
17 for such service or course in excess of \$5 per hour per  
18 individual up to the first 60 hours of instruction or \$500 for  
19 up to 12 months of instruction from the date of registration.  
20 As used in this Section, the term "fee" includes all costs  
21 associated with the service or course, including the costs of  
22 instruction and materials.

23 (Source: P.A. 86-831.)

24 (815 ILCS 400/3) (from Ch. 111, par. 8053)

1           Sec. 3. Any individual or agency offering a course or  
2 service described in Section 2 shall include within any  
3 literature or print or electronic advertisement for such  
4 service or course a statement that such service or course is  
5 designed to prepare the recipient or enrollee for the English  
6 and civics exam of the U.S. Immigration and Naturalization  
7 Service and that the individual or agency offering the service  
8 or course does not issue the certificate of satisfactory  
9 pursuit required by the U.S. Immigration and Naturalization  
10 Service for issuance of permanent resident noncitizen ~~alien~~  
11 status.

12           (Source: P.A. 86-831.)

13           Section 205. The Consumer Fraud and Deceptive Business  
14 Practices Act is amended by changing Section 2AA as follows:

15           (815 ILCS 505/2AA)

16           Sec. 2AA. Immigration services.

17           (a) "Immigration matter" means any proceeding, filing, or  
18 action affecting the nonimmigrant, immigrant or citizenship  
19 status of any person that arises under immigration and  
20 naturalization law, executive order or presidential  
21 proclamation of the United States or any foreign country, or  
22 that arises under action of the United States Citizenship and  
23 Immigration Services, the United States Department of Labor,  
24 or the United States Department of State.

1 "Immigration assistance service" means any information or  
2 action provided or offered to customers or prospective  
3 customers related to immigration matters, excluding legal  
4 advice, recommending a specific course of legal action, or  
5 providing any other assistance that requires legal analysis,  
6 legal judgment, or interpretation of the law.

7 "Compensation" means money, property, services, promise of  
8 payment, or anything else of value.

9 "Employed by" means that a person is on the payroll of the  
10 employer and the employer deducts from the employee's paycheck  
11 social security and withholding taxes, or receives  
12 compensation from the employer on a commission basis or as an  
13 independent contractor.

14 "Reasonable costs" means actual costs or, if actual costs  
15 cannot be calculated, reasonably estimated costs of such  
16 things as photocopying, telephone calls, document requests,  
17 and filing fees for immigration forms, and other nominal costs  
18 incidental to assistance in an immigration matter.

19 (a-1) The General Assembly finds and declares that private  
20 individuals who assist persons with immigration matters have a  
21 significant impact on the ability of their clients to reside  
22 and work within the United States and to establish and  
23 maintain stable families and business relationships. The  
24 General Assembly further finds that that assistance and its  
25 impact also have a significant effect on the cultural, social,  
26 and economic life of the State of Illinois and thereby

1 substantially affect the public interest. It is the intent of  
2 the General Assembly to establish rules of practice and  
3 conduct for those individuals to promote honesty and fair  
4 dealing with residents and to preserve public confidence.

5 (a-5) The following persons are exempt from this Section,  
6 provided they prove the exemption by a preponderance of the  
7 evidence:

8 (1) An attorney licensed to practice law in any state  
9 or territory of the United States, or of any foreign  
10 country when authorized by the Illinois Supreme Court, to  
11 the extent the attorney renders immigration assistance  
12 service in the course of his or her practice as an  
13 attorney.

14 (2) A legal intern, as described by the rules of the  
15 Illinois Supreme Court, employed by and under the direct  
16 supervision of a licensed attorney and rendering  
17 immigration assistance service in the course of the  
18 intern's employment.

19 (3) A not-for-profit organization recognized by the  
20 Board of Immigration Appeals under 8 CFR 292.2(a) and  
21 employees of those organizations accredited under 8 CFR  
22 292.2(d).

23 (4) Any organization employing or desiring to employ a  
24 documented or undocumented immigrant or nonimmigrant  
25 ~~alien~~, where the organization, its employees or its agents  
26 provide advice or assistance in immigration matters to

1           documented or undocumented immigrant or nonimmigrant ~~alien~~  
2           employees or potential employees without compensation from  
3           the individuals to whom such advice or assistance is  
4           provided.

5           Nothing in this Section shall regulate any business to the  
6           extent that such regulation is prohibited or preempted by  
7           State or federal law.

8           All other persons providing or offering to provide  
9           immigration assistance service shall be subject to this  
10          Section.

11          (b) Any person who provides or offers to provide  
12          immigration assistance service may perform only the following  
13          services:

14                 (1) Completing a government agency form, requested by  
15                 the customer and appropriate to the customer's needs, only  
16                 if the completion of that form does not involve a legal  
17                 judgment for that particular matter.

18                 (2) Transcribing responses to a government agency form  
19                 which is related to an immigration matter, but not  
20                 advising a customer as to his or her answers on those  
21                 forms.

22                 (3) Translating information on forms to a customer and  
23                 translating the customer's answers to questions posed on  
24                 those forms.

25                 (4) Securing for the customer supporting documents  
26                 currently in existence, such as birth and marriage

1 certificates, which may be needed to be submitted with  
2 government agency forms.

3 (5) Translating documents from a foreign language into  
4 English.

5 (6) Notarizing signatures on government agency forms,  
6 if the person performing the service is a notary public of  
7 the State of Illinois.

8 (7) Making referrals, without fee, to attorneys who  
9 could undertake legal representation for a person in an  
10 immigration matter.

11 (8) Preparing or arranging for the preparation of  
12 photographs and fingerprints.

13 (9) Arranging for the performance of medical testing  
14 (including X-rays and AIDS tests) and the obtaining of  
15 reports of such test results.

16 (10) Conducting English language and civics courses.

17 (11) Other services that the Attorney General  
18 determines by rule may be appropriately performed by such  
19 persons in light of the purposes of this Section.

20 Fees for a notary public, agency, or any other person who  
21 is not an attorney or an accredited representative filling out  
22 immigration forms shall be limited to the maximum fees set  
23 forth in subsections (a) and (b) of Section 3-104 of the  
24 Illinois Notary Public Act (5 ILCS 312/3-104). The maximum fee  
25 schedule set forth in subsections (a) and (b) of Section 3-104  
26 of the Illinois Notary Public Act shall apply to any person

1 that provides or offers to provide immigration assistance  
2 service performing the services described therein. The  
3 Attorney General may promulgate rules establishing maximum  
4 fees that may be charged for any services not described in that  
5 subsection. The maximum fees must be reasonable in light of  
6 the costs of providing those services and the degree of  
7 professional skill required to provide the services.

8 No person subject to this Act shall charge fees directly  
9 or indirectly for referring an individual to an attorney or  
10 for any immigration matter not authorized by this Article,  
11 provided that a person may charge a fee for notarizing  
12 documents as permitted by the Illinois Notary Public Act.

13 (c) Any person performing such services shall register  
14 with the Illinois Attorney General and submit verification of  
15 malpractice insurance or of a surety bond.

16 (d) Except as provided otherwise in this subsection,  
17 before providing any assistance in an immigration matter a  
18 person shall provide the customer with a written contract that  
19 includes the following:

20 (1) An explanation of the services to be performed.

21 (2) Identification of all compensation and costs to be  
22 charged to the customer for the services to be performed.

23 (3) A statement that documents submitted in support of  
24 an application for nonimmigrant, immigrant, or  
25 naturalization status may not be retained by the person  
26 for any purpose, including payment of compensation or

1 costs.

2 This subsection does not apply to a not-for-profit  
3 organization that provides advice or assistance in immigration  
4 matters to clients without charge beyond a reasonable fee to  
5 reimburse the organization's or clinic's reasonable costs  
6 relating to providing immigration services to that client.

7 (e) Any person who provides or offers immigration  
8 assistance service and is not exempted from this Section,  
9 shall post signs at his or her place of business, setting forth  
10 information in English and in every other language in which  
11 the person provides or offers to provide immigration  
12 assistance service. Each language shall be on a separate sign.  
13 Signs shall be posted in a location where the signs will be  
14 visible to customers. Each sign shall be at least 11 inches by  
15 17 inches, and shall contain the following:

16 (1) The statement "I AM NOT AN ATTORNEY LICENSED TO  
17 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES  
18 FOR LEGAL ADVICE."

19 (2) The statement "I AM NOT ACCREDITED TO REPRESENT  
20 YOU BEFORE THE UNITED STATES IMMIGRATION AND  
21 NATURALIZATION SERVICE AND THE IMMIGRATION BOARD OF  
22 APPEALS."

23 (3) The fee schedule.

24 (4) The statement that "You may cancel any contract  
25 within 3 working days and get your money back for services  
26 not performed."



1           (5) Additional information the Attorney General may  
2           require by rule.

3           Every person engaged in immigration assistance service who  
4           is not an attorney who advertises immigration assistance  
5           service in a language other than English, whether by radio,  
6           television, signs, pamphlets, newspapers, or other written  
7           communication, with the exception of a single desk plaque,  
8           shall include in the document, advertisement, stationery,  
9           letterhead, business card, or other comparable written  
10          material the following notice in English and the language in  
11          which the written communication appears. This notice shall be  
12          of a conspicuous size, if in writing, and shall state: "I AM  
13          NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS AND MAY  
14          NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.". If  
15          such advertisement is by radio or television, the statement  
16          may be modified but must include substantially the same  
17          message.

18          Any person who provides or offers immigration assistance  
19          service and is not exempted from this Section shall not, in any  
20          document, advertisement, stationery, letterhead, business  
21          card, or other comparable written material, literally  
22          translate from English into another language terms or titles  
23          including, but not limited to, notary public, notary,  
24          licensed, attorney, lawyer, or any other term that implies the  
25          person is an attorney. To illustrate, the words "notario" and  
26          "poder notarial" are prohibited under this provision.

1           If not subject to penalties under subsection (a) of  
2 Section 3-103 of the Illinois Notary Public Act (5 ILCS  
3 312/3-103), violations of this subsection shall result in a  
4 fine of \$1,000. Violations shall not preempt or preclude  
5 additional appropriate civil or criminal penalties.

6           (f) The written contract shall be in both English and in  
7 the language of the customer.

8           (g) A copy of the contract shall be provided to the  
9 customer upon the customer's execution of the contract.

10          (h) A customer has the right to rescind a contract within  
11 72 hours after his or her signing of the contract.

12          (i) Any documents identified in paragraph (3) of  
13 subsection (c) shall be returned upon demand of the customer.

14          (j) No person engaged in providing immigration services  
15 who is not exempted under this Section shall do any of the  
16 following:

17           (1) Make any statement that the person can or will  
18 obtain special favors from or has special influence with  
19 the United States Immigration and Naturalization Service  
20 or any other government agency.

21           (2) Retain any compensation for service not performed.

22           (2.5) Accept payment in exchange for providing legal  
23 advice or any other assistance that requires legal  
24 analysis, legal judgment, or interpretation of the law.

25           (3) Refuse to return documents supplied by, prepared  
26 on behalf of, or paid for by the customer upon the request

1 of the customer. These documents must be returned upon  
2 request even if there is a fee dispute between the  
3 immigration assistant and the customer.

4 (4) Represent or advertise, in connection with the  
5 provision of assistance in immigration matters, other  
6 titles of credentials, including but not limited to  
7 "notary public" or "immigration consultant," that could  
8 cause a customer to believe that the person possesses  
9 special professional skills or is authorized to provide  
10 advice on an immigration matter; provided that a notary  
11 public appointed by the Illinois Secretary of State may  
12 use the term "notary public" if the use is accompanied by  
13 the statement that the person is not an attorney; the term  
14 "notary public" may not be translated to another language;  
15 for example "notario" is prohibited.

16 (5) Provide legal advice, recommend a specific course  
17 of legal action, or provide any other assistance that  
18 requires legal analysis, legal judgment, or interpretation  
19 of the law.

20 (6) Make any misrepresentation of false statement,  
21 directly or indirectly, to influence, persuade, or induce  
22 patronage.

23 (k) (Blank).

24 (l) (Blank).

25 (m) Any person who violates any provision of this Section,  
26 or the rules and regulations issued under this Section, shall

1 be guilty of a Class A misdemeanor for a first offense and a  
2 Class 3 felony for a second or subsequent offense committed  
3 within 5 years of a previous conviction for the same offense.

4 Upon his own information or upon the complaint of any  
5 person, the Attorney General or any State's Attorney, or a  
6 municipality with a population of more than 1,000,000, may  
7 maintain an action for injunctive relief and also seek a civil  
8 penalty not exceeding \$50,000 in the circuit court against any  
9 person who violates any provision of this Section. These  
10 remedies are in addition to, and not in substitution for,  
11 other available remedies.

12 If the Attorney General or any State's Attorney or a  
13 municipality with a population of more than 1,000,000 fails to  
14 bring an action as provided under this Section any person may  
15 file a civil action to enforce the provisions of this Article  
16 and maintain an action for injunctive relief, for compensatory  
17 damages to recover prohibited fees, or for such additional  
18 relief as may be appropriate to deter, prevent, or compensate  
19 for the violation. In order to deter violations of this  
20 Section, courts shall not require a showing of the traditional  
21 elements for equitable relief. A prevailing plaintiff may be  
22 awarded 3 times the prohibited fees or a minimum of \$1,000 in  
23 punitive damages, attorney's fees, and costs of bringing an  
24 action under this Section. It is the express intention of the  
25 General Assembly that remedies for violation of this Section  
26 be cumulative.

1 (n) No unit of local government, including any home rule  
2 unit, shall have the authority to regulate immigration  
3 assistance services unless such regulations are at least as  
4 stringent as those contained in Public Act 87-1211. It is  
5 declared to be the law of this State, pursuant to paragraph (i)  
6 of Section 6 of Article VII of the Illinois Constitution of  
7 1970, that Public Act 87-1211 is a limitation on the authority  
8 of a home rule unit to exercise powers concurrently with the  
9 State. The limitations of this Section do not apply to a home  
10 rule unit that has, prior to January 1, 1993 (the effective  
11 date of Public Act 87-1211), adopted an ordinance regulating  
12 immigration assistance services.

13 (o) This Section is severable under Section 1.31 of the  
14 Statute on Statutes.

15 (p) The Attorney General shall issue rules not  
16 inconsistent with this Section for the implementation,  
17 administration, and enforcement of this Section. The rules may  
18 provide for the following:

19 (1) The content, print size, and print style of the  
20 signs required under subsection (e). Print sizes and  
21 styles may vary from language to language.

22 (2) Standard forms for use in the administration of  
23 this Section.

24 (3) Any additional requirements deemed necessary.

25 (Source: P.A. 99-679, eff. 1-1-17; 100-863, eff. 8-14-18.)

1 Section 210. The Workers' Compensation Act is amended by  
2 changing Sections 1 and 7 as follows:

3 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

4 Sec. 1. This Act may be cited as the Workers' Compensation  
5 Act.

6 (a) The term "employer" as used in this Act means:

7 1. The State and each county, city, town, township,  
8 incorporated village, school district, body politic, or  
9 municipal corporation therein.

10 2. Every person, firm, public or private corporation,  
11 including hospitals, public service, eleemosynary, religious  
12 or charitable corporations or associations who has any person  
13 in service or under any contract for hire, express or implied,  
14 oral or written, and who is engaged in any of the enterprises  
15 or businesses enumerated in Section 3 of this Act, or who at or  
16 prior to the time of the accident to the employee for which  
17 compensation under this Act may be claimed, has in the manner  
18 provided in this Act elected to become subject to the  
19 provisions of this Act, and who has not, prior to such  
20 accident, effected a withdrawal of such election in the manner  
21 provided in this Act.

22 3. Any one engaging in any business or enterprise referred  
23 to in subsections 1 and 2 of Section 3 of this Act who  
24 undertakes to do any work enumerated therein, is liable to pay  
25 compensation to his own immediate employees in accordance with

1 the provisions of this Act, and in addition thereto if he  
2 directly or indirectly engages any contractor whether  
3 principal or sub-contractor to do any such work, he is liable  
4 to pay compensation to the employees of any such contractor or  
5 sub-contractor unless such contractor or sub-contractor has  
6 insured, in any company or association authorized under the  
7 laws of this State to insure the liability to pay compensation  
8 under this Act, or guaranteed his liability to pay such  
9 compensation. With respect to any time limitation on the  
10 filing of claims provided by this Act, the timely filing of a  
11 claim against a contractor or subcontractor, as the case may  
12 be, shall be deemed to be a timely filing with respect to all  
13 persons upon whom liability is imposed by this paragraph.

14 In the event any such person pays compensation under this  
15 subsection he may recover the amount thereof from the  
16 contractor or sub-contractor, if any, and in the event the  
17 contractor pays compensation under this subsection he may  
18 recover the amount thereof from the sub-contractor, if any.

19 This subsection does not apply in any case where the  
20 accident occurs elsewhere than on, in or about the immediate  
21 premises on which the principal has contracted that the work  
22 be done.

23 4. Where an employer operating under and subject to the  
24 provisions of this Act loans an employee to another such  
25 employer and such loaned employee sustains a compensable  
26 accidental injury in the employment of such borrowing employer

1 and where such borrowing employer does not provide or pay the  
2 benefits or payments due such injured employee, such loaning  
3 employer is liable to provide or pay all benefits or payments  
4 due such employee under this Act and as to such employee the  
5 liability of such loaning and borrowing employers is joint and  
6 several, provided that such loaning employer is in the absence  
7 of agreement to the contrary entitled to receive from such  
8 borrowing employer full reimbursement for all sums paid or  
9 incurred pursuant to this paragraph together with reasonable  
10 attorneys' fees and expenses in any hearings before the  
11 Illinois Workers' Compensation Commission or in any action to  
12 secure such reimbursement. Where any benefit is provided or  
13 paid by such loaning employer the employee has the duty of  
14 rendering reasonable cooperation in any hearings, trials or  
15 proceedings in the case, including such proceedings for  
16 reimbursement.

17 Where an employee files an Application for Adjustment of  
18 Claim with the Illinois Workers' Compensation Commission  
19 alleging that his claim is covered by the provisions of the  
20 preceding paragraph, and joining both the alleged loaning and  
21 borrowing employers, they and each of them, upon written  
22 demand by the employee and within 7 days after receipt of such  
23 demand, shall have the duty of filing with the Illinois  
24 Workers' Compensation Commission a written admission or denial  
25 of the allegation that the claim is covered by the provisions  
26 of the preceding paragraph and in default of such filing or if



1 any such denial be ultimately determined not to have been bona  
2 fide then the provisions of Paragraph K of Section 19 of this  
3 Act shall apply.

4 An employer whose business or enterprise or a substantial  
5 part thereof consists of hiring, procuring or furnishing  
6 employees to or for other employers operating under and  
7 subject to the provisions of this Act for the performance of  
8 the work of such other employers and who pays such employees  
9 their salary or wages notwithstanding that they are doing the  
10 work of such other employers shall be deemed a loaning  
11 employer within the meaning and provisions of this Section.

12 (b) The term "employee" as used in this Act means:

13 1. Every person in the service of the State, including  
14 members of the General Assembly, members of the Commerce  
15 Commission, members of the Illinois Workers' Compensation  
16 Commission, and all persons in the service of the University  
17 of Illinois, county, including deputy sheriffs and assistant  
18 state's attorneys, city, town, township, incorporated village  
19 or school district, body politic, or municipal corporation  
20 therein, whether by election, under appointment or contract of  
21 hire, express or implied, oral or written, including all  
22 members of the Illinois National Guard while on active duty in  
23 the service of the State, and all probation personnel of the  
24 Juvenile Court appointed pursuant to Article VI of the  
25 Juvenile Court Act of 1987, and including any official of the  
26 State, any county, city, town, township, incorporated village,

1 school district, body politic or municipal corporation therein  
2 except any duly appointed member of a police department in any  
3 city whose population exceeds 500,000 according to the last  
4 Federal or State census, and except any member of a fire  
5 insurance patrol maintained by a board of underwriters in this  
6 State. A duly appointed member of a fire department in any  
7 city, the population of which exceeds 500,000 according to the  
8 last federal or State census, is an employee under this Act  
9 only with respect to claims brought under paragraph (c) of  
10 Section 8.

11 One employed by a contractor who has contracted with the  
12 State, or a county, city, town, township, incorporated  
13 village, school district, body politic or municipal  
14 corporation therein, through its representatives, is not  
15 considered as an employee of the State, county, city, town,  
16 township, incorporated village, school district, body politic  
17 or municipal corporation which made the contract.

18 2. Every person in the service of another under any  
19 contract of hire, express or implied, oral or written,  
20 including persons whose employment is outside of the State of  
21 Illinois where the contract of hire is made within the State of  
22 Illinois, persons whose employment results in fatal or  
23 non-fatal injuries within the State of Illinois where the  
24 contract of hire is made outside of the State of Illinois, and  
25 persons whose employment is principally localized within the  
26 State of Illinois, regardless of the place of the accident or

1 the place where the contract of hire was made, and including  
2 noncitizens ~~aliens~~, and minors who, for the purpose of this  
3 Act are considered the same and have the same power to  
4 contract, receive payments and give quittances therefor, as  
5 adult employees.

6 3. Every sole proprietor and every partner of a business  
7 may elect to be covered by this Act.

8 An employee or his dependents under this Act who shall  
9 have a cause of action by reason of any injury, disablement or  
10 death arising out of and in the course of his employment may  
11 elect to pursue his remedy in the State where injured or  
12 disabled, or in the State where the contract of hire is made,  
13 or in the State where the employment is principally localized.

14 However, any employer may elect to provide and pay  
15 compensation to any employee other than those engaged in the  
16 usual course of the trade, business, profession or occupation  
17 of the employer by complying with Sections 2 and 4 of this Act.  
18 Employees are not included within the provisions of this Act  
19 when excluded by the laws of the United States relating to  
20 liability of employers to their employees for personal  
21 injuries where such laws are held to be exclusive.

22 The term "employee" does not include persons performing  
23 services as real estate broker, broker-salesman, or salesman  
24 when such persons are paid by commission only.

25 (c) "Commission" means the Industrial Commission created  
26 by Section 5 of "The Civil Administrative Code of Illinois",

1 approved March 7, 1917, as amended, or the Illinois Workers'  
2 Compensation Commission created by Section 13 of this Act.

3 (d) To obtain compensation under this Act, an employee  
4 bears the burden of showing, by a preponderance of the  
5 evidence, that he or she has sustained accidental injuries  
6 arising out of and in the course of the employment.

7 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11;  
8 97-813, eff. 7-13-12.)

9 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

10 Sec. 7. The amount of compensation which shall be paid for  
11 an accidental injury to the employee resulting in death is:

12 (a) If the employee leaves surviving a widow, widower,  
13 child or children, the applicable weekly compensation rate  
14 computed in accordance with subparagraph 2 of paragraph (b) of  
15 Section 8, shall be payable during the life of the widow or  
16 widower and if any surviving child or children shall not be  
17 physically or mentally incapacitated then until the death of  
18 the widow or widower or until the youngest child shall reach  
19 the age of 18, whichever shall come later; provided that if  
20 such child or children shall be enrolled as a full time student  
21 in any accredited educational institution, the payments shall  
22 continue until such child has attained the age of 25. In the  
23 event any surviving child or children shall be physically or  
24 mentally incapacitated, the payments shall continue for the  
25 duration of such incapacity.

1           The term "child" means a child whom the deceased employee  
2 left surviving, including a posthumous child, a child legally  
3 adopted, a child whom the deceased employee was legally  
4 obligated to support or a child to whom the deceased employee  
5 stood in loco parentis. The term "children" means the plural  
6 of "child".

7           The term "physically or mentally incapacitated child or  
8 children" means a child or children incapable of engaging in  
9 regular and substantial gainful employment.

10           In the event of the remarriage of a widow or widower, where  
11 the decedent did not leave surviving any child or children  
12 who, at the time of such remarriage, are entitled to  
13 compensation benefits under this Act, the surviving spouse  
14 shall be paid a lump sum equal to 2 years compensation benefits  
15 and all further rights of such widow or widower shall be  
16 extinguished.

17           If the employee leaves surviving any child or children  
18 under 18 years of age who at the time of death shall be  
19 entitled to compensation under this paragraph (a) of this  
20 Section, the weekly compensation payments herein provided for  
21 such child or children shall in any event continue for a period  
22 of not less than 6 years.

23           Any beneficiary entitled to compensation under this  
24 paragraph (a) of this Section shall receive from the special  
25 fund provided in paragraph (f) of this Section, in addition to  
26 the compensation herein provided, supplemental benefits in

1 accordance with paragraph (g) of Section 8.

2 (b) If no compensation is payable under paragraph (a) of  
3 this Section and the employee leaves surviving a parent or  
4 parents who at the time of the accident were totally dependent  
5 upon the earnings of the employee then weekly payments equal  
6 to the compensation rate payable in the case where the  
7 employee leaves surviving a widow or widower, shall be paid to  
8 such parent or parents for the duration of their lives, and in  
9 the event of the death of either, for the life of the survivor.

10 (c) If no compensation is payable under paragraphs (a) or  
11 (b) of this Section and the employee leaves surviving any  
12 child or children who are not entitled to compensation under  
13 the foregoing paragraph (a) but who at the time of the accident  
14 were nevertheless in any manner dependent upon the earnings of  
15 the employee, or leaves surviving a parent or parents who at  
16 the time of the accident were partially dependent upon the  
17 earnings of the employee, then there shall be paid to such  
18 dependent or dependents for a period of 8 years weekly  
19 compensation payments at such proportion of the applicable  
20 rate if the employee had left surviving a widow or widower as  
21 such dependency bears to total dependency. In the event of the  
22 death of any such beneficiary the share of such beneficiary  
23 shall be divided equally among the surviving beneficiaries and  
24 in the event of the death of the last such beneficiary all the  
25 rights under this paragraph shall be extinguished.

26 (d) If no compensation is payable under paragraphs (a),

1 (b) or (c) of this Section and the employee leaves surviving  
2 any grandparent, grandparents, grandchild or grandchildren or  
3 collateral heirs dependent upon the employee's earnings to the  
4 extent of 50% or more of total dependency, then there shall be  
5 paid to such dependent or dependents for a period of 5 years  
6 weekly compensation payments at such proportion of the  
7 applicable rate if the employee had left surviving a widow or  
8 widower as such dependency bears to total dependency. In the  
9 event of the death of any such beneficiary the share of such  
10 beneficiary shall be divided equally among the surviving  
11 beneficiaries and in the event of the death of the last such  
12 beneficiary all rights hereunder shall be extinguished.

13 (e) The compensation to be paid for accidental injury  
14 which results in death, as provided in this Section, shall be  
15 paid to the persons who form the basis for determining the  
16 amount of compensation to be paid by the employer, the  
17 respective shares to be in the proportion of their respective  
18 dependency at the time of the accident on the earnings of the  
19 deceased. The Commission or an Arbitrator thereof may, in its  
20 or his discretion, order or award the payment to the parent or  
21 grandparent of a child for the latter's support the amount of  
22 compensation which but for such order or award would have been  
23 paid to such child as its share of the compensation payable,  
24 which order or award may be modified from time to time by the  
25 Commission in its discretion with respect to the person to  
26 whom shall be paid the amount of the order or award remaining

1 unpaid at the time of the modification.

2 The payments of compensation by the employer in accordance  
3 with the order or award of the Commission discharges such  
4 employer from all further obligation as to such compensation.

5 (f) The sum of \$8,000 for burial expenses shall be paid by  
6 the employer to the widow or widower, other dependent, next of  
7 kin or to the person or persons incurring the expense of  
8 burial.

9 In the event the employer failed to provide necessary  
10 first aid, medical, surgical or hospital service, he shall pay  
11 the cost thereof to the person or persons entitled to  
12 compensation under paragraphs (a), (b), (c) or (d) of this  
13 Section, or to the person or persons incurring the obligation  
14 therefore, or providing the same.

15 On January 15 and July 15, 1981, and on January 15 and July  
16 15 of each year thereafter the employer shall within 60 days  
17 pay a sum equal to 1/8 of 1% of all compensation payments made  
18 by him after July 1, 1980, either under this Act or the  
19 Workers' Occupational Diseases Act, whether by lump sum  
20 settlement or weekly compensation payments, but not including  
21 hospital, surgical or rehabilitation payments, made during the  
22 first 6 months and during the second 6 months respectively of  
23 the fiscal year next preceding the date of the payments, into a  
24 special fund which shall be designated the "Second Injury  
25 Fund", of which the State Treasurer is ex-officio custodian,  
26 such special fund to be held and disbursed for the purposes



1 hereinafter stated in paragraphs (f) and (g) of Section 8,  
2 either upon the order of the Commission or of a competent  
3 court. Said special fund shall be deposited the same as are  
4 State funds and any interest accruing thereon shall be added  
5 thereto every 6 months. It is subject to audit the same as  
6 State funds and accounts and is protected by the General bond  
7 given by the State Treasurer. It is considered always  
8 appropriated for the purposes of disbursements as provided in  
9 Section 8, paragraph (f), of this Act, and shall be paid out  
10 and disbursed as therein provided and shall not at any time be  
11 appropriated or diverted to any other use or purpose.

12 On January 15, 1991, the employer shall further pay a sum  
13 equal to one half of 1% of all compensation payments made by  
14 him from January 1, 1990 through June 30, 1990 either under  
15 this Act or under the Workers' Occupational Diseases Act,  
16 whether by lump sum settlement or weekly compensation  
17 payments, but not including hospital, surgical or  
18 rehabilitation payments, into an additional Special Fund which  
19 shall be designated as the "Rate Adjustment Fund". On March  
20 15, 1991, the employer shall pay into the Rate Adjustment Fund  
21 a sum equal to one half of 1% of all such compensation payments  
22 made from July 1, 1990 through December 31, 1990. Within 60  
23 days after July 15, 1991, the employer shall pay into the Rate  
24 Adjustment Fund a sum equal to one half of 1% of all such  
25 compensation payments made from January 1, 1991 through June  
26 30, 1991. Within 60 days after January 15 of 1992 and each

1 subsequent year through 1996, the employer shall pay into the  
2 Rate Adjustment Fund a sum equal to one half of 1% of all such  
3 compensation payments made in the last 6 months of the  
4 preceding calendar year. Within 60 days after July 15 of 1992  
5 and each subsequent year through 1995, the employer shall pay  
6 into the Rate Adjustment Fund a sum equal to one half of 1% of  
7 all such compensation payments made in the first 6 months of  
8 the same calendar year. Within 60 days after January 15 of 1997  
9 and each subsequent year through 2005, the employer shall pay  
10 into the Rate Adjustment Fund a sum equal to three-fourths of  
11 1% of all such compensation payments made in the last 6 months  
12 of the preceding calendar year. Within 60 days after July 15 of  
13 1996 and each subsequent year through 2004, the employer shall  
14 pay into the Rate Adjustment Fund a sum equal to three-fourths  
15 of 1% of all such compensation payments made in the first 6  
16 months of the same calendar year. Within 60 days after July 15  
17 of 2005, the employer shall pay into the Rate Adjustment Fund a  
18 sum equal to 1% of such compensation payments made in the first  
19 6 months of the same calendar year. Within 60 days after  
20 January 15 of 2006 and each subsequent year, the employer  
21 shall pay into the Rate Adjustment Fund a sum equal to 1.25% of  
22 such compensation payments made in the last 6 months of the  
23 preceding calendar year. Within 60 days after July 15 of 2006  
24 and each subsequent year, the employer shall pay into the Rate  
25 Adjustment Fund a sum equal to 1.25% of such compensation  
26 payments made in the first 6 months of the same calendar year.

1 The administrative costs of collecting assessments from  
2 employers for the Rate Adjustment Fund shall be paid from the  
3 Rate Adjustment Fund. The cost of an actuarial audit of the  
4 Fund shall be paid from the Rate Adjustment Fund. The State  
5 Treasurer is ex officio custodian of such Special Fund and the  
6 same shall be held and disbursed for the purposes hereinafter  
7 stated in paragraphs (f) and (g) of Section 8 upon the order of  
8 the Commission or of a competent court. The Rate Adjustment  
9 Fund shall be deposited the same as are State funds and any  
10 interest accruing thereon shall be added thereto every 6  
11 months. It shall be subject to audit the same as State funds  
12 and accounts and shall be protected by the general bond given  
13 by the State Treasurer. It is considered always appropriated  
14 for the purposes of disbursements as provided in paragraphs  
15 (f) and (g) of Section 8 of this Act and shall be paid out and  
16 disbursed as therein provided and shall not at any time be  
17 appropriated or diverted to any other use or purpose. Within 5  
18 days after the effective date of this amendatory Act of 1990,  
19 the Comptroller and the State Treasurer shall transfer  
20 \$1,000,000 from the General Revenue Fund to the Rate  
21 Adjustment Fund. By February 15, 1991, the Comptroller and the  
22 State Treasurer shall transfer \$1,000,000 from the Rate  
23 Adjustment Fund to the General Revenue Fund. The Comptroller  
24 and Treasurer are authorized to make transfers at the request  
25 of the Chairman up to a total of \$19,000,000 from the Second  
26 Injury Fund, the General Revenue Fund, and the Workers'

1 Compensation Benefit Trust Fund to the Rate Adjustment Fund to  
2 the extent that there is insufficient money in the Rate  
3 Adjustment Fund to pay claims and obligations. Amounts may be  
4 transferred from the General Revenue Fund only if the funds in  
5 the Second Injury Fund or the Workers' Compensation Benefit  
6 Trust Fund are insufficient to pay claims and obligations of  
7 the Rate Adjustment Fund. All amounts transferred from the  
8 Second Injury Fund, the General Revenue Fund, and the Workers'  
9 Compensation Benefit Trust Fund shall be repaid from the Rate  
10 Adjustment Fund within 270 days of a transfer, together with  
11 interest at the rate earned by moneys on deposit in the Fund or  
12 Funds from which the moneys were transferred.

13       Upon a finding by the Commission, after reasonable notice  
14 and hearing, that any employer has willfully and knowingly  
15 failed to pay the proper amounts into the Second Injury Fund or  
16 the Rate Adjustment Fund required by this Section or if such  
17 payments are not made within the time periods prescribed by  
18 this Section, the employer shall, in addition to such  
19 payments, pay a penalty of 20% of the amount required to be  
20 paid or \$2,500, whichever is greater, for each year or part  
21 thereof of such failure to pay. This penalty shall only apply  
22 to obligations of an employer to the Second Injury Fund or the  
23 Rate Adjustment Fund accruing after the effective date of this  
24 amendatory Act of 1989. All or part of such a penalty may be  
25 waived by the Commission for good cause shown.

26       Any obligations of an employer to the Second Injury Fund

1 and Rate Adjustment Fund accruing prior to the effective date  
2 of this amendatory Act of 1989 shall be paid in full by such  
3 employer within 5 years of the effective date of this  
4 amendatory Act of 1989, with at least one-fifth of such  
5 obligation to be paid during each year following the effective  
6 date of this amendatory Act of 1989. If the Commission finds,  
7 following reasonable notice and hearing, that an employer has  
8 failed to make timely payment of any obligation accruing under  
9 the preceding sentence, the employer shall, in addition to all  
10 other payments required by this Section, be liable for a  
11 penalty equal to 20% of the overdue obligation or \$2,500,  
12 whichever is greater, for each year or part thereof that  
13 obligation is overdue. All or part of such a penalty may be  
14 waived by the Commission for good cause shown.

15 The Chairman of the Illinois Workers' Compensation  
16 Commission shall, annually, furnish to the Director of the  
17 Department of Insurance a list of the amounts paid into the  
18 Second Injury Fund and the Rate Adjustment Fund by each  
19 insurance company on behalf of their insured employers. The  
20 Director shall verify to the Chairman that the amounts paid by  
21 each insurance company are accurate as best as the Director  
22 can determine from the records available to the Director. The  
23 Chairman shall verify that the amounts paid by each  
24 self-insurer are accurate as best as the Chairman can  
25 determine from records available to the Chairman. The Chairman  
26 may require each self-insurer to provide information

1 concerning the total compensation payments made upon which  
2 contributions to the Second Injury Fund and the Rate  
3 Adjustment Fund are predicated and any additional information  
4 establishing that such payments have been made into these  
5 funds. Any deficiencies in payments noted by the Director or  
6 Chairman shall be subject to the penalty provisions of this  
7 Act.

8 The State Treasurer, or his duly authorized  
9 representative, shall be named as a party to all proceedings  
10 in all cases involving claim for the loss of, or the permanent  
11 and complete loss of the use of one eye, one foot, one leg, one  
12 arm or one hand.

13 The State Treasurer or his duly authorized agent shall  
14 have the same rights as any other party to the proceeding,  
15 including the right to petition for review of any award. The  
16 reasonable expenses of litigation, such as medical  
17 examinations, testimony, and transcript of evidence, incurred  
18 by the State Treasurer or his duly authorized representative,  
19 shall be borne by the Second Injury Fund.

20 If the award is not paid within 30 days after the date the  
21 award has become final, the Commission shall proceed to take  
22 judgment thereon in its own name as is provided for other  
23 awards by paragraph (g) of Section 19 of this Act and take the  
24 necessary steps to collect the award.

25 Any person, corporation or organization who has paid or  
26 become liable for the payment of burial expenses of the

1 deceased employee may in his or its own name institute  
2 proceedings before the Commission for the collection thereof.

3 For the purpose of administration, receipts and  
4 disbursements, the Special Fund provided for in paragraph (f)  
5 of this Section shall be administered jointly with the Special  
6 Fund provided for in Section 7, paragraph (f) of the Workers'  
7 Occupational Diseases Act.

8 (g) All compensation, except for burial expenses provided  
9 in this Section to be paid in case accident results in death,  
10 shall be paid in installments equal to the percentage of the  
11 average earnings as provided for in Section 8, paragraph (b)  
12 of this Act, at the same intervals at which the wages or  
13 earnings of the employees were paid. If this is not feasible,  
14 then the installments shall be paid weekly. Such compensation  
15 may be paid in a lump sum upon petition as provided in Section  
16 9 of this Act. However, in addition to the benefits provided by  
17 Section 9 of this Act where compensation for death is payable  
18 to the deceased's widow, widower or to the deceased's widow,  
19 widower and one or more children, and where a partial lump sum  
20 is applied for by such beneficiary or beneficiaries within 18  
21 months after the deceased's death, the Commission may, in its  
22 discretion, grant a partial lump sum of not to exceed 100 weeks  
23 of the compensation capitalized at their present value upon  
24 the basis of interest calculated at 3% per annum with annual  
25 rests, upon a showing that such partial lump sum is for the  
26 best interest of such beneficiary or beneficiaries.

1 (h) In case the injured employee is under 16 years of age  
2 at the time of the accident and is illegally employed, the  
3 amount of compensation payable under paragraphs (a), (b), (c),  
4 (d) and (f) of this Section shall be increased 50%.

5 Nothing herein contained repeals or amends the provisions  
6 of the Child Labor Law relating to the employment of minors  
7 under the age of 16 years.

8 However, where an employer has on file an employment  
9 certificate issued pursuant to the Child Labor Law or work  
10 permit issued pursuant to the Federal Fair Labor Standards  
11 Act, as amended, or a birth certificate properly and duly  
12 issued, such certificate, permit or birth certificate is  
13 conclusive evidence as to the age of the injured minor  
14 employee for the purposes of this Section only.

15 (i) Whenever the dependents of a deceased employee are  
16 noncitizens ~~aliens~~ not residing in the United States, Mexico  
17 or Canada, the amount of compensation payable is limited to  
18 the beneficiaries described in paragraphs (a), (b) and (c) of  
19 this Section and is 50% of the compensation provided in  
20 paragraphs (a), (b) and (c) of this Section, except as  
21 otherwise provided by treaty.

22 In a case where any of the persons who would be entitled to  
23 compensation is living at any place outside of the United  
24 States, then payment shall be made to the personal  
25 representative of the deceased employee. The distribution by  
26 such personal representative to the persons entitled shall be



1 made to such persons and in such manner as the Commission  
2 orders.

3 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;  
4 94-695, eff. 11-16-05.)

5 Section 215. The Workers' Occupational Diseases Act is  
6 amended by changing Section 1 as follows:

7 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

8 Sec. 1. This Act shall be known and may be cited as the  
9 "Workers' Occupational Diseases Act".

10 (a) The term "employer" as used in this Act shall be  
11 construed to be:

12 1. The State and each county, city, town, township,  
13 incorporated village, school district, body politic, or  
14 municipal corporation therein.

15 2. Every person, firm, public or private corporation,  
16 including hospitals, public service, eleemosynary,  
17 religious or charitable corporations or associations, who  
18 has any person in service or under any contract for hire,  
19 express or implied, oral or written.

20 3. Where an employer operating under and subject to  
21 the provisions of this Act loans an employee to another  
22 such employer and such loaned employee sustains a  
23 compensable occupational disease in the employment of such  
24 borrowing employer and where such borrowing employer does

1 not provide or pay the benefits or payments due such  
2 employee, such loaning employer shall be liable to provide  
3 or pay all benefits or payments due such employee under  
4 this Act and as to such employee the liability of such  
5 loaning and borrowing employers shall be joint and  
6 several, provided that such loaning employer shall in the  
7 absence of agreement to the contrary be entitled to  
8 receive from such borrowing employer full reimbursement  
9 for all sums paid or incurred pursuant to this paragraph  
10 together with reasonable attorneys' fees and expenses in  
11 any hearings before the Illinois Workers' Compensation  
12 Commission or in any action to secure such reimbursement.  
13 Where any benefit is provided or paid by such loaning  
14 employer, the employee shall have the duty of rendering  
15 reasonable co-operation in any hearings, trials or  
16 proceedings in the case, including such proceedings for  
17 reimbursement.

18 Where an employee files an Application for Adjustment  
19 of Claim with the Illinois Workers' Compensation  
20 Commission alleging that his or her claim is covered by  
21 the provisions of the preceding paragraph, and joining  
22 both the alleged loaning and borrowing employers, they and  
23 each of them, upon written demand by the employee and  
24 within 7 days after receipt of such demand, shall have the  
25 duty of filing with the Illinois Workers' Compensation  
26 Commission a written admission or denial of the allegation

1           that the claim is covered by the provisions of the  
2 preceding paragraph and in default of such filing or if  
3 any such denial be ultimately determined not to have been  
4 bona fide then the provisions of Paragraph K of Section 19  
5 of this Act shall apply.

6           An employer whose business or enterprise or a  
7 substantial part thereof consists of hiring, procuring or  
8 furnishing employees to or for other employers operating  
9 under and subject to the provisions of this Act for the  
10 performance of the work of such other employers and who  
11 pays such employees their salary or wage notwithstanding  
12 that they are doing the work of such other employers shall  
13 be deemed a loaning employer within the meaning and  
14 provisions of this Section.

15           (b) The term "employee" as used in this Act, shall be  
16 construed to mean:

17           1. Every person in the service of the State, county,  
18 city, town, township, incorporated village or school  
19 district, body politic or municipal corporation therein,  
20 whether by election, appointment or contract of hire,  
21 express or implied, oral or written, including any  
22 official of the State, or of any county, city, town,  
23 township, incorporated village, school district, body  
24 politic or municipal corporation therein and except any  
25 duly appointed member of the fire department in any city  
26 whose population exceeds 500,000 according to the last

1 Federal or State census, and except any member of a fire  
2 insurance patrol maintained by a board of underwriters in  
3 this State. One employed by a contractor who has  
4 contracted with the State, or a county, city, town,  
5 township, incorporated village, school district, body  
6 politic or municipal corporation therein, through its  
7 representatives, shall not be considered as an employee of  
8 the State, county, city, town, township, incorporated  
9 village, school district, body politic or municipal  
10 corporation which made the contract.

11 2. Every person in the service of another under any  
12 contract of hire, express or implied, oral or written, who  
13 contracts an occupational disease while working in the  
14 State of Illinois, or who contracts an occupational  
15 disease while working outside of the State of Illinois but  
16 where the contract of hire is made within the State of  
17 Illinois, and any person whose employment is principally  
18 localized within the State of Illinois, regardless of the  
19 place where the disease was contracted or place where the  
20 contract of hire was made, including noncitizens ~~aliens~~,  
21 and minors who, for the purpose of this Act, except  
22 Section 3 hereof, shall be considered the same and have  
23 the same power to contract, receive payments and give  
24 quittances therefor, as adult employees. An employee or  
25 his or her dependents under this Act who shall have a cause  
26 of action by reason of an occupational disease,

1           disablement or death arising out of and in the course of  
2           his or her employment may elect or pursue his or her remedy  
3           in the State where the disease was contracted, or in the  
4           State where the contract of hire is made, or in the State  
5           where the employment is principally localized.

6           (c) "Commission" means the Illinois Workers' Compensation  
7           Commission created by the Workers' Compensation Act, approved  
8           July 9, 1951, as amended.

9           (d) In this Act the term "Occupational Disease" means a  
10          disease arising out of and in the course of the employment or  
11          which has become aggravated and rendered disabling as a result  
12          of the exposure of the employment. Such aggravation shall  
13          arise out of a risk peculiar to or increased by the employment  
14          and not common to the general public.

15          A disease shall be deemed to arise out of the employment if  
16          there is apparent to the rational mind, upon consideration of  
17          all the circumstances, a causal connection between the  
18          conditions under which the work is performed and the  
19          occupational disease. The disease need not to have been  
20          foreseen or expected but after its contraction it must appear  
21          to have had its origin or aggravation in a risk connected with  
22          the employment and to have flowed from that source as a  
23          rational consequence.

24          An employee shall be conclusively deemed to have been  
25          exposed to the hazards of an occupational disease when, for  
26          any length of time however short, he or she is employed in an

1 occupation or process in which the hazard of the disease  
2 exists; provided however, that in a claim of exposure to  
3 atomic radiation, the fact of such exposure must be verified  
4 by the records of the central registry of radiation exposure  
5 maintained by the Department of Public Health or by some other  
6 recognized governmental agency maintaining records of such  
7 exposures whenever and to the extent that the records are on  
8 file with the Department of Public Health or the agency.

9 Any injury to or disease or death of an employee arising  
10 from the administration of a vaccine, including without  
11 limitation smallpox vaccine, to prepare for, or as a response  
12 to, a threatened or potential bioterrorist incident to the  
13 employee as part of a voluntary inoculation program in  
14 connection with the person's employment or in connection with  
15 any governmental program or recommendation for the inoculation  
16 of workers in the employee's occupation, geographical area, or  
17 other category that includes the employee is deemed to arise  
18 out of and in the course of the employment for all purposes  
19 under this Act. This paragraph added by Public Act 93-829 is  
20 declarative of existing law and is not a new enactment.

21 The employer liable for the compensation in this Act  
22 provided shall be the employer in whose employment the  
23 employee was last exposed to the hazard of the occupational  
24 disease claimed upon regardless of the length of time of such  
25 last exposure, except, in cases of silicosis or asbestosis,  
26 the only employer liable shall be the last employer in whose

1 employment the employee was last exposed during a period of 60  
2 days or more after the effective date of this Act, to the  
3 hazard of such occupational disease, and, in such cases, an  
4 exposure during a period of less than 60 days, after the  
5 effective date of this Act, shall not be deemed a last  
6 exposure. If a miner who is suffering or suffered from  
7 pneumoconiosis was employed for 10 years or more in one or more  
8 coal mines there shall, effective July 1, 1973 be a rebuttable  
9 presumption that his or her pneumoconiosis arose out of such  
10 employment.

11 If a deceased miner was employed for 10 years or more in  
12 one or more coal mines and died from a respirable disease there  
13 shall, effective July 1, 1973, be a rebuttable presumption  
14 that his or her death was due to pneumoconiosis.

15 Any condition or impairment of health of an employee  
16 employed as a firefighter, emergency medical technician (EMT),  
17 emergency medical technician-intermediate (EMT-I), advanced  
18 emergency medical technician (A-EMT), or paramedic which  
19 results directly or indirectly from any bloodborne pathogen,  
20 lung or respiratory disease or condition, heart or vascular  
21 disease or condition, hypertension, tuberculosis, or cancer  
22 resulting in any disability (temporary, permanent, total, or  
23 partial) to the employee shall be rebuttably presumed to arise  
24 out of and in the course of the employee's firefighting, EMT,  
25 EMT-I, A-EMT, or paramedic employment and, further, shall be  
26 rebuttably presumed to be causally connected to the hazards or

1 exposures of the employment. This presumption shall also apply  
2 to any hernia or hearing loss suffered by an employee employed  
3 as a firefighter, EMT, EMT-I, A-EMT, or paramedic. However,  
4 this presumption shall not apply to any employee who has been  
5 employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for  
6 less than 5 years at the time he or she files an Application  
7 for Adjustment of Claim concerning this condition or  
8 impairment with the Illinois Workers' Compensation Commission.  
9 The rebuttable presumption established under this subsection,  
10 however, does not apply to an emergency medical technician  
11 (EMT), emergency medical technician-intermediate (EMT-I),  
12 advanced emergency medical technician (A-EMT), or paramedic  
13 employed by a private employer if the employee spends the  
14 preponderance of his or her work time for that employer  
15 engaged in medical transfers between medical care facilities  
16 or non-emergency medical transfers to or from medical care  
17 facilities. The changes made to this subsection by this  
18 amendatory Act of the 98th General Assembly shall be narrowly  
19 construed. The Finding and Decision of the Illinois Workers'  
20 Compensation Commission under only the rebuttable presumption  
21 provision of this paragraph shall not be admissible or be  
22 deemed res judicata in any disability claim under the Illinois  
23 Pension Code arising out of the same medical condition;  
24 however, this sentence makes no change to the law set forth in  
25 *Krohe v. City of Bloomington*, 204 Ill.2d 392.

26 The insurance carrier liable shall be the carrier whose



1 policy was in effect covering the employer liable on the last  
2 day of the exposure rendering such employer liable in  
3 accordance with the provisions of this Act.

4 (e) "Disablement" means an impairment or partial  
5 impairment, temporary or permanent, in the function of the  
6 body or any of the members of the body, or the event of  
7 becoming disabled from earning full wages at the work in which  
8 the employee was engaged when last exposed to the hazards of  
9 the occupational disease by the employer from whom he or she  
10 claims compensation, or equal wages in other suitable  
11 employment; and "disability" means the state of being so  
12 incapacitated.

13 (f) No compensation shall be payable for or on account of  
14 any occupational disease unless disablement, as herein  
15 defined, occurs within two years after the last day of the last  
16 exposure to the hazards of the disease, except in cases of  
17 occupational disease caused by berylliosis or by the  
18 inhalation of silica dust or asbestos dust and, in such cases,  
19 within 3 years after the last day of the last exposure to the  
20 hazards of such disease and except in the case of occupational  
21 disease caused by exposure to radiological materials or  
22 equipment, and in such case, within 25 years after the last day  
23 of last exposure to the hazards of such disease.

24 (g) (1) In any proceeding before the Commission in which  
25 the employee is a COVID-19 first responder or front-line  
26 worker as defined in this subsection, if the employee's injury

1 or occupational disease resulted from exposure to and  
2 contraction of COVID-19, the exposure and contraction shall be  
3 rebuttably presumed to have arisen out of and in the course of  
4 the employee's first responder or front-line worker employment  
5 and the injury or occupational disease shall be rebuttably  
6 presumed to be causally connected to the hazards or exposures  
7 of the employee's first responder or front-line worker  
8 employment.

9 (2) The term "COVID-19 first responder or front-line  
10 worker" means: all individuals employed as police, fire  
11 personnel, emergency medical technicians, or paramedics; all  
12 individuals employed and considered as first responders; all  
13 workers for health care providers, including nursing homes and  
14 rehabilitation facilities and home care workers; corrections  
15 officers; and any individuals employed by essential businesses  
16 and operations as defined in Executive Order 2020-10 dated  
17 March 20, 2020, as long as individuals employed by essential  
18 businesses and operations are required by their employment to  
19 encounter members of the general public or to work in  
20 employment locations of more than 15 employees. For purposes  
21 of this subsection only, an employee's home or place of  
22 residence is not a place of employment, except for home care  
23 workers.

24 (3) The presumption created in this subsection may be  
25 rebutted by evidence, including, but not limited to, the  
26 following:

1           (A) the employee was working from his or her home, on  
2           leave from his or her employment, or some combination  
3           thereof, for a period of 14 or more consecutive days  
4           immediately prior to the employee's injury, occupational  
5           disease, or period of incapacity resulted from exposure to  
6           COVID-19; or

7           (B) the employer was engaging in and applying to the  
8           fullest extent possible or enforcing to the best of its  
9           ability industry-specific workplace sanitation, social  
10          distancing, and health and safety practices based on  
11          updated guidance issued by the Centers for Disease Control  
12          and Prevention or Illinois Department of Public Health or  
13          was using a combination of administrative controls,  
14          engineering controls, or personal protective equipment to  
15          reduce the transmission of COVID-19 to all employees for  
16          at least 14 consecutive days prior to the employee's  
17          injury, occupational disease, or period of incapacity  
18          resulting from exposure to COVID-19. For purposes of this  
19          subsection, "updated" means the guidance in effect at  
20          least 14 days prior to the COVID-19 diagnosis. For  
21          purposes of this subsection, "personal protective  
22          equipment" means industry-specific equipment worn to  
23          minimize exposure to hazards that cause illnesses or  
24          serious injuries, which may result from contact with  
25          biological, chemical, radiological, physical, electrical,  
26          mechanical, or other workplace hazards. "Personal

1 protective equipment" includes, but is not limited to,  
2 items such as face coverings, gloves, safety glasses,  
3 safety face shields, barriers, shoes, earplugs or muffs,  
4 hard hats, respirators, coveralls, vests, and full body  
5 suits; or

6 (C) the employee was exposed to COVID-19 by an  
7 alternate source.

8 (4) The rebuttable presumption created in this subsection  
9 applies to all cases tried after June 5, 2020 (the effective  
10 date of Public Act 101-633) and in which the diagnosis of  
11 COVID-19 was made on or after March 9, 2020 and on or before  
12 June 30, 2021 (including the period between December 31, 2020  
13 and the effective date of this amendatory Act of the 101st  
14 General Assembly).

15 (5) Under no circumstances shall any COVID-19 case  
16 increase or affect any employer's workers' compensation  
17 insurance experience rating or modification, but COVID-19  
18 costs may be included in determining overall State loss costs.

19 (6) In order for the presumption created in this  
20 subsection to apply at trial, for COVID-19 diagnoses occurring  
21 on or before June 15, 2020, an employee must provide a  
22 confirmed medical diagnosis by a licensed medical practitioner  
23 or a positive laboratory test for COVID-19 or for COVID-19  
24 antibodies; for COVID-19 diagnoses occurring after June 15,  
25 2020, an employee must provide a positive laboratory test for  
26 COVID-19 or for COVID-19 antibodies.

1           (7) The presumption created in this subsection does not  
2 apply if the employee's place of employment was solely the  
3 employee's home or residence for a period of 14 or more  
4 consecutive days immediately prior to the employee's injury,  
5 occupational disease, or period of incapacity resulted from  
6 exposure to COVID-19.

7           (8) The date of injury or the beginning of the employee's  
8 occupational disease or period of disability is either the  
9 date that the employee was unable to work due to contraction of  
10 COVID-19 or was unable to work due to symptoms that were later  
11 diagnosed as COVID-19, whichever came first.

12           (9) An employee who contracts COVID-19, but fails to  
13 establish the rebuttable presumption is not precluded from  
14 filing for compensation under this Act or under the Workers'  
15 Compensation Act.

16           (10) To qualify for temporary total disability benefits  
17 under the presumption created in this subsection, the employee  
18 must be certified for or recertified for temporary disability.

19           (11) An employer is entitled to a credit against any  
20 liability for temporary total disability due to an employee as  
21 a result of the employee contracting COVID-19 for (A) any sick  
22 leave benefits or extended salary benefits paid to the  
23 employee by the employer under Emergency Family Medical Leave  
24 Expansion Act, Emergency Paid Sick Leave Act of the Families  
25 First Coronavirus Response Act, or any other federal law, or  
26 (B) any other credit to which an employer is entitled under the

1 Workers' Compensation Act.

2 (Source: P.A. 101-633, eff. 6-5-20; 101-653, eff. 2-28-21.)

3 Section 220. The Unemployment Insurance Act is amended by  
4 changing Sections 211.4 and 614 as follows:

5 (820 ILCS 405/211.4) (from Ch. 48, par. 321.4)

6 Sec. 211.4. A. Notwithstanding any other provision of this  
7 Act, the term "employment" shall include service performed  
8 after December 31, 1977, by an individual in agricultural  
9 labor as defined in Section 214 when:

10 1. Such service is performed for an employing unit  
11 which (a) paid cash wages of \$20,000 or more during any  
12 calendar quarter in either the current or preceding  
13 calendar year to an individual or individuals employed in  
14 agricultural labor (not taking into account service in  
15 agricultural labor performed before January 1, 1980, by a  
16 noncitizen ~~an alien~~ referred to in paragraph 2); or (b)  
17 employed in agricultural labor (not taking into account  
18 service in agricultural labor performed before January 1,  
19 1980, by a noncitizen ~~an alien~~ referred to in paragraph 2)  
20 10 or more individuals within each of 20 or more calendar  
21 weeks (but not necessarily simultaneously and irrespective  
22 of whether the same individuals are or were employed in  
23 each such week), whether or not such weeks are or were  
24 consecutive, within either the current or preceding

1 calendar year.

2 2. Such service is not performed in agricultural labor  
3 if performed before January 1, 1980 or on or after the  
4 effective date of this amendatory Act of the 96th General  
5 Assembly, by an individual who is a noncitizen ~~an alien~~  
6 admitted to the United States to perform service in  
7 agricultural labor pursuant to Sections 214(c) and  
8 101(a)(15)(H) of the Immigration and Nationality Act.

9 B. For the purposes of this Section, any individual who is  
10 a member of a crew furnished by a crew leader to perform  
11 service in agricultural labor for any other employing unit  
12 shall be treated as performing service in the employ of such  
13 crew leader if (1) the leader holds a valid certificate of  
14 registration under the Farm Labor Contractor Registration Act  
15 of 1963, or substantially all the members of such crew operate  
16 or maintain tractors, mechanized harvesting or crop dusting  
17 equipment, or any other mechanized equipment, which is  
18 provided by the crew leader; and (2) the service of such  
19 individual is not in employment for such other employing unit  
20 within the meaning of subsections A and C of Section 212, and  
21 of Section 213.

22 C. For the purposes of this Section, any individual who is  
23 furnished by a crew leader to perform service in agricultural  
24 labor for any other employing unit, and who is not treated as  
25 performing service in the employ of such crew leader under  
26 subsection B, shall be treated as performing service in the

1 employ of such other employing unit, and such employing unit  
2 shall be treated as having paid cash wages to such individual  
3 in an amount equal to the amount of cash wages paid to the  
4 individual by the crew leader (either on his own behalf or on  
5 behalf of such other employing unit) for the service in  
6 agricultural labor performed for such other employing unit.

7 D. For the purposes of this Section, the term "crew  
8 leader" means an individual who (1) furnishes individuals to  
9 perform service in agricultural labor for any other employing  
10 unit; (2) pays (either on his own behalf or on behalf of such  
11 other employing unit) the individuals so furnished by him for  
12 the service in agricultural labor performed by them; and (3)  
13 has not entered into a written agreement with such other  
14 employing unit under which an individual so furnished by him  
15 is designated as performing services in the employ of such  
16 other employing unit.

17 (Source: P.A. 96-1208, eff. 1-1-11.)

18 (820 ILCS 405/614) (from Ch. 48, par. 444)

19 Sec. 614. Non-resident noncitizens ~~aliens~~ - ineligibility.  
20 A noncitizen ~~An alien~~ shall be ineligible for benefits for any  
21 week which begins after December 31, 1977, on the basis of  
22 wages for services performed by such noncitizen ~~alien~~, unless  
23 the noncitizen ~~alien~~ was an individual who was lawfully  
24 admitted for permanent residence at the time such services  
25 were performed or otherwise was permanently residing in the



1 United States under color of law at the time such services were  
2 performed (including a person ~~an alien~~ who was lawfully  
3 present in the United States as a result of the application of  
4 the provisions of Section 212(d) (5) of the Immigration and  
5 Nationality Act); provided, that any modifications of the  
6 provisions of Section 3304(a) (14) of the Federal Unemployment  
7 Tax Act which

8 A. Specify other conditions or another effective date  
9 than stated herein for ineligibility for benefits based on  
10 wages for services performed by noncitizens ~~aliens~~, and

11 B. Are required to be implemented under this Act as a  
12 condition for the Federal approval of this Act requisite  
13 to the full tax credit against the tax imposed by the  
14 Federal Act for contributions paid by employers pursuant  
15 to this Act, shall be applicable under the provisions of  
16 this Section.

17 Any data or information required of individuals who claim  
18 benefits for the purpose of determining whether benefits are  
19 not payable to them pursuant to this Section shall be  
20 uniformly required of all individuals who claim benefits.

21 If an individual would otherwise be eligible for benefits,  
22 no determination shall be made that such individual is  
23 ineligible for benefits pursuant to this Section because of  
24 the individual's noncitizen ~~alien~~ status, except upon a  
25 preponderance of the evidence.

26 (Source: P.A. 86-3; 87-122.)

1           Section 995. No acceleration or delay. Where this Act  
2 makes changes in a statute that is represented in this Act by  
3 text that is not yet or no longer in effect (for example, a  
4 Section represented by multiple versions), the use of that  
5 text does not accelerate or delay the taking effect of (i) the  
6 changes made by this Act or (ii) provisions derived from any  
7 other Public Act.

8           Section 999. Effective date. This Act takes effect upon  
9 becoming law.

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