

1 AN ACT to amend the Illinois Insurance Code by adding  
2 Article XXA.

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

5 Section 5. The Illinois Insurance Code is amended by  
6 adding Article XXA as follows:

7 (215 ILCS 5/Art. XXA heading new)

8 Article XXA. Accident and Health Insurance Rate Law

9 (215 ILCS 5/371A-1 new)

10 Sec. 371A-1. Short title. This Article may be cited as  
11 the Accident and Health Insurance Rate Law.

12 (215 ILCS 5/371A-5 new)

13 Sec. 371A-1. Purpose of Article. The purpose of this  
14 Article is to promote the public welfare by regulating  
15 accident and health insurance rates so that they are not  
16 excessive, inadequate, or unfairly discriminatory, to  
17 authorize the existence and operation of qualified rating  
18 organizations and advisory organizations, to require that  
19 specified rating services of these rating organizations be  
20 generally available to all admitted companies, and to  
21 authorize cooperation between companies in rate making and  
22 other related matters. It is the express intent of this  
23 Article to permit and encourage competition between companies  
24 on a sound financial basis to the fullest extent possible,  
25 and to establish a mechanism to ensure the provision of  
26 adequate accident and health insurance at reasonable rates to  
27 the citizens of this State.

28 (215 ILCS 5/371A-10 new)

1 Sec. 371A-10. Definitions. As used in this Article:

2 "Rating organization" means a person, other than an  
3 admitted company, who has as his object or purpose the making  
4 of rates, rating plans, or rating systems. Two or more  
5 admitted companies that act in concert for the purpose of  
6 making rates, rating plans, or rating systems, but do not  
7 operate within the specific authorizations contained in  
8 Sections 371A-30, 371A-40, and 371-80 shall be deemed to be a  
9 rating organization. No single company shall be deemed to be  
10 a rating organization.

11 "Advisory organization" means a person, other than an  
12 admitted company, who prepares policy forms or makes  
13 underwriting rules incident to, but not including, the making  
14 of rates, rating plans, or rating systems or who collects and  
15 furnishes to admitted companies or rating organizations loss  
16 or expense statistics or other statistical information and  
17 data and acts in an advisory, as distinguished from a rate  
18 making, capacity. No duly authorized attorney at law acting  
19 in the usual course of his profession shall be deemed to be  
20 an advisory organization.

21 "Member" means a company who participates in or is  
22 entitled to participate in the management of a rating,  
23 advisory, or other organization.

24 "Subscriber" means a company that is furnished at its  
25 request (1) with rates and rating manuals by a rating  
26 organization of which it is not a member or (2) with advisory  
27 services by an advisory organization of which it is not a  
28 member.

29 (215 ILCS 5/371A-15 new)

30 Sec. 371A-15. Scope of Article. The provisions of this  
31 Article apply to accident and health insurance.

32 This Article applies to all companies, including stock  
33 and mutual companies, Lloyds associations, and reciprocal and

1 interinsurance exchanges that, under any provisions of the  
2 laws of this State, write accident and health insurance.

3 (215 ILCS 5/371A-20 new)

4 Sec. 371A-20. Classes of rates.

5 (a) The rates for accident and health insurance subject  
6 to this Article shall not be excessive, inadequate, or  
7 unfairly discriminatory.

8 (b) As to all classes of insurance, insurers or rating  
9 organizations shall establish and use rates, rating  
10 schedules, or rating manuals that allow the insurer to earn a  
11 reasonable rate of return on insurance written in this State.  
12 A copy of rates, rating schedules, rating manuals, premium  
13 credit or discount schedules, and changes thereto shall be  
14 filed with the Department as soon as possible following their  
15 effective date, but no later than 30 days after that date. A  
16 copy of rates, rating schedules, rating manuals, premium  
17 credit or discount schedules, and changes thereto, that  
18 provide for an increase greater than the increase in the  
19 medical care component of the Consumer Price Index for the  
20 region or city of the United States having the greatest  
21 increase the previous calendar year shall be filed with and  
22 approved by the Department prior to their effective date.

23 (c) Upon receiving a rate filing, the Department shall  
24 review the rate filing to determine if a rate is excessive,  
25 inadequate, or unfairly discriminatory. In making that  
26 determination, the Department shall, in accordance with  
27 generally accepted and reasonable actuarial techniques,  
28 consider all of the following factors:

29 (1) Past loss experience within and without this  
30 State.

31 (2) Past expenses both allocated and unallocated.

32 (3) The degree of competition among insurers for  
33 the risk insured.

1           (4) Investment income reasonably expected by the  
2 insurer, consistent with the insurer's investment  
3 practices, from investable premiums anticipated in the  
4 filing, plus any other expected income from currently  
5 invested assets representing the amount expected on  
6 unearned premium reserves and loss reserves. The  
7 Department may promulgate rules utilizing reasonable  
8 techniques of actuarial science and economics to specify  
9 the manner in which insurers shall calculate investment  
10 income attributable to the classes of insurance written  
11 in this State and the manner in which that investment  
12 income shall be used in the calculation of insurance  
13 rates.

14           (5) The reasonableness of the judgment reflected in  
15 the filing.

16           (6) Dividends, savings, or unabsorbed premium  
17 deposits allowed or returned to Illinois policyholders,  
18 members, or subscribers.

19           (7) The adequacy of loss reserves.

20           (8) The cost of reinsurance.

21           (9) Trend factors, including trends in actual  
22 losses per insured unit for the insurer making the  
23 filing.

24           (10) A reasonable margin for profit and  
25 contingencies.

26           (11) Other relevant factors that impact upon the  
27 frequency or severity of claims or upon expenses.

28           (d) In addition to the rate standards provided in  
29 subsection (c), a rate may be found by the Department to be  
30 excessive, inadequate, or unfairly discriminatory based upon  
31 any of the following standards:

32           (1) A rate shall be deemed excessive if it is  
33 likely to produce a profit from Illinois business that is  
34 unreasonably high in relation to the risk involved in the

1 class of business or if expenses are unreasonably high in  
2 relation to services rendered.

3 (2) A rate shall be deemed excessive if, among  
4 other things, the rate structure established by a stock  
5 insurance company provides for replenishment of surpluses  
6 from premiums, when the replenishment is attributable to  
7 investment losses.

8 (3) A rate shall be deemed inadequate if it is  
9 clearly insufficient, together with the investment income  
10 attributable to it, to sustain projected losses and  
11 expenses in the class of business to which it applies.

12 (4) One rate shall be deemed unfairly  
13 discriminatory in relation to another in the same class  
14 if it fails to clearly and equitably reflect the  
15 difference in expected losses and expenses.

16 (5) A rate shall be deemed inadequate as to the  
17 premium charged to a risk or group of risks if discounts  
18 or credits are allowed that exceed a reasonable  
19 reflection of expense savings and reasonably expected  
20 loss experience from the risk or group of risks.

21 (6) A rate shall be deemed unfairly discriminatory  
22 as to a risk or group of risks if the application of  
23 premium discounts or credits among those risks does not  
24 bear a reasonable relationship to the expected loss and  
25 expense experience among the various risks.

26 (e) In reviewing a rate filing, the Department may  
27 require the insurer to provide at the insurer's expense all  
28 information necessary to evaluate the condition of the  
29 company and the reasonableness of the failure according to  
30 the criteria enumerated in this Section.

31 (f) The Department may at any time review a rate, rating  
32 schedule, rating manual, rate change, the pertinent records  
33 of the insurer, and market conditions. If the Department  
34 finds on a preliminary basis that a rate may be excessive,

1 inadequate, or unfairly discriminatory, the Department shall  
2 initiate proceedings to disapprove the rate and shall so  
3 notify the insurer. If a proposed rate represents an  
4 increase greater than the increase in the medical care  
5 component of the Consumer Price Index for the region or city  
6 of the United States having the greatest increase in the  
7 previous calendar year, the Department shall initiate  
8 proceeding to approve or disapprove the rate and shall notify  
9 the insurer. Upon being notified, the insurer or rating  
10 organization shall, within 60 days, file with the Department  
11 all information that, in the belief of the insurer or  
12 organization, proves the reasonableness, adequacy, and  
13 fairness of the rate or rate change. In these instances and  
14 in any administrative proceeding relating to the legality of  
15 the rate, the insurer or rating organization shall carry the  
16 burden of proof by a preponderance of the evidence to show  
17 that the rate is not excessive, inadequate, or unfairly  
18 discriminatory. After the Department notifies an insurer  
19 that a rate may be excessive, inadequate, or unfairly  
20 discriminatory, unless the Department withdraws the  
21 notification, the insurer shall not alter the rate except to  
22 conform with the Department's notice until the earlier of 120  
23 days after the date the notification was provided or 180 days  
24 after the date of the implementation of the rate. The  
25 Department may disapprove without the 60-day notification any  
26 rate increase filed by an insurer within the prohibited time  
27 period or during the time that the legality of the increased  
28 rate is being contested.

29 (g) If the Department finds that a rate or rate change  
30 is excessive, inadequate, or unfairly discriminatory, the  
31 Department shall issue an order of disapproval specifying  
32 that the insurer file a new rate or rate schedule that  
33 responds to the findings of the Department. The Department  
34 shall further order that premiums be adjusted reflecting the

1 findings of the Department.

2 (215 ILCS 5/371A-25 new)

3 Sec. 371A-25. Companies authorized to act in concert.  
4 Subject to and in compliance with the provisions of this  
5 Article authorizing companies to be members or subscribers of  
6 rating or advisory organizations or to engage in joint  
7 underwriting or joint reinsurance, 2 or more companies may  
8 act in concert with respect to any matters pertaining to the  
9 making of rates or rating systems, the preparation or making  
10 of insurance policy forms, underwriting rules, surveys,  
11 inspections and investigations, the furnishing of loss or  
12 expense statistics or other information and data, or the  
13 carrying on of research.

14 (215 ILCS 5/371A-30 new)

15 Sec. 371A-30. Admitted companies with common ownership  
16 or management. With respect to any matters pertaining to the  
17 making of rates or rating systems, the preparation or making  
18 of insurance policy forms, underwriting rules, surveys,  
19 inspections, and investigations, the furnishing of loss or  
20 expense statistics or other information and data, or the  
21 carrying on of research, 2 or more admitted companies having  
22 a common ownership or operating in this State under common  
23 management or control are authorized to act in concert the  
24 same as if they constituted a single company. Nothing in this  
25 Section shall require that such companies so act in concert.

26 (215 ILCS 5/371A-35 new)

27 Sec. 371A-35. Use of rates, rating systems, and policy  
28 forms of rating or advisory organizations; agreements to  
29 adhere thereto. Members and subscribers of rating or advisory  
30 organizations may use the rates, rating systems, underwriting  
31 rules, or policy forms of those organizations, either

1 consistently or intermittently, but except as provided in  
2 Sections 371A-30 and 371A-80, may not agree with each other,  
3 rating organizations, or others to adhere thereto. The fact  
4 that 2 or more admitted companies, whether or not members or  
5 subscribers of a rating or advisory organization, use, either  
6 consistently or intermittently, the rates or rating systems  
7 made or adopted by a rating organization or policy forms  
8 prepared by a rating or advisory organization shall not be  
9 sufficient in itself to support a finding that an agreement  
10 to so adhere exists and may be used only for the purpose of  
11 supplementing or explaining direct evidence of the existence  
12 of any such agreement.

13 (215 ILCS 5/371A-40 new)

14 Sec. 371A-40. Exchange of information or experience  
15 data; consultation with rating organizations and companies.  
16 Cooperation among rating organizations or among rating  
17 organizations and companies in rate making or in other  
18 matters within the scope of this Article is hereby  
19 authorized. The Director may review this cooperation and if,  
20 after a hearing upon notice to all cooperating parties, he  
21 finds that the cooperation is unfair or unreasonable or  
22 otherwise inconsistent with the provisions of this Article,  
23 he may issue a written order specifying in what respects the  
24 cooperation is unfair or unreasonable or otherwise  
25 inconsistent with the provisions of this Article and  
26 requiring the discontinuance of the cooperation.

27 (215 ILCS 5/371A-45 new)

28 Sec. 371A-45. Joint underwriters and reinsurers; conduct  
29 of operation in State; membership or subscription to  
30 organization; noncompliance with Article. Upon compliance  
31 with the provisions of this Article, a rating organization,  
32 advisory organization, and any group, association, or other

1 organization of admitted companies that engages in joint  
2 underwriting or joint reinsurance through the organization or  
3 by standing agreement among the members of the organization  
4 may conduct operations in this State. With respect to  
5 insurance risks or operations in this State, no company may  
6 be a member or subscriber of any such organization, group, or  
7 association that has not complied with the provisions of this  
8 Article.

9 (215 ILCS 5/371A-50 new)

10 Sec. 371A-50. Rating organizations; existing licenses  
11 continued.

12 (a) No rating organization may conduct its operations in  
13 this State without first filing with the Director a written  
14 application for and securing a license to act as a rating  
15 organization, however, a license issued to a rating  
16 organization pursuant to Section 459 shall continue in effect  
17 until the expiration date of that license. A rating  
18 organization may make application for and obtain a license as  
19 a rating organization if it meets the requirements for  
20 license set forth in this Article.

21 (b) A rating organization shall file with its  
22 application:

23 (1) a copy of its constitution, its articles of  
24 incorporation, agreement, or association, and its  
25 by-laws, rules, and regulations governing the conduct of  
26 its business, all duly certified by the custodian of the  
27 originals thereof;

28 (2) a list of its members and subscribers;

29 (3) the name and address of a resident of this  
30 State upon whom notices or orders of the Director or  
31 process affecting the rating organization may be served;  
32 and

33 (4) a statement of its qualifications as a rating

1 organization.

2 The fee for filing an application for license as a rating  
3 organization is \$25, payable in advance to the Director.

4 (215 ILCS 5/371A-55 new)

5 Sec. 371A-55. Evidence prerequisite to license. To  
6 obtain and retain a license, a rating organization shall  
7 provide satisfactory evidence to the Director that it will:

8 (1) permit any admitted company to become a member of or  
9 a subscriber to the rating organization at a reasonable cost  
10 and without discrimination, or to withdraw therefrom;

11 (2) neither have nor adopt any rule or exact any  
12 agreement, the effect of which would be to require any member  
13 or subscriber as a condition to membership or subscribership,  
14 to adhere to its rates, rating plans, rating systems,  
15 underwriting rules, or policy forms;

16 (3) neither adopt any rule nor exact any agreement the  
17 effect of which would be to prohibit or regulate the payment  
18 of dividends, savings, or unabsorbed premium deposits allowed  
19 or returned by companies to their policyholders, members, or  
20 subscribers;

21 (4) neither practice nor sanction any plan or act of  
22 boycott, coercion, or intimidation;

23 (5) neither enter into nor sanction any contract or act  
24 by which any person is restrained from lawfully engaging in  
25 the insurance business; and

26 (6) notify the Director promptly of every change in its  
27 constitution, its articles of incorporation, agreement, or  
28 association, its by-laws, rules, and regulations governing  
29 the conduct of its business, its list of members and  
30 subscribers, and the name and address of the resident of this  
31 State designated by it upon whom notices or orders of the  
32 Director or process affecting the organization may be served.

1 (215 ILCS 5/371A-60 new)

2 Sec. 371A-60. Examination of application and  
3 investigation of applicant; issuance of license.

4 (a) The Director shall examine each application for  
5 license to act as a rating organization and and may make such  
6 further investigation of the applicant, its affairs, and its  
7 proposed plan of business as he deems desirable.

8 (b) The Director shall issue the license applied for  
9 within 60 days after the application is filed with him if  
10 from the examination and investigation he is satisfied that:

11 (1) the business reputation of the applicant and  
12 its officers is good;

13 (2) the facilities of the applicant are adequate to  
14 enable it to furnish the services it proposes to furnish;  
15 and

16 (3) the applicant and its proposed plan of  
17 operation conform to the requirements of this Article.

18 Otherwise, but only after hearing upon notice, the  
19 Director shall in writing deny the application and notify the  
20 applicant of his decision and his reasons therefor.

21 (c) Licenses issued pursuant to this Section shall  
22 remain in effect until revoked as provided in this Article.

23 (215 ILCS 5/371A-65 new)

24 Sec. 371A-65. Rules governing eligibility for  
25 membership. Subject to the approval of the Director a  
26 licensed rating organization may make reasonable rules  
27 governing eligibility for membership.

28 (215 ILCS 5/371A-70 new)

29 Sec. 371A-70. Companies with common ownership or  
30 management. If 2 or more companies having a common ownership  
31 or operating in this State under common management are  
32 admitted for the classes or types of insurance for which a

1 rating organization is licensed to make rates, the rating  
2 organization may require as a condition to membership or  
3 subscribership of one or more that all such companies shall  
4 become members or subscribers.

5 (215 ILCS 5/371A-75 new)

6 Sec. 371A-75. Advisory organization.

7 (a) No advisory organization shall conduct its  
8 operations in this State unless and until it has filed with  
9 the Director:

10 (1) a copy of its constitution, its articles of  
11 incorporation, agreement, or association, and its  
12 by-laws, rules, and regulations governing its activities,  
13 all duly certified by the custodian of the originals  
14 thereof;

15 (2) a list of its members and subscribers; and

16 (3) the name and address of a resident of this  
17 State upon whom notices or orders of the Director or  
18 process may be served.

19 (b) An advisory organization shall notify the Director  
20 promptly of every change in its constitution, its articles of  
21 incorporation, agreement, or association, its by-laws, rules,  
22 and regulations governing the conduct of its business, its  
23 list of members and subscribers, and the name and address of  
24 the resident of this State designated by it upon whom notices  
25 or orders of the Director or process affecting the  
26 organization may be served.

27 (c) An advisory organization may not engage in any  
28 unfair or unreasonable practice with respect to its  
29 activities.

30 (215 ILCS 5/371A-80 new)

31 Sec. 371A-80. Joint underwriting and joint reinsurance.

32 (a) A group, association, or other organization of

1 companies that engages in joint underwriting or joint  
2 reinsurance through the group, association, or organization  
3 or by standing agreement among the members thereof shall file  
4 with the Director:

5 (1) a copy of its constitution, its articles of  
6 incorporation, agreement, or association, and its  
7 by-laws, rules, and regulations governing its business,  
8 all duly certified by the custodian of the originals  
9 thereof;

10 (2) a list of its members; and

11 (3) the name and address of a resident of this  
12 State upon whom notices or orders of the Director or  
13 process affecting the group, association, or organization  
14 may be served.

15 (b) A group, association, or other organization that  
16 engages in joint underwriting or joint reinsurance shall  
17 notify the Director promptly of every change in its  
18 constitution, its articles of incorporation, agreement, or  
19 association, its by-laws, rules, and regulations governing  
20 the conduct of its business, its list of members, and the  
21 name and address of the resident of this State designated by  
22 it upon whom notices or orders of the Director or process  
23 affecting the group, association or organization may be  
24 served.

25 (c) A group, association, or organization that engages  
26 in joint underwriting or joint reinsurance may not engage in  
27 any unfair or unreasonable practice with respect to such  
28 activities.

29 (215 ILCS 5/371A-85 new)

30 Sec. 371A-85. Maintenance of records; compliance with  
31 Section.

32 (a) A company, rating organization or advisory  
33 organization, and a group, association, or other organization

1 of companies that engages in joint underwriting or joint  
2 reinsurance shall maintain reasonable records, of its  
3 experience or the experience of its members and of the data,  
4 statistics, or information collected or used by it in  
5 connection with the rates, rating plans, rating systems,  
6 underwriting rules, policy forms, surveys, or inspections  
7 made or used by it so that the records will be available at  
8 all reasonable times to enable the Director to determine  
9 whether the organization, company, group, or association and,  
10 in the case of a company or rating organization, every rate,  
11 rating plan, and rating system made or used by it complies  
12 with the provisions of this Article. The maintenance of these  
13 records in the office of a licensed rating organization of  
14 which a company is a member or subscriber is sufficient  
15 compliance with this Section for any company maintaining  
16 membership or subscribership in the organization to the  
17 extent that the company uses the rates, rating plans, or  
18 rating systems of the organization. The records must be made  
19 available for examination or inspection by the Director at  
20 any time upon reasonable notice.

21 (b) The Director shall adopt, and may modify, reasonable  
22 rules and statistical plans that each company must use in the  
23 recording and reporting of its loss and countrywide expense  
24 experience in order that the experience of all companies may  
25 be made available at least annually in such form and detail  
26 as may be necessary to aid the Director in determining  
27 whether rates comply with this Article. The rules and  
28 statistical plans may also provide for the recording and  
29 reporting of expense experience items that are specially  
30 applicable to this State and are not susceptible of  
31 determination by a prorating of countrywide expense  
32 experience.

33 (c) In adopting the rules and plans, the Director shall  
34 give due consideration to the rating systems in use in this

1 State and, in order that the rules and plans may be as  
2 uniform as is possible among the several states, to the rules  
3 and to the form of the plans used for rating systems in other  
4 states. No company shall be required to record or report its  
5 loss experience on a classification basis that is  
6 inconsistent with the rating system used by it.

7 (d) The Director may designate one or more rating  
8 organizations or other agencies to assist him in gathering  
9 and making compilations of loss and expense experience. The  
10 compilations must be made available, subject to reasonable  
11 rules adopted by the Director, to companies and rating  
12 organizations.

13 (215 ILCS 5/371A-90 new)

14 Sec. 371A-90. Report of loss and expense data.

15 (a) The Department shall promulgate rules that require an  
16 insurer licensed to write accident and health insurance in  
17 the State to record and report its loss and expense  
18 experience and other data as may be necessary to determine  
19 whether rates are fair and appropriate. The Department may  
20 designate one or more rating service organizations or  
21 advisory organizations to gather and compile the loss and  
22 expense experience and data. The Department shall require an  
23 insurer licensed to write accident and health insurance in  
24 this State to submit a report, on a form furnished by the  
25 Department, showing its direct writings in this State and the  
26 United States.

27 (b) The report must include all of the following data,  
28 both specific to this State and also to the United States, by  
29 the type of insurance for the previous year ending on the  
30 31st day of December:

31 (1) Direct premiums written.

32 (2) Direct premiums earned.

33 (3) Net investment income, including net realized

1 capital gains and losses, using appropriate estimates  
2 where necessary.

3 (4) Incurred claims, developed as the sum of the  
4 following (the report must include data for each of the  
5 following categories used to develop the sum of incurred  
6 claims):

7 (A) dollar amount of claims closed with  
8 payment; plus

9 (B) reserves for reported claims at the end of  
10 the current year; minus

11 (C) reserves for reported claims at the end of  
12 the previous year; plus

13 (D) reserves for incurred but not reported  
14 claims at the end of the current year; minus

15 (E) reserves for incurred but not reported  
16 claims at the end of the previous year; plus

17 (F) loss adjustment expenses for claims  
18 closed; plus

19 (G) reserves for Loss Adjustment Expense at  
20 the end of the current year; minus

21 (H) reserves for Loss Adjustment Expense at  
22 the end of the previous year.

23 (5) Actual incurred expenses allocated separately  
24 to loss adjustment, commissions, other acquisition costs,  
25 advertising, general office expenses, taxes, licenses and  
26 fees, and all other expenses.

27 (6) Net underwriting gain or loss.

28 (7) Net operation gain or loss, including net  
29 investment income.

30 (8) The number and dollar amount of claims closed  
31 with payment, by year incurred and the amount reserved  
32 for them.

33 (9) The number of claims closed without payment and  
34 the dollar amount reserved for those claims.

1           (10) Federal income tax recoverable.

2           (11) Any other information requested by the  
3           Department.

4           (c) For the first year only in which the insurer is  
5           required to file this report, the data required by paragraphs  
6           (1) through (7) of subsection (b) must include the previous  
7           calendar year and each of the preceding 4 calendar years.

8           (d) It is the duty of the Department to annually compile  
9           and review all reports submitted by insurers pursuant to this  
10           Section to determine the appropriateness of premium rates for  
11           accident and health insurance in this State. The  
12           Department's findings and the filings shall be published,  
13           provided to the General Assembly, and made available to any  
14           interested insured or citizen. If the Department finds at  
15           any time that any rate is no longer fair or appropriate, it  
16           shall issue an order withdrawing its approval. The order  
17           shall specify reasons for withdrawal of approval, shall be  
18           furnished to each affected insurer and rating organization,  
19           and shall be effective in not less than 30 days after its  
20           issuance unless an affected insurer meets the burden of  
21           showing that the rate is in fact fair and appropriate.

22           (f) An insurance company shall file all of the  
23           information required under this Section with the Department  
24           as a prerequisite to obtaining permission to write coverage,  
25           to continue to do business, or to file for rate increases.

26           (g) An insurer that fails to comply with the terms of  
27           this Section shall pay a civil penalty of a fine of \$10,000  
28           and thereafter a fine of \$200 daily until it complies with  
29           this Section.

30           (215 ILCS 5/371A-95 new)

31           Sec. 371A-95. Examination of rating and advisory  
32           organizations, joint underwriters, and reinsurers; acceptance  
33           of report from another state; compliance with Article.

1       (a) At least once every 5 years and may as often as may  
2 be reasonable and necessary, the Director shall make or cause  
3 to be made an examination of each licensed rating  
4 organization. The Director may, as often as may be  
5 reasonable and necessary, make or cause to be made an  
6 examination of any advisory organization or group,  
7 association, or other organization of companies that engages  
8 in joint underwriting or joint reinsurance.

9       (b) Instead of making an examination, the Director may  
10 accept the report of an examination made by the insurance  
11 supervisory official of another state.

12       (c) In examining any organization, group or association  
13 pursuant to this Section, the Director shall ascertain  
14 whether the organization, group, or association and, in the  
15 case of a rating organization, any rate or rating system made  
16 or used by it complies with this Article.

17       (215 ILCS 5/371A-100 new)

18       Sec. 371A-100. Examination of Admitted companies; rate  
19 overcharge refunds.

20       (a) A company found to have failed or refused to refund  
21 any overcharges as determined pursuant to Section 371A-20  
22 shall pay a penalty to the Department of Insurance of \$100  
23 per day for each such violation. A refusal to refund  
24 overcharges to any one policyholder is a violation under this  
25 Article and additional refusals shall be considered  
26 additional violations under this Article.

27       (b) Continued refusal by a company to refund  
28 policyholder overcharges after an Order of the Director to so  
29 refund under this Article may subject a company to suspension  
30 of its certificate of authority until it has complied with  
31 the Order of the Director and refunded the overcharges.

32       (215 ILCS 5/371A-105 new)

1       Sec. 371A-105. Examination of officers, managers,  
2       agents, and employees; exhibition of books. The officers,  
3       managers, agents, and employees of any organization, group,  
4       association, or company subject to this Article may be  
5       examined at any time under oath and shall exhibit all books,  
6       records, accounts, documents, or agreements governing its  
7       methods of operation, together with all data, statistics and  
8       information of every kind and character collected or  
9       considered by the organization, group, association, or  
10       company in the conduct of the operations to which the  
11       examination relates.

12           (215 ILCS 5/371A-110 new)

13       Sec. 371A-110. Payment of cost of examination. The  
14       reasonable cost of any examination authorized by this Article  
15       shall be paid by the organization, group, association, or  
16       company to be examined.

17           (215 ILCS 5/371A-115 new)

18       Sec. 371A-115. Noncompliance of rate, rating plan or  
19       system; notice by Director. If after examination of a  
20       company, rating organization, advisory organization, or  
21       group, association, or other organization of companies that  
22       engages in joint underwriting or joint reinsurance the  
23       Director has good cause to believe that the company, rating  
24       or advisory organization, group, or association or any rate,  
25       rating plan, or rating system made or used by the company,  
26       rating or advisory organization, group, or association does  
27       not comply with the requirements and standards of this  
28       Article, he shall, unless he has good cause to believe the  
29       noncompliance is wilful, give notice in writing to the  
30       company, rating or advisory organization, group, or  
31       association stating to the extent possible the manner in  
32       which the noncompliance is alleged to exist and specifying a

1 reasonable time of not fewer than 10 days within which the  
2 noncompliance may be corrected.

3 (215 ILCS 5/371A-120 new)

4 Sec. 371A-120. Hearing; notice; hearing not to include  
5 additional subjects. If the Director has good cause to  
6 believe noncompliance to be wilful or if, within the period  
7 prescribed by the Director in the notice required by Section  
8 371A-115, the company, rating or advisory organization,  
9 group, or association does not make the changes necessary to  
10 correct the noncompliance specified by the Director or  
11 establish to the satisfaction of the Director that the  
12 specified noncompliance does not exist, then the Director may  
13 hold a public hearing regarding the noncompliance. Within a  
14 reasonable period of time, which shall be not less than 10  
15 days before the date of the hearing, the Director shall mail  
16 written notice specifying the matters to be considered at the  
17 hearing to the company, rating or advisory organization,  
18 group, or association. If no notice has been given as  
19 provided in Section 371A-115, the notice shall state to the  
20 extent possible in what manner the noncompliance is alleged  
21 to exist. The hearing shall not include any additional  
22 subjects not specified in the notices required by Section  
23 371A-115 or this Section.

24 (215 ILCS 5/371A-125 new)

25 Sec. 371A-125. Issuance of Orders; suspension or  
26 revocation of certificate of authority or license.

27 (a) If after a hearing pursuant to Section 371A-120, the  
28 Director finds that a rate, rating plan, or rating system  
29 violates the provisions of this Article, he may issue an  
30 order to the company or rating organization specifying in  
31 what respects the violation exists and stating when, within a  
32 reasonable period of time, the further use of the rate or

1 rating system by the company or rating organization in  
2 contracts of insurance made thereafter shall be prohibited.

3 (b) If after a hearing pursuant to Section 371A-120, the  
4 Director finds that a company, rating organization, advisory  
5 organization, or a group, association, or other organization  
6 of companies that engages in joint underwriting or joint  
7 reinsurance is in violation of the provisions of the Article  
8 other than the provisions dealing with rates, rating plans,  
9 or rating systems, he may issue an order to the company,  
10 rating or advisory organization, group, or association  
11 specifying in what respects the violation exists and  
12 requiring compliance within a reasonable time thereafter.

13 (c) If after a hearing pursuant to Section 371A-120, the  
14 Director finds that a violation of any of the provisions of  
15 this Article by a company or rating organization was wilful,  
16 he may suspend or revoke, in whole or in part, the  
17 certificate of authority of the company or the license of the  
18 rating organization.

19 (d) If after a hearing pursuant to Section 371A-120, the  
20 Director finds that a rating organization has wilfully  
21 engaged in any fraudulent or dishonest act or practices, he  
22 may suspend or revoke, in whole or in part, the license of  
23 the organization in addition to any other penalty provided in  
24 this Code.

25 (215 ILCS 5/371A-130 new)

26 Sec. 371A-130. Failure to comply with Order; suspension  
27 or revocation of license or certificate. In addition to other  
28 penalties provided in this Code, the Director may suspend or  
29 revoke, in whole or in part, the license of any rating  
30 organization or the certificate of authority of any company  
31 that fails to comply, within the time specified by the order  
32 or any extension thereof that the Director may grant, with an  
33 order of the Director lawfully made by him pursuant to

1 Section 371A-125 and not reversed or modified pursuant to  
2 Section 371A-135.

3 (215 ILCS 5/371A-135 new)

4 Sec. 371A-135. Conduct or proceedings; powers of  
5 Director; judicial review.

6 (a) Except as otherwise provided in this Code, all  
7 administrative proceedings in connection with the denial,  
8 suspension, or revocation of a license or certificate of  
9 authority under this Article shall be conducted in accordance  
10 with the provisions of Sections 401, 402, 403, and 405 of  
11 this Code.

12 (b) All orders or decisions of the Director under this  
13 Article are subject to judicial review under the  
14 Administrative Review Law.

15 (215 ILCS 5/371A-140 new)

16 Sec. 371A-140. Rebates prohibited; exclusion of  
17 commissions, dividends. An insurance producer may not  
18 knowingly charge, demand, or receive a premium for any policy  
19 of insurance except in accordance with the provisions of this  
20 Article. A company, employee of a company, and an insurance  
21 producer may not pay, allow, or give, directly or indirectly,  
22 as an inducement to insurance or after insurance has been  
23 effected, any rebate, discount, abatement, credit, or  
24 reduction of the premium named in a policy of insurance or  
25 any special favor or advantage in the dividends or other  
26 benefits to accrue thereon, or any valuable consideration or  
27 inducement whatever, not specified in the policy of  
28 insurance, except to the extent provided for in an applicable  
29 filing. An insured named in a policy of insurance and any  
30 employee of the insured may not knowingly receive or accept,  
31 directly or indirectly, any rebate, discount, abatement,  
32 credit or reduction of premium, or any such special favor or

1 advantage or valuable consideration or inducement. Nothing in  
2 this Section shall be construed as prohibiting the payment of  
3 commissions or other compensation to duly licensed insurance  
4 producers nor as prohibiting any company from allowing or  
5 returning to its participating policyholders, members, or  
6 subscribers dividends, savings, or unabsorbed premium  
7 deposits.

8 (215 ILCS 5/371A-145 new)

9 Sec. 371A-145. Information not to be wilfully withheld.  
10 No person, company, or organization shall wilfully withhold  
11 information from, or knowingly give false or misleading  
12 information to, the Director or to any rating organization,  
13 advisory organization, company, or group, association, or  
14 other organization of companies that will affect the rates,  
15 rating systems, or premiums for the classes of insurance  
16 subject to this Article.

17 (215 ILCS 5/371A-150 new)

18 Sec. 371A-150. Failure to comply with final order of  
19 Director; penalty.

20 (a) A person, company, organization, group, or  
21 association that fails to comply with a final order of the  
22 Director under this Article shall be liable to the State in  
23 an amount not exceeding \$50, but if the failure is wilful he  
24 or it shall be liable to the State in an amount not exceeding  
25 \$5,000 for such failure. The Director shall collect the  
26 amount so payable and may bring an action in the name of the  
27 people of the State of Illinois to enforce collection. These  
28 penalties may be in addition to any other penalties provided  
29 by law.

30 (b) A wilful violation of the provisions of this Article  
31 by any person is a misdemeanor.

1 (215 ILCS 5/371A-155 new)

2 Sec. 371A-155. Payment of dividends not prohibited or  
3 regulated; plan for payment not rating system. Nothing in  
4 this Article shall be construed to prohibit or regulate the  
5 payment of dividends, savings, or unabsorbed premium deposits  
6 allowed or returned by companies to their policyholders,  
7 members, or subscribers. A plan for the payment of dividends,  
8 savings, or unabsorbed premium deposits allowed or returned  
9 by companies to their policyholders, members or subscribers  
10 shall not be deemed a rating plan or system.

11 (215 ILCS 5/371A-160 new)

12 Sec. 371A-160. Acts done by authority of Article not  
13 violation of other laws. No act done, action taken, or  
14 agreement made pursuant to the authority conferred by this  
15 Article shall constitute a violation of or grounds for  
16 prosecution or civil proceedings under any other law of this  
17 State heretofore or hereafter enacted which does not  
18 specifically refer to insurance.

19 (215 ILCS 5/371A-165 new)

20 Sec. 371A-165. Submission of rates, rating plans, and  
21 rating manuals. The Director may require submission of copies  
22 of the rates, rating schedules, and rating manuals of a  
23 company as he deems necessary and proper. The submission of  
24 rates, rating schedules, and rating manuals to the Director  
25 by a licensed rating organization of which a company is a  
26 member or subscriber is sufficient compliance with this  
27 Section for any company maintaining membership or  
28 subscribership in the organization, to the extent that the  
29 company uses the rates, rating schedules, and rating manuals  
30 of the organization. Submission to the Director by a company  
31 or rating organization within a reasonable time after the  
32 date that the rates, rating schedules, or rating manuals

1 become effective shall be deemed sufficient compliance with  
2 the requirements of this Section.

3 Section 99. Effective date. This Act takes effect  
4 January 1, 2004.

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INDEX

Statutes amended in order of appearance

SEE INDEX

- 215 ILCS 5/Art. XXA heading new
- 215 ILCS 5/371A-1 new
- 215 ILCS 5/371A-5 new
- 215 ILCS 5/371A-10 new
- 215 ILCS 5/371A-15 new
- 215 ILCS 5/371A-20 new
- 215 ILCS 5/371A-25 new
- 215 ILCS 5/371A-30 new
- 215 ILCS 5/371A-35 new
- 215 ILCS 5/371A-40 new
- 215 ILCS 5/371A-45 new
- 215 ILCS 5/371A-50 new
- 215 ILCS 5/371A-55 new
- 215 ILCS 5/371A-60 new
- 215 ILCS 5/371A-65 new
- 215 ILCS 5/371A-70 new
- 215 ILCS 5/371A-75 new
- 215 ILCS 5/371A-80 new
- 215 ILCS 5/371A-85 new
- 215 ILCS 5/371A-90 new
- 215 ILCS 5/371A-95 new
- 215 ILCS 5/371A-100 new
- 215 ILCS 5/371A-105 new
- 215 ILCS 5/371A-110 new
- 215 ILCS 5/371A-115 new
- 215 ILCS 5/371A-120 new
- 215 ILCS 5/371A-125 new
- 215 ILCS 5/371A-130 new
- 215 ILCS 5/371A-135 new
- 215 ILCS 5/371A-140 new
- 215 ILCS 5/371A-145 new

- 1 215 ILCS 5/371A-150 new
- 2 215 ILCS 5/371A-155 new
- 3 215 ILCS 5/371A-160 new
- 4 215 ILCS 5/371A-165 new