

1 AN ACT concerning insurance.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 205 as follows:

6 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

7 Sec. 205. Exempt organizations.

8 (a) Charitable, etc. organizations. The base income of an  
9 organization which is exempt from the federal income tax by  
10 reason of Section 501(a) of the Internal Revenue Code shall not  
11 be determined under section 203 of this Act, but shall be its  
12 unrelated business taxable income as determined under section  
13 512 of the Internal Revenue Code, without any deduction for the  
14 tax imposed by this Act. The standard exemption provided by  
15 section 204 of this Act shall not be allowed in determining the  
16 net income of an organization to which this subsection applies.

17 (b) Partnerships. A partnership as such shall not be  
18 subject to the tax imposed by subsection 201 (a) and (b) of  
19 this Act, but shall be subject to the replacement tax imposed  
20 by subsection 201 (c) and (d) of this Act and shall compute its  
21 base income as described in subsection (d) of Section 203 of  
22 this Act. A partnership shall file such returns and other  
23 information at such time and in such manner as may be required  
24 under Article 5 of this Act. The partners in a partnership  
25 shall be liable for the replacement tax imposed by subsection  
26 201 (c) and (d) of this Act on such partnership, to the extent  
27 such tax is not paid by the partnership, as provided under the  
28 laws of Illinois governing the liability of partners for the  
29 obligations of a partnership. Persons carrying on business as  
30 partners shall be liable for the tax imposed by subsection 201  
31 (a) and (b) of this Act only in their separate or individual  
32 capacities.

1 (c) Subchapter S corporations. A Subchapter S corporation  
2 shall not be subject to the tax imposed by subsection 201 (a)  
3 and (b) of this Act but shall be subject to the replacement tax  
4 imposed by subsection 201 (c) and (d) of this Act and shall  
5 file such returns and other information at such time and in  
6 such manner as may be required under Article 5 of this Act.

7 (d) Combat zone death. An individual relieved from the  
8 federal income tax for any taxable year by reason of section  
9 692 of the Internal Revenue Code shall not be subject to the  
10 tax imposed by this Act for such taxable year.

11 (e) Certain trusts. A common trust fund described in  
12 Section 584 of the Internal Revenue Code, and any other trust  
13 to the extent that the grantor is treated as the owner thereof  
14 under sections 671 through 678 of the Internal Revenue Code  
15 shall not be subject to the tax imposed by this Act.

16 (f) Certain business activities. A person not otherwise  
17 subject to the tax imposed by this Act shall not become subject  
18 to the tax imposed by this Act by reason of:

19 (1) that person's ownership of tangible personal  
20 property located at the premises of a printer in this State  
21 with which the person has contracted for printing, or

22 (2) activities of the person's employees or agents  
23 located solely at the premises of a printer and related to  
24 quality control, distribution, or printing services  
25 performed by a printer in the State with which the person  
26 has contracted for printing.

27 (g) A nonprofit risk organization that holds a certificate  
28 of authority under Article VIID of the Illinois Insurance Code  
29 is exempt from the tax imposed under this Act with respect to  
30 its activities or operations in furtherance of the powers  
31 conferred upon it under that Article VIID of the Illinois  
32 Insurance Code.

33 (Source: P.A. 88-361.)

34 Section 10. The Illinois Insurance Code is amended by  
35 adding Article VIID as follows:

1 (215 ILCS 5/Art. VIID heading new)

2 ARTICLE VIID. NONPROFIT RISK ORGANIZATIONS

3 (215 ILCS 5/123D-1 new)

4 Sec. 123D-1. Purpose; construction. The purpose of this  
5 Article is to provide for the organization of and issuance of a  
6 certificate of authority to nonprofit risk organizations that  
7 insure nonprofit organizations and that will qualify, and  
8 continue to qualify, as a qualified charitable risk pool, as  
9 defined in subsection (n) of Section 501 of the Internal  
10 Revenue Code.

11 (215 ILCS 5/123D-5 new)

12 Sec. 123D-5. Definitions. As used in this Article:

13 "Member" means a nonprofit organization that participates  
14 as an insured in a nonprofit risk organization.

15 "Nonmember charitable organization" has the meaning set  
16 forth in subsection (n) of Section 501 of the Internal Revenue  
17 Code.

18 "Nonprofit organizations" means organizations described in  
19 paragraph (3) of subsection (c), and exempt from taxation under  
20 subsection (a), of Section 501 of the Internal Revenue Code.

21 "Nonprofit risk organization" means a nonprofit company  
22 organized to do business solely with nonprofit organizations as  
23 a qualified charitable risk pool under subsection (n) of  
24 Section 501 of the Internal Revenue Code that is organized in  
25 accordance with this Article.

26 "Startup capital" has the meaning set forth in subsection  
27 (n) of Section 501 of the Internal Revenue Code.

28 (215 ILCS 5/123D-10 new)

29 Sec. 123D-10. Organization of nonprofit risk  
30 organizations.

31 (a) A company organized pursuant to Articles III or IV,  
32 including such companies organized as a risk retention group in

1 this State pursuant to Article VIIB of this Code, that  
2 satisfies the requirements of this Article may be organized as  
3 a nonprofit risk organization.

4 (b) Notwithstanding any contrary provision in subsection A  
5 of Section 123B-3 of this Code, a nonprofit risk organization  
6 may be organized as a reciprocal insurance company and qualify  
7 for organization under Article VIIB as a risk retention group.

8 (c) No nonprofit risk organization issued a certificate of  
9 authority pursuant to this Article shall be converted into a  
10 corporation or other entity organized for pecuniary profit or  
11 into a for-profit organization of any kind.

12 (215 ILCS 5/123D-15 new)

13 Sec. 123D-15. Conduct of insurance business by nonprofit  
14 risk organizations.

15 (a) The Director may, pursuant to this Article, issue a  
16 certificate of authority to write the kinds of insurance  
17 enumerated in Classes 2 and 3 of Section 4 to a nonprofit risk  
18 organization that is a company organized pursuant to Articles  
19 III or IV, including such companies organized as a risk  
20 retention group in this State pursuant to Article VIIB, if such  
21 organization:

22 (1) complies with the applicable requirements of  
23 Articles III or IV and VIIB, if organized as a risk  
24 retention group; and

25 (2) has an initial paid-up capital and surplus at least  
26 equal to the amount of applicable paid-up capital and  
27 surplus required by Articles III or IV for a newly  
28 organized company doing the same kind or kinds of insurance  
29 business.

30 Thereafter, every such nonprofit risk organization shall  
31 maintain capital and surplus at least equal to the amount of  
32 applicable capital and surplus required to be maintained by  
33 companies under Articles III or IV doing the same kind or kinds  
34 of insurance business.

35 (b) Every certificate of authority to engage in an

1 insurance business issued by the Director to any nonprofit risk  
2 organization pursuant to the provisions of this Article shall  
3 specify the company's name, the location of its principal  
4 office, the name and principal address of its attorney-in-fact,  
5 if any, and the kind or kinds of insurance business that it is  
6 authorized to engage in this State.

7 (215 ILCS 5/123D-20 new)

8 Sec. 123D-20. Relevant criteria.

9 (a) A nonprofit risk organization must meet all of the  
10 following criteria:

11 (1) Be organized and operated solely to insure risks of  
12 its members.

13 (2) Directly provide information to its members with  
14 respect to loss control and risk management.

15 (3) Be comprised solely of members.

16 (4) Be organized under this Article.

17 (5) Be exempt from Illinois income taxes with respect  
18 to its activities or operations in furtherance of the  
19 powers conferred upon it by this Article.

20 (6) Obtain at least \$1,000,000 in startup capital from  
21 nonmember charitable organizations. The startup capital  
22 may take the form of advancements or borrowings in the form  
23 permitted by Section 56 or 76 of this Code, as applicable.  
24 Startup capital may be used to satisfy the financial  
25 requirements contained in this Article applicable to a  
26 nonprofit risk organization only to the extent the Director  
27 determines that it complies with those requirements.

28 (7) Be controlled by a board of directors elected by  
29 its members.

30 (8) Require in its organizational documents that:

31 (A) each member of the nonprofit risk organization  
32 shall at all times be an organization described in  
33 paragraph (3) of subsection (c) of Section 501 of the  
34 Internal Revenue Code and exempt from tax under  
35 subsection (a) of Section 501 of the Internal Revenue

1           Code;

2           (B) any member that receives a final determination  
3           that it no longer qualifies as an organization  
4           described in paragraph (3) of subsection (c) of Section  
5           501 of the Internal Revenue Code shall immediately  
6           notify the nonprofit risk organization of the  
7           determination and the effective date of the  
8           determination; and

9           (C) each policy of insurance issued by the  
10           nonprofit risk organization shall provide that the  
11           policy does not cover the insured with respect to  
12           events occurring after the date the final  
13           determination was issued to the insured.

14           (b) An organization shall not cease to qualify as a  
15           nonprofit risk organization solely by reason of the failure  
16           of any of its members to continue to be an organization  
17           described in paragraph (3) of subsection (c) of Section 501  
18           of the Internal Revenue Code if, within a reasonable period  
19           of time after the nonprofit risk organization is notified  
20           as required under subparagraph (8)(B) of subsection (a) of  
21           this Section, the nonprofit risk organization takes such  
22           action as may be reasonably necessary to remove the member  
23           from the nonprofit risk organization.

24           (215 ILCS 5/123D-25 new)

25           Sec. 123D-25. Applicability of other provisions of this  
26           Code. Except as otherwise provided in this Article, where  
27           inconsistent with this Article, or where the context otherwise  
28           requires, all of the provisions of this Code and the rules of  
29           the Director relating to all insurers and those relating to a  
30           company organized pursuant to Articles III or IV or a risk  
31           retention group organized in this State pursuant to Article  
32           VIIB transacting the same kind or kinds of insurance shall be  
33           applicable to a nonprofit risk organization organized and  
34           issued a certificate of authority pursuant to this Article.  
35           Where any of such provisions of law refer to a corporation,

1 company, or insurer, those references, when read in connection  
2 with and applicable to this Article, shall mean such a  
3 nonprofit risk organization.

4 (215 ILCS 5/123D-30 new)

5 Sec. 123D-30. Residual market participation exemption;  
6 security funds. A nonprofit risk organization shall not be  
7 permitted or required to join or contribute financially to any  
8 plan, pool, association, or guaranty or insolvency fund in this  
9 State, nor shall any nonprofit risk organization, nor its  
10 insureds nor any claimants against the insureds, nor its parent  
11 nor any affiliated company, nor any member organization of its  
12 association, receive any benefit from any such plan, pool  
13 association, or guaranty or insolvency fund for claims arising  
14 out of the operations of the nonprofit risk organization. Each  
15 nonprofit risk organization must inform each insured, in both  
16 the application for insurance and in the policy issued to the  
17 insured, that (i) the nonprofit risk organization is not  
18 subject to all of the insurance laws and rules of this State,  
19 and (ii) State insurance insolvency guaranty funds are not  
20 available to the insured for claims arising out of the  
21 operations of the nonprofit risk organization.

22 (215 ILCS 5/123D-35 new)

23 Sec. 123D-35. Rules. The Director shall adopt such rules  
24 as may be necessary for the implementation of this Article.