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09300SB2404ham001

LRB093 20536 AMC 51691 a

1 AMENDMENT TO SENATE BILL 2404

2 AMENDMENT NO. _____. Amend Senate Bill 2404 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 143, 204, and 408 as follows:

6 (215 ILCS 5/143) (from Ch. 73, par. 755)

7 Sec. 143. Policy forms.

8 (1) Life, accident and health. No company transacting the
9 kind or kinds of business enumerated in Classes 1 (a), 1 (b)
10 and 2 (a) of Section 4 shall issue or deliver in this State a
11 policy or certificate of insurance or evidence of coverage,
12 attach an endorsement or rider thereto, incorporate by
13 reference bylaws or other matter therein or use an application
14 blank in this State until the form and content of such policy,
15 certificate, evidence of coverage, endorsement, rider, bylaw
16 or other matter incorporated by reference or application blank
17 has been filed electronically with the Director, either through
18 the System for Electronic Rate and Form Filing (SERFF) or as
19 otherwise prescribed by the Director, and approved by the
20 Director. The Department shall mail a quarterly invoice to the
21 company for the appropriate filing fees required under Section
22 408. and the appropriate filing fee under Section 408 has been
23 ~~paid, except that~~ Any such endorsement or rider that
24 unilaterally reduces benefits and is to be attached to a policy

1 subsequent to the date the policy is issued must be filed with,
2 reviewed, and formally approved by the Director prior to the
3 date it is attached to a policy issued or delivered in this
4 State. It shall be the duty of the Director to withhold
5 approval of any such policy, certificate, endorsement, rider,
6 bylaw or other matter incorporated by reference or application
7 blank filed with him if it contains provisions which encourage
8 misrepresentation or are unjust, unfair, inequitable,
9 ambiguous, misleading, inconsistent, deceptive, contrary to
10 law or to the public policy of this State, or contains
11 exceptions and conditions that unreasonably or deceptively
12 affect the risk purported to be assumed in the general coverage
13 of the policy. In all cases the Director shall approve or
14 disapprove any such form within 60 days after submission unless
15 the Director extends by not more than an additional 30 days the
16 period within which he shall approve or disapprove any such
17 form by giving written notice to the insurer of such extension
18 before expiration of the initial 60 days period. The Director
19 shall withdraw his approval of a policy, certificate, evidence
20 of coverage, endorsement, rider, bylaw, or other matter
21 incorporated by reference or application blank if he
22 subsequently determines that such policy, certificate,
23 evidence of coverage, endorsement, rider, bylaw, other matter,
24 or application blank is misrepresentative, unjust, unfair,
25 inequitable, ambiguous, misleading, inconsistent, deceptive,
26 contrary to law or public policy of this State, or contains
27 exceptions or conditions which unreasonably or deceptively
28 affect the risk purported to be assumed in the general coverage
29 of the policy or evidence of coverage.

30 If a previously approved policy, certificate, evidence of
31 coverage, endorsement, rider, bylaw or other matter
32 incorporated by reference or application blank is withdrawn for
33 use, the Director shall serve upon the company an order of
34 withdrawal of use, either personally or by mail, and if by

1 mail, such service shall be completed if such notice be
2 deposited in the post office, postage prepaid, addressed to the
3 company's last known address specified in the records of the
4 Department of Insurance. The order of withdrawal of use shall
5 take effect 30 days from the date of mailing but shall be
6 stayed if within the 30-day period a written request for
7 hearing is filed with the Director. Such hearing shall be held
8 at such time and place as designated in the order given by the
9 Director. The hearing may be held either in the City of
10 Springfield, the City of Chicago or in the county where the
11 principal business address of the company is located. The
12 action of the Director in disapproving or withdrawing such form
13 shall be subject to judicial review under the Administrative
14 Review Law.

15 This subsection shall not apply to riders or endorsements
16 issued or made at the request of the individual policyholder
17 relating to the manner of distribution of benefits or to the
18 reservation of rights and benefits under his life insurance
19 policy.

20 (2) Casualty, fire, and marine. The Director shall require
21 the filing of all policy forms issued or delivered by any
22 company transacting the kind or kinds of business enumerated in
23 Classes 2 (except Class 2 (a)) and 3 of Section 4. In addition,
24 he may require the filing of any generally used riders,
25 endorsements, certificates, application blanks, and other
26 matter incorporated by reference in any such policy or contract
27 of insurance. The Department shall mail a quarterly invoice to
28 the company for the appropriate filing fees required under
29 Section 408 ~~along with the appropriate filing fee under Section~~
30 ~~408~~. Companies that are members of an organization, bureau, or
31 association may have the same filed for them by the
32 organization, bureau, or association. If the Director shall
33 find from an examination of any such policy form, rider,
34 endorsement, certificate, application blank, or other matter

1 incorporated by reference in any such policy so filed that it
2 (i) violates any provision of this Code, (ii) contains
3 inconsistent, ambiguous, or misleading clauses, or (iii)
4 contains exceptions and conditions that will unreasonably or
5 deceptively affect the risks that are purported to be assumed
6 by the policy, he shall order the company or companies issuing
7 these forms to discontinue their use. Nothing in this
8 subsection shall require a company transacting the kind or
9 kinds of business enumerated in Classes 2 (except Class 2 (a))
10 and 3 of Section 4 to obtain approval of these forms before
11 they are issued nor in any way affect the legality of any
12 policy that has been issued and found to be in conflict with
13 this subsection, but such policies shall be subject to the
14 provisions of Section 442.

15 (3) This Section shall not apply (i) to surety contracts or
16 fidelity bonds, (ii) to policies issued to an industrial
17 insured as defined in Section 121-2.08 except for workers'
18 compensation policies, nor (iii) to riders or endorsements
19 prepared to meet special, unusual, peculiar, or extraordinary
20 conditions applying to an individual risk.

21 (Source: P.A. 90-794, eff. 8-14-98.)

22 (215 ILCS 5/204) (from Ch. 73, par. 816)

23 Sec. 204. Prohibited and voidable transfers and liens.

24 (a) (1) A preference is a transfer of any of the property of
25 a company to or for the benefit of a creditor, for or on
26 account of an antecedent debt, made or suffered by the company
27 within 2 years before the filing of a complaint under this
28 Article, the effect of which may be to enable the creditor to
29 obtain a greater percentage of this debt than another creditor
30 of the same class would receive.

31 (2) Any preference may be avoided by the Director as
32 rehabilitator, liquidator, or conservator if:

33 (A) the company was insolvent at the time of the

1 transfer; and

2 (B) the transfer was made within 4 months before the
3 filing of the complaint; or the creditor receiving it was
4 (i) an officer, or any employee or attorney or other person
5 who was in fact in a position of comparable influence in
6 the company to an officer whether or not that person held
7 such a position, (ii) any shareholder holding, directly or
8 indirectly, more than 5% of any class of any equity
9 security issued by the company, or (iii) any other person,
10 firm, corporation, association, or aggregation of
11 individuals with whom the company did not deal at arm's
12 length.

13 (3) Where the preference is voidable, the Director as
14 rehabilitator, liquidator, or conservator may recover the
15 property or, if it has been converted, its value from any
16 person who has received or converted the property; except where
17 a bona fide purchaser or lienor has given less than fair
18 equivalent value, the purchaser or lienor shall have a lien
19 upon the property to the extent of the consideration actually
20 given. Where a preference by way of lien or security title is
21 voidable, the court may on due notice order the lien or title
22 to be preserved for the benefit of the estate, in which event
23 the lien or title shall pass to the Director as rehabilitator
24 or liquidator.

25 (b) (1) A transfer of property other than real property
26 shall be deemed to be made or suffered when it becomes so far
27 perfected that no subsequent lien obtainable by legal or
28 equitable proceedings on a simple contract could become
29 superior to the rights of the transferee.

30 (2) A transfer of real property shall be deemed to be made
31 or suffered when it becomes so far perfected that no subsequent
32 bona fide purchaser from the company could obtain rights
33 superior to the rights of the transferee.

34 (3) A transfer that creates an equitable lien shall not be

1 deemed to be perfected if there are available means by which a
2 legal lien could be created.

3 (4) A transfer not perfected before the filing of a
4 complaint shall be deemed to be made immediately before the
5 filing of the complaint.

6 (5) The provisions of this subsection apply whether or not
7 there are or were creditors who might have obtained liens or
8 persons who might have become bona fide purchasers.

9 (c) For purposes of this Section:

10 (1) A lien obtainable by legal or equitable proceedings
11 upon a simple contract is one arising in the ordinary
12 course of the proceedings upon the entry or docketing of a
13 judgment or decree, or upon attachment, garnishment,
14 execution, or like process, whether before, upon, or after
15 judgment or decree and whether before or upon levy. It does
16 not include liens that, under applicable law, are given a
17 special priority over other liens that are prior in time.

18 (2) A lien obtainable by legal or equitable proceedings
19 could become superior to the rights of a transferee, or a
20 purchaser could obtain rights superior to the rights of a
21 transferee within the meaning of subsection (b) of this
22 Section, if such consequences would follow only from the
23 lien or purchase itself, or from the lien or purchase
24 followed by any step wholly within the control of the
25 respective lienholder or purchaser, with or without the aid
26 of ministerial action by public officials. A lien could
27 not, however, become superior and a purchase could not
28 create superior rights for the purpose of subsection (b) of
29 this Section through any acts subsequent to an obtaining of
30 the lien or subsequent to a purchase that requires the
31 agreement or concurrence of any third party or that
32 requires any further judicial action or ruling.

33 (d) A transfer of property for or on account of a new and
34 contemporaneous consideration which is deemed under subsection

1 (b) of this Section to be made or suffered after the transfer
2 because of delay in perfecting it does not thereby become a
3 transfer for or on account of an antecedent debt if any acts
4 required by the applicable law to be performed in order to
5 perfect the transfer as against liens or bona fide purchasers'
6 rights are performed within 21 days or any period expressly
7 allowed by the law, whichever is less. A transfer to secure a
8 future loan, if the loan is actually made, or a transfer that
9 becomes security for a future loan, shall have the same effect
10 as a transfer for or on account of a new and contemporaneous
11 consideration.

12 (e) If any lien deemed voidable under part (2) of
13 subsection (a) of this Section has been dissolved by the
14 furnishing of a bond or other obligation, the surety on which
15 has been indemnified directly or indirectly by the transfer of
16 or the creation of a lien upon any property of a company before
17 the filing of a complaint under this Article, the indemnifying
18 transfer or lien shall also be deemed voidable.

19 (f) The property affected by any lien deemed voidable under
20 subsections (a) and (e) of this Section shall be discharged
21 from the lien, and that property and any of the indemnifying
22 property transferred to or for the benefit of a surety shall
23 pass to the Director as rehabilitator or liquidator, except
24 that the court may, on due notice, order any such lien to be
25 preserved for the benefit of the estate and the court may
26 direct that such conveyance be executed as may be proper or
27 adequate to evidence the title of the Director as rehabilitator
28 or liquidator.

29 (g) The court shall have summary jurisdiction over any
30 proceeding by the Director as rehabilitator, liquidator, or
31 conservator to hear and determine the rights of any parties
32 under this Section. Reasonable notice of any hearings in the
33 proceeding shall be given to all parties in interest, including
34 the obligee of a releasing bond or other life obligation. Where

1 an order is entered for the recovery of indemnifying property
2 in kind or for the avoidance of an indemnifying lien, the
3 court, upon application of any party in interest, shall in the
4 same proceeding ascertain the value of the property or lien,
5 and if the value is less than the amount for which the property
6 is indemnity or than the amount of the lien, the transferee or
7 lienholder may elect to retain the property or lien upon
8 payment of its value, as ascertained by the court, to the
9 Director as rehabilitator, liquidator, or conservator, within
10 such reasonable times as the court shall fix.

11 (h) The liability of the surety under the releasing bond or
12 other similar obligation shall be discharged to the extent of
13 the value of the indemnifying property recovered or the
14 indemnifying lien nullified and avoided by the Director as
15 rehabilitator, liquidator, or conservator. Where the property
16 is retained under subsection (g) of this Section, the liability
17 shall be discharged to the extent of the amount paid to the
18 Director as rehabilitator, liquidator, or conservator.

19 (i) If a creditor has been preferred and thereafter in good
20 faith gives the company further credit without security of any
21 kind, for property which becomes a part of the company's
22 estate, the amount of the new credit remaining unpaid at the
23 time of the petition may be set off against the preference
24 which would otherwise be recoverable from the creditor.

25 (j) If a company shall, directly or indirectly, within 4
26 months before the filing of a complaint under this Article, or
27 at any time in contemplation of such a proceeding, pay money or
28 transfer property to any attorney for services rendered or to
29 be rendered, the transactions may be examined by the court on
30 its own motion or shall be examined by the court on petition of
31 the Director as rehabilitator, liquidator, or conservator and
32 shall be held valid only to the extent of a reasonable amount
33 to be determined by the court, and the excess may be recovered
34 by the Director as rehabilitator, liquidator, or conservator

1 for the benefit of the estate provided that where the attorney
2 is in a position of influence in the company or an affiliate
3 thereof payment of any money or the transfer of any property to
4 the attorney for services rendered or to be rendered shall be
5 governed by item (B) of part (2) of subsection (a) of this
6 Section.

7 (k) (1) An officer, director, manager, employee,
8 shareholder, member, subscriber, attorney, or other person
9 acting on behalf of the company who knowingly participates in
10 giving any preference when that officer, director, manager,
11 employee, shareholder, member, subscriber, attorney, or other
12 person has reasonable cause to believe the company is or is
13 about to become insolvent at the time of the preference shall
14 be personally liable to the Director as rehabilitator,
15 liquidator, or conservator for the amount of the preference.
16 There is a reasonable cause to so believe if the transfer was
17 made within 4 months before the date of filing of the
18 complaint.

19 (2) A person receiving any property from the company or the
20 benefit thereof as a preference voidable under subsection (a)
21 of this Section shall be personally liable therefor and shall
22 be bound to account to the Director as rehabilitator,
23 liquidator, or conservator.

24 (3) Nothing in this Section shall prejudice any other claim
25 by the Director as rehabilitator, liquidator, or conservator
26 against any person.

27 (1) For purposes of this Section, the company is presumed
28 to have been insolvent on and during the 4 month period
29 immediately preceding the date of the filing of the complaint.

30 (m) The Director as rehabilitator, liquidator, or
31 conservator may not avoid a transfer under this Section to the
32 extent that the transfer was:

33 (A) Intended by the company and the creditor to or for
34 whose benefit the transfer was made to be a contemporaneous

1 exchange for new value given to the company, and was in
2 fact a substantially contemporaneous exchange; ~~or-~~

3 (B) In payment of a debt incurred by the company in the
4 ordinary course of business or financial affairs of the
5 company and the transferee; made in the ordinary course of
6 business or financial affairs of the company and the
7 transferee; and made according to ordinary business terms; ~~;~~
8 or-

9 (C) In the case of a transfer by a company where the
10 Director has determined that an event described in Section
11 35A-25 or 35A-30 has occurred, specifically approved by the
12 Director in writing pursuant to this subsection, whether or
13 not the company is in receivership under this Article. Upon
14 approval by the Director, such a transfer cannot later be
15 found to constitute a prohibited or voidable transfer based
16 solely upon a deviation from the statutory payment
17 priorities established by law for any subsequent
18 receivership.

19 (n) The Director as rehabilitator, liquidator, or
20 conservator may avoid any transfer of or lien upon the property
21 of a company that the estate of the company or a policyholder,
22 creditor, member, or stockholder of the company may have
23 avoided, and the Director as rehabilitator, liquidator, or
24 conservator may recover and collect the property so transferred
25 or its value from the person to whom it was transferred unless
26 the property was transferred to a bona fide holder for value
27 before the filing of the complaint. The Director as
28 rehabilitator, liquidator, or conservator shall be deemed a
29 creditor for purposes of pursuing claims under the Uniform
30 Fraudulent Transfer Act.

31 (Source: P.A. 89-206, eff. 7-21-95.)

32 (215 ILCS 5/408) (from Ch. 73, par. 1020)

33 Sec. 408. Fees and charges.

1 (1) The Director shall charge, collect and give proper
2 acquittances for the payment of the following fees and charges:

3 (a) For filing all documents submitted for the
4 incorporation or organization or certification of a
5 domestic company, except for a fraternal benefit society,
6 \$2,000.

7 (b) For filing all documents submitted for the
8 incorporation or organization of a fraternal benefit
9 society, \$500.

10 (c) For filing amendments to articles of incorporation
11 and amendments to declaration of organization, except for a
12 fraternal benefit society, a mutual benefit association, a
13 burial society or a farm mutual, \$200.

14 (d) For filing amendments to articles of incorporation
15 of a fraternal benefit society, a mutual benefit
16 association or a burial society, \$100.

17 (e) For filing amendments to articles of incorporation
18 of a farm mutual, \$50.

19 (f) For filing bylaws or amendments thereto, \$50.

20 (g) For filing agreement of merger or consolidation:

21 (i) for a domestic company, except for a fraternal
22 benefit society, a mutual benefit association, a
23 burial society, or a farm mutual, \$2,000.

24 (ii) for a foreign or alien company, except for a
25 fraternal benefit society, \$600.

26 (iii) for a fraternal benefit society, a mutual
27 benefit association, a burial society, or a farm
28 mutual, \$200.

29 (h) For filing agreements of reinsurance by a domestic
30 company, \$200.

31 (i) For filing all documents submitted by a foreign or
32 alien company to be admitted to transact business or
33 accredited as a reinsurer in this State, except for a
34 fraternal benefit society, \$5,000.

1 (j) For filing all documents submitted by a foreign or
2 alien fraternal benefit society to be admitted to transact
3 business in this State, \$500.

4 (k) For filing declaration of withdrawal of a foreign
5 or alien company, \$50.

6 (l) For filing annual statement, except a fraternal
7 benefit society, a mutual benefit association, a burial
8 society, or a farm mutual, \$200.

9 (m) For filing annual statement by a fraternal benefit
10 society, \$100.

11 (n) For filing annual statement by a farm mutual, a
12 mutual benefit association, or a burial society, \$50.

13 (o) For issuing a certificate of authority or renewal
14 thereof except to a fraternal benefit society, \$200.

15 (p) For issuing a certificate of authority or renewal
16 thereof to a fraternal benefit society, \$100.

17 (q) For issuing an amended certificate of authority,
18 \$50.

19 (r) For each certified copy of certificate of
20 authority, \$20.

21 (s) For each certificate of deposit, or valuation, or
22 compliance or surety certificate, \$20.

23 (t) For copies of papers or records per page, \$1.

24 (u) For each certification to copies of papers or
25 records, \$10.

26 (v) For multiple copies of documents or certificates
27 listed in subparagraphs (r), (s), and (u) of paragraph (1)
28 of this Section, \$10 for the first copy of a certificate of
29 any type and \$5 for each additional copy of the same
30 certificate requested at the same time, unless, pursuant to
31 paragraph (2) of this Section, the Director finds these
32 additional fees excessive.

33 (w) For issuing a permit to sell shares or increase
34 paid-up capital:

1 (i) in connection with a public stock offering,
2 \$300;

3 (ii) in any other case, \$100.

4 (x) For issuing any other certificate required or
5 permissible under the law, \$50.

6 (y) For filing a plan of exchange of the stock of a
7 domestic stock insurance company, a plan of
8 demutualization of a domestic mutual company, or a plan of
9 reorganization under Article XII, \$2,000.

10 (z) For filing a statement of acquisition of a domestic
11 company as defined in Section 131.4 of this Code, \$2,000.

12 (aa) For filing an agreement to purchase the business
13 of an organization authorized under the Dental Service Plan
14 Act or the Voluntary Health Services Plans Act or of a
15 health maintenance organization or a limited health
16 service organization, \$2,000.

17 (bb) For filing a statement of acquisition of a foreign
18 or alien insurance company as defined in Section 131.12a of
19 this Code, \$1,000.

20 (cc) For filing a registration statement as required in
21 Sections 131.13 and 131.14, the notification as required by
22 Sections 131.16, 131.20a, or 141.4, or an agreement or
23 transaction required by Sections 124.2(2), 141, 141a, or
24 141.1, \$200.

25 (dd) For filing an application for licensing of:

26 (i) a religious or charitable risk pooling trust or
27 a workers' compensation pool, \$1,000;

28 (ii) a workers' compensation service company,
29 \$500;

30 (iii) a self-insured automobile fleet, \$200; or

31 (iv) a renewal of or amendment of any license
32 issued pursuant to (i), (ii), or (iii) above, \$100.

33 (ee) For filing articles of incorporation for a
34 syndicate to engage in the business of insurance through

1 the Illinois Insurance Exchange, \$2,000.

2 (ff) For filing amended articles of incorporation for a
3 syndicate engaged in the business of insurance through the
4 Illinois Insurance Exchange, \$100.

5 (gg) For filing articles of incorporation for a limited
6 syndicate to join with other subscribers or limited
7 syndicates to do business through the Illinois Insurance
8 Exchange, \$1,000.

9 (hh) For filing amended articles of incorporation for a
10 limited syndicate to do business through the Illinois
11 Insurance Exchange, \$100.

12 (ii) For a permit to solicit subscriptions to a
13 syndicate or limited syndicate, \$100.

14 (jj) For the filing of each form as required in Section
15 143 of this Code, \$50 per form. The fee for advisory and
16 rating organizations shall be \$200 per form.

17 (i) For the purposes of the form filing fee,
18 filings made on insert page basis will be considered
19 one form at the time of its original submission.
20 Changes made to a form subsequent to its approval shall
21 be considered a new filing.

22 (ii) Only one fee shall be charged for a form,
23 regardless of the number of other forms or policies
24 with which it will be used.

25 (iii) ~~(Blank). Fees charged for a policy filed as~~
26 ~~it will be issued regardless of the number of forms~~
27 ~~comprising that policy shall not exceed \$1,000 or~~
28 ~~\$2,000 for advisory or rating organizations.~~

29 (iv) The Director may by rule exempt forms from
30 such fees.

31 (kk) For filing an application for licensing of a
32 reinsurance intermediary, \$500.

33 (ll) For filing an application for renewal of a license
34 of a reinsurance intermediary, \$200.

1 (2) When printed copies or numerous copies of the same
2 paper or records are furnished or certified, the Director may
3 reduce such fees for copies if he finds them excessive. He may,
4 when he considers it in the public interest, furnish without
5 charge to state insurance departments and persons other than
6 companies, copies or certified copies of reports of
7 examinations and of other papers and records.

8 (3) The expenses incurred in any performance examination
9 authorized by law shall be paid by the company or person being
10 examined. The charge shall be reasonably related to the cost of
11 the examination including but not limited to compensation of
12 examiners, electronic data processing costs, supervision and
13 preparation of an examination report and lodging and travel
14 expenses. All lodging and travel expenses shall be in accord
15 with the applicable travel regulations as published by the
16 Department of Central Management Services and approved by the
17 Governor's Travel Control Board, except that out-of-state
18 lodging and travel expenses related to examinations authorized
19 under Section 132 shall be in accordance with travel rates
20 prescribed under paragraph 301-7.2 of the Federal Travel
21 Regulations, 41 C.F.R. 301-7.2, for reimbursement of
22 subsistence expenses incurred during official travel. All
23 lodging and travel expenses may be reimbursed directly upon
24 authorization of the Director. With the exception of the direct
25 reimbursements authorized by the Director, all performance
26 examination charges collected by the Department shall be paid
27 to the Insurance Producers Administration Fund, however, the
28 electronic data processing costs incurred by the Department in
29 the performance of any examination shall be billed directly to
30 the company being examined for payment to the Statistical
31 Services Revolving Fund.

32 (4) At the time of any service of process on the Director
33 as attorney for such service, the Director shall charge and
34 collect the sum of \$20, which may be recovered as taxable costs

1 by the party to the suit or action causing such service to be
2 made if he prevails in such suit or action.

3 (5) (a) The costs incurred by the Department of Insurance
4 in conducting any hearing authorized by law shall be assessed
5 against the parties to the hearing in such proportion as the
6 Director of Insurance may determine upon consideration of all
7 relevant circumstances including: (1) the nature of the
8 hearing; (2) whether the hearing was instigated by, or for the
9 benefit of a particular party or parties; (3) whether there is
10 a successful party on the merits of the proceeding; and (4) the
11 relative levels of participation by the parties.

12 (b) For purposes of this subsection (5) costs incurred
13 shall mean the hearing officer fees, court reporter fees, and
14 travel expenses of Department of Insurance officers and
15 employees; provided however, that costs incurred shall not
16 include hearing officer fees or court reporter fees unless the
17 Department has retained the services of independent
18 contractors or outside experts to perform such functions.

19 (c) The Director shall make the assessment of costs
20 incurred as part of the final order or decision arising out of
21 the proceeding; provided, however, that such order or decision
22 shall include findings and conclusions in support of the
23 assessment of costs. This subsection (5) shall not be construed
24 as permitting the payment of travel expenses unless calculated
25 in accordance with the applicable travel regulations of the
26 Department of Central Management Services, as approved by the
27 Governor's Travel Control Board. The Director as part of such
28 order or decision shall require all assessments for hearing
29 officer fees and court reporter fees, if any, to be paid
30 directly to the hearing officer or court reporter by the
31 party(s) assessed for such costs. The assessments for travel
32 expenses of Department officers and employees shall be
33 reimbursable to the Director of Insurance for deposit to the
34 fund out of which those expenses had been paid.

1 (d) The provisions of this subsection (5) shall apply in
2 the case of any hearing conducted by the Director of Insurance
3 not otherwise specifically provided for by law.

4 (6) The Director shall charge and collect an annual
5 financial regulation fee from every domestic company for
6 examination and analysis of its financial condition and to fund
7 the internal costs and expenses of the Interstate Insurance
8 Receivership Commission as may be allocated to the State of
9 Illinois and companies doing an insurance business in this
10 State pursuant to Article X of the Interstate Insurance
11 Receivership Compact. The fee shall be the greater fixed amount
12 based upon the combination of nationwide direct premium income
13 and nationwide reinsurance assumed premium income or upon
14 admitted assets calculated under this subsection as follows:

15 (a) Combination of nationwide direct premium income
16 and nationwide reinsurance assumed premium.

17 (i) \$150, if the premium is less than \$500,000 and
18 there is no reinsurance assumed premium;

19 (ii) \$750, if the premium is \$500,000 or more, but
20 less than \$5,000,000 and there is no reinsurance
21 assumed premium; or if the premium is less than
22 \$5,000,000 and the reinsurance assumed premium is less
23 than \$10,000,000;

24 (iii) \$3,750, if the premium is less than
25 \$5,000,000 and the reinsurance assumed premium is
26 \$10,000,000 or more;

27 (iv) \$7,500, if the premium is \$5,000,000 or more,
28 but less than \$10,000,000;

29 (v) \$18,000, if the premium is \$10,000,000 or more,
30 but less than \$25,000,000;

31 (vi) \$22,500, if the premium is \$25,000,000 or
32 more, but less than \$50,000,000;

33 (vii) \$30,000, if the premium is \$50,000,000 or
34 more, but less than \$100,000,000;

1 (viii) \$37,500, if the premium is \$100,000,000 or
2 more.

3 (b) Admitted assets.

4 (i) \$150, if admitted assets are less than
5 \$1,000,000;

6 (ii) \$750, if admitted assets are \$1,000,000 or
7 more, but less than \$5,000,000;

8 (iii) \$3,750, if admitted assets are \$5,000,000 or
9 more, but less than \$25,000,000;

10 (iv) \$7,500, if admitted assets are \$25,000,000 or
11 more, but less than \$50,000,000;

12 (v) \$18,000, if admitted assets are \$50,000,000 or
13 more, but less than \$100,000,000;

14 (vi) \$22,500, if admitted assets are \$100,000,000
15 or more, but less than \$500,000,000;

16 (vii) \$30,000, if admitted assets are \$500,000,000
17 or more, but less than \$1,000,000,000;

18 (viii) \$37,500, if admitted assets are
19 \$1,000,000,000 or more.

20 (c) The sum of financial regulation fees charged to the
21 domestic companies of the same affiliated group shall not
22 exceed \$250,000 in the aggregate in any single year and
23 shall be billed by the Director to the member company
24 designated by the group.

25 (7) The Director shall charge and collect an annual
26 financial regulation fee from every foreign or alien company,
27 except fraternal benefit societies, for the examination and
28 analysis of its financial condition and to fund the internal
29 costs and expenses of the Interstate Insurance Receivership
30 Commission as may be allocated to the State of Illinois and
31 companies doing an insurance business in this State pursuant to
32 Article X of the Interstate Insurance Receivership Compact. The
33 fee shall be a fixed amount based upon Illinois direct premium
34 income and nationwide reinsurance assumed premium income in

1 accordance with the following schedule:

2 (a) \$150, if the premium is less than \$500,000 and
3 there is no reinsurance assumed premium;

4 (b) \$750, if the premium is \$500,000 or more, but less
5 than \$5,000,000 and there is no reinsurance assumed
6 premium; or if the premium is less than \$5,000,000 and the
7 reinsurance assumed premium is less than \$10,000,000;

8 (c) \$3,750, if the premium is less than \$5,000,000 and
9 the reinsurance assumed premium is \$10,000,000 or more;

10 (d) \$7,500, if the premium is \$5,000,000 or more, but
11 less than \$10,000,000;

12 (e) \$18,000, if the premium is \$10,000,000 or more, but
13 less than \$25,000,000;

14 (f) \$22,500, if the premium is \$25,000,000 or more, but
15 less than \$50,000,000;

16 (g) \$30,000, if the premium is \$50,000,000 or more, but
17 less than \$100,000,000;

18 (h) \$37,500, if the premium is \$100,000,000 or more.

19 The sum of financial regulation fees under this subsection
20 (7) charged to the foreign or alien companies within the same
21 affiliated group shall not exceed \$250,000 in the aggregate in
22 any single year and shall be billed by the Director to the
23 member company designated by the group.

24 (8) Beginning January 1, 1992, the financial regulation
25 fees imposed under subsections (6) and (7) of this Section
26 shall be paid by each company or domestic affiliated group
27 annually. After January 1, 1994, the fee shall be billed by
28 Department invoice based upon the company's premium income or
29 admitted assets as shown in its annual statement for the
30 preceding calendar year. The invoice is due upon receipt and
31 must be paid no later than June 30 of each calendar year. All
32 financial regulation fees collected by the Department shall be
33 paid to the Insurance Financial Regulation Fund. The Department
34 may not collect financial examiner per diem charges from

1 companies subject to subsections (6) and (7) of this Section
2 undergoing financial examination after June 30, 1992.

3 (9) In addition to the financial regulation fee required by
4 this Section, a company undergoing any financial examination
5 authorized by law shall pay the following costs and expenses
6 incurred by the Department: electronic data processing costs,
7 the expenses authorized under Section 131.21 and subsection (d)
8 of Section 132.4 of this Code, and lodging and travel expenses.

9 Electronic data processing costs incurred by the
10 Department in the performance of any examination shall be
11 billed directly to the company undergoing examination for
12 payment to the Statistical Services Revolving Fund. Except for
13 direct reimbursements authorized by the Director or direct
14 payments made under Section 131.21 or subsection (d) of Section
15 132.4 of this Code, all financial regulation fees and all
16 financial examination charges collected by the Department
17 shall be paid to the Insurance Financial Regulation Fund.

18 All lodging and travel expenses shall be in accordance with
19 applicable travel regulations published by the Department of
20 Central Management Services and approved by the Governor's
21 Travel Control Board, except that out-of-state lodging and
22 travel expenses related to examinations authorized under
23 Sections 132.1 through 132.7 shall be in accordance with travel
24 rates prescribed under paragraph 301-7.2 of the Federal Travel
25 Regulations, 41 C.F.R. 301-7.2, for reimbursement of
26 subsistence expenses incurred during official travel. All
27 lodging and travel expenses may be reimbursed directly upon the
28 authorization of the Director.

29 In the case of an organization or person not subject to the
30 financial regulation fee, the expenses incurred in any
31 financial examination authorized by law shall be paid by the
32 organization or person being examined. The charge shall be
33 reasonably related to the cost of the examination including,
34 but not limited to, compensation of examiners and other costs

1 described in this subsection.

2 (10) Any company, person, or entity failing to make any
3 payment of \$150 or more as required under this Section shall be
4 subject to the penalty and interest provisions provided for in
5 subsections (4) and (7) of Section 412.

6 (11) Unless otherwise specified, all of the fees collected
7 under this Section shall be paid into the Insurance Financial
8 Regulation Fund.

9 (12) For purposes of this Section:

10 (a) "Domestic company" means a company as defined in
11 Section 2 of this Code which is incorporated or organized
12 under the laws of this State, and in addition includes a
13 not-for-profit corporation authorized under the Dental
14 Service Plan Act or the Voluntary Health Services Plans
15 Act, a health maintenance organization, and a limited
16 health service organization.

17 (b) "Foreign company" means a company as defined in
18 Section 2 of this Code which is incorporated or organized
19 under the laws of any state of the United States other than
20 this State and in addition includes a health maintenance
21 organization and a limited health service organization
22 which is incorporated or organized under the laws of any
23 state of the United States other than this State.

24 (c) "Alien company" means a company as defined in
25 Section 2 of this Code which is incorporated or organized
26 under the laws of any country other than the United States.

27 (d) "Fraternal benefit society" means a corporation,
28 society, order, lodge or voluntary association as defined
29 in Section 282.1 of this Code.

30 (e) "Mutual benefit association" means a company,
31 association or corporation authorized by the Director to do
32 business in this State under the provisions of Article
33 XVIII of this Code.

34 (f) "Burial society" means a person, firm,

1 corporation, society or association of individuals
2 authorized by the Director to do business in this State
3 under the provisions of Article XIX of this Code.

4 (g) "Farm mutual" means a district, county and township
5 mutual insurance company authorized by the Director to do
6 business in this State under the provisions of the Farm
7 Mutual Insurance Company Act of 1986.

8 (Source: P.A. 93-32, eff. 7-1-03.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."