

1 AN ACT in relation to insurance.

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

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 143, 204, 209, 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
25 subsequent to the date the policy is issued must be filed with,
26 reviewed, and formally approved by the Director prior to the
27 date it is attached to a policy issued or delivered in this
28 State. It shall be the duty of the Director to withhold
29 approval of any such policy, certificate, endorsement, rider,
30 bylaw or other matter incorporated by reference or application
31 blank filed with him if it contains provisions which encourage
32 misrepresentation or are unjust, unfair, inequitable,

1 ambiguous, misleading, inconsistent, deceptive, contrary to
2 law or to the public policy of this State, or contains
3 exceptions and conditions that unreasonably or deceptively
4 affect the risk purported to be assumed in the general coverage
5 of the policy. In all cases the Director shall approve or
6 disapprove any such form within 60 days after submission unless
7 the Director extends by not more than an additional 30 days the
8 period within which he shall approve or disapprove any such
9 form by giving written notice to the insurer of such extension
10 before expiration of the initial 60 days period. The Director
11 shall withdraw his approval of a policy, certificate, evidence
12 of coverage, endorsement, rider, bylaw, or other matter
13 incorporated by reference or application blank if he
14 subsequently determines that such policy, certificate,
15 evidence of coverage, endorsement, rider, bylaw, other matter,
16 or application blank is misrepresentative, unjust, unfair,
17 inequitable, ambiguous, misleading, inconsistent, deceptive,
18 contrary to law or public policy of this State, or contains
19 exceptions or conditions which unreasonably or deceptively
20 affect the risk purported to be assumed in the general coverage
21 of the policy or evidence of coverage.

22 If a previously approved policy, certificate, evidence of
23 coverage, endorsement, rider, bylaw or other matter
24 incorporated by reference or application blank is withdrawn for
25 use, the Director shall serve upon the company an order of
26 withdrawal of use, either personally or by mail, and if by
27 mail, such service shall be completed if such notice be
28 deposited in the post office, postage prepaid, addressed to the
29 company's last known address specified in the records of the
30 Department of Insurance. The order of withdrawal of use shall
31 take effect 30 days from the date of mailing but shall be
32 stayed if within the 30-day period a written request for
33 hearing is filed with the Director. Such hearing shall be held
34 at such time and place as designated in the order given by the
35 Director. The hearing may be held either in the City of
36 Springfield, the City of Chicago or in the county where the

1 principal business address of the company is located. The
2 action of the Director in disapproving or withdrawing such form
3 shall be subject to judicial review under the Administrative
4 Review Law.

5 This subsection shall not apply to riders or endorsements
6 issued or made at the request of the individual policyholder
7 relating to the manner of distribution of benefits or to the
8 reservation of rights and benefits under his life insurance
9 policy.

10 (2) Casualty, fire, and marine. The Director shall require
11 the filing of all policy forms issued or delivered by any
12 company transacting the kind or kinds of business enumerated in
13 Classes 2 (except Class 2 (a)) and 3 of Section 4. In addition,
14 he may require the filing of any generally used riders,
15 endorsements, certificates, application blanks, and other
16 matter incorporated by reference in any such policy or contract
17 of insurance. The Department shall mail a quarterly invoice to
18 the company for the appropriate filing fees required under
19 Section 408 ~~along with the appropriate filing fee under Section~~
20 ~~408~~. Companies that are members of an organization, bureau, or
21 association may have the same filed for them by the
22 organization, bureau, or association. If the Director shall
23 find from an examination of any such policy form, rider,
24 endorsement, certificate, application blank, or other matter
25 incorporated by reference in any such policy so filed that it
26 (i) violates any provision of this Code, (ii) contains
27 inconsistent, ambiguous, or misleading clauses, or (iii)
28 contains exceptions and conditions that will unreasonably or
29 deceptively affect the risks that are purported to be assumed
30 by the policy, he shall order the company or companies issuing
31 these forms to discontinue their use. Nothing in this
32 subsection shall require a company transacting the kind or
33 kinds of business enumerated in Classes 2 (except Class 2 (a))
34 and 3 of Section 4 to obtain approval of these forms before
35 they are issued nor in any way affect the legality of any
36 policy that has been issued and found to be in conflict with

1 this subsection, but such policies shall be subject to the
2 provisions of Section 442.

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

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

10 (215 ILCS 5/204) (from Ch. 73, par. 816)

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

12 (a) (1) A preference is a transfer of any of the property of
13 a company to or for the benefit of a creditor, for or on
14 account of an antecedent debt, made or suffered by the company
15 within 2 years before the filing of a complaint under this
16 Article, the effect of which may be to enable the creditor to
17 obtain a greater percentage of this debt than another creditor
18 of the same class would receive.

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

21 (A) the company was insolvent at the time of the
22 transfer; and

23 (B) the transfer was made within 4 months before the
24 filing of the complaint; or the creditor receiving it was

25 (i) an officer, or any employee or attorney or other person
26 who was in fact in a position of comparable influence in
27 the company to an officer whether or not that person held
28 such a position, (ii) any shareholder holding, directly or
29 indirectly, more than 5% of any class of any equity
30 security issued by the company, or (iii) any other person,
31 firm, corporation, association, or aggregation of
32 individuals with whom the company did not deal at arm's
33 length.

34 (3) Where the preference is voidable, the Director as
35 rehabilitator, liquidator, or conservator may recover the

1 property or, if it has been converted, its value from any
2 person who has received or converted the property; except where
3 a bona fide purchaser or lienor has given less than fair
4 equivalent value, the purchaser or lienor shall have a lien
5 upon the property to the extent of the consideration actually
6 given. Where a preference by way of lien or security title is
7 voidable, the court may on due notice order the lien or title
8 to be preserved for the benefit of the estate, in which event
9 the lien or title shall pass to the Director as rehabilitator
10 or liquidator.

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

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

20 (3) A transfer that creates an equitable lien shall not be
21 deemed to be perfected if there are available means by which a
22 legal lien could be created.

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

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

29 (c) For purposes of this Section:

30 (1) A lien obtainable by legal or equitable proceedings
31 upon a simple contract is one arising in the ordinary
32 course of the proceedings upon the entry or docketing of a
33 judgment or decree, or upon attachment, garnishment,
34 execution, or like process, whether before, upon, or after
35 judgment or decree and whether before or upon levy. It does
36 not include liens that, under applicable law, are given a

1 special priority over other liens that are prior in time.

2 (2) A lien obtainable by legal or equitable proceedings
3 could become superior to the rights of a transferee, or a
4 purchaser could obtain rights superior to the rights of a
5 transferee within the meaning of subsection (b) of this
6 Section, if such consequences would follow only from the
7 lien or purchase itself, or from the lien or purchase
8 followed by any step wholly within the control of the
9 respective lienholder or purchaser, with or without the aid
10 of ministerial action by public officials. A lien could
11 not, however, become superior and a purchase could not
12 create superior rights for the purpose of subsection (b) of
13 this Section through any acts subsequent to an obtaining of
14 the lien or subsequent to a purchase that requires the
15 agreement or concurrence of any third party or that
16 requires any further judicial action or ruling.

17 (d) A transfer of property for or on account of a new and
18 contemporaneous consideration which is deemed under subsection
19 (b) of this Section to be made or suffered after the transfer
20 because of delay in perfecting it does not thereby become a
21 transfer for or on account of an antecedent debt if any acts
22 required by the applicable law to be performed in order to
23 perfect the transfer as against liens or bona fide purchasers'
24 rights are performed within 21 days or any period expressly
25 allowed by the law, whichever is less. A transfer to secure a
26 future loan, if the loan is actually made, or a transfer that
27 becomes security for a future loan, shall have the same effect
28 as a transfer for or on account of a new and contemporaneous
29 consideration.

30 (e) If any lien deemed voidable under part (2) of
31 subsection (a) of this Section has been dissolved by the
32 furnishing of a bond or other obligation, the surety on which
33 has been indemnified directly or indirectly by the transfer of
34 or the creation of a lien upon any property of a company before
35 the filing of a complaint under this Article, the indemnifying
36 transfer or lien shall also be deemed voidable.

1 (f) The property affected by any lien deemed voidable under
2 subsections (a) and (e) of this Section shall be discharged
3 from the lien, and that property and any of the indemnifying
4 property transferred to or for the benefit of a surety shall
5 pass to the Director as rehabilitator or liquidator, except
6 that the court may, on due notice, order any such lien to be
7 preserved for the benefit of the estate and the court may
8 direct that such conveyance be executed as may be proper or
9 adequate to evidence the title of the Director as rehabilitator
10 or liquidator.

11 (g) The court shall have summary jurisdiction over any
12 proceeding by the Director as rehabilitator, liquidator, or
13 conservator to hear and determine the rights of any parties
14 under this Section. Reasonable notice of any hearings in the
15 proceeding shall be given to all parties in interest, including
16 the obligee of a releasing bond or other life obligation. Where
17 an order is entered for the recovery of indemnifying property
18 in kind or for the avoidance of an indemnifying lien, the
19 court, upon application of any party in interest, shall in the
20 same proceeding ascertain the value of the property or lien,
21 and if the value is less than the amount for which the property
22 is indemnity or than the amount of the lien, the transferee or
23 lienholder may elect to retain the property or lien upon
24 payment of its value, as ascertained by the court, to the
25 Director as rehabilitator, liquidator, or conservator, within
26 such reasonable times as the court shall fix.

27 (h) The liability of the surety under the releasing bond or
28 other similar obligation shall be discharged to the extent of
29 the value of the indemnifying property recovered or the
30 indemnifying lien nullified and avoided by the Director as
31 rehabilitator, liquidator, or conservator. Where the property
32 is retained under subsection (g) of this Section, the liability
33 shall be discharged to the extent of the amount paid to the
34 Director as rehabilitator, liquidator, or conservator.

35 (i) If a creditor has been preferred and thereafter in good
36 faith gives the company further credit without security of any

1 kind, for property which becomes a part of the company's
2 estate, the amount of the new credit remaining unpaid at the
3 time of the petition may be set off against the preference
4 which would otherwise be recoverable from the creditor.

5 (j) If a company shall, directly or indirectly, within 4
6 months before the filing of a complaint under this Article, or
7 at any time in contemplation of such a proceeding, pay money or
8 transfer property to any attorney for services rendered or to
9 be rendered, the transactions may be examined by the court on
10 its own motion or shall be examined by the court on petition of
11 the Director as rehabilitator, liquidator, or conservator and
12 shall be held valid only to the extent of a reasonable amount
13 to be determined by the court, and the excess may be recovered
14 by the Director as rehabilitator, liquidator, or conservator
15 for the benefit of the estate provided that where the attorney
16 is in a position of influence in the company or an affiliate
17 thereof payment of any money or the transfer of any property to
18 the attorney for services rendered or to be rendered shall be
19 governed by item (B) of part (2) of subsection (a) of this
20 Section.

21 (k) (1) An officer, director, manager, employee,
22 shareholder, member, subscriber, attorney, or other person
23 acting on behalf of the company who knowingly participates in
24 giving any preference when that officer, director, manager,
25 employee, shareholder, member, subscriber, attorney, or other
26 person has reasonable cause to believe the company is or is
27 about to become insolvent at the time of the preference shall
28 be personally liable to the Director as rehabilitator,
29 liquidator, or conservator for the amount of the preference.
30 There is a reasonable cause to so believe if the transfer was
31 made within 4 months before the date of filing of the
32 complaint.

33 (2) A person receiving any property from the company or the
34 benefit thereof as a preference voidable under subsection (a)
35 of this Section shall be personally liable therefor and shall
36 be bound to account to the Director as rehabilitator,

1 liquidator, or conservator.

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

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

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

11 (A) Intended by the company and the creditor to or for
12 whose benefit the transfer was made to be a contemporaneous
13 exchange for new value given to the company, and was in
14 fact a substantially contemporaneous exchange; ~~or~~

15 (B) In payment of a debt incurred by the company in the
16 ordinary course of business or financial affairs of the
17 company and the transferee; made in the ordinary course of
18 business or financial affairs of the company and the
19 transferee; and made according to ordinary business terms;
20 ~~or~~

21 (C) In the case of a transfer by a company where the
22 Director has determined that an event described in Section
23 35A-25 or 35A-30 has occurred, specifically approved by the
24 Director in writing pursuant to this subsection, whether or
25 not the company is in receivership under this Article. Upon
26 approval by the Director, such a transfer cannot later be
27 found to constitute a prohibited or voidable transfer based
28 solely upon a deviation from the statutory payment
29 priorities established by law for any subsequent
30 receivership.

31 (n) The Director as rehabilitator, liquidator, or
32 conservator may avoid any transfer of or lien upon the property
33 of a company that the estate of the company or a policyholder,
34 creditor, member, or stockholder of the company may have
35 avoided, and the Director as rehabilitator, liquidator, or
36 conservator may recover and collect the property so transferred

1 or its value from the person to whom it was transferred unless
2 the property was transferred to a bona fide holder for value
3 before the filing of the complaint. The Director as
4 rehabilitator, liquidator, or conservator shall be deemed a
5 creditor for purposes of pursuing claims under the Uniform
6 Fraudulent Transfer Act.

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

8 (215 ILCS 5/209) (from Ch. 73, par. 821)

9 Sec. 209. Proof and allowance of claims.

10 (1) A proof of claim shall consist of a written statement
11 signed under oath setting forth the claim, the consideration
12 for it, whether the claim is secured and, if so, how, what
13 payments have been made on the claim, if any, and that the sum
14 claimed is justly owing from the company. Whenever a claim is
15 based upon a document, the document, unless lost or destroyed,
16 shall be filed with the proof of claim. If the document is lost
17 or destroyed, a statement of that fact and of the circumstances
18 of the loss or destruction shall be included in the proof of
19 claim. A claim may be allowed even if contingent or
20 unliquidated as of the date fixed by the court pursuant to
21 subsection (a) of Section 194 if it is filed in accordance with
22 this subsection. Except as otherwise provided in subsection
23 (7), a proof of claim required under this Section must identify
24 a known loss or occurrence ~~particular claim~~.

25 (2) At any time, the Director may require the claimant to
26 present information or evidence supplementary to that required
27 under subsection (1) and may take testimony under oath, require
28 production of affidavits or depositions, or otherwise obtain
29 additional information or evidence.

30 (3) Upon the liquidation, rehabilitation, or conservation
31 of any company which has issued policies insuring the lives of
32 persons, the Director shall, within a reasonable time, after
33 the last day set for the filing of claims, make a list of the
34 persons who have not filed proofs of claim with him and whose
35 rights have not been reinsured, to whom it appears from the

1 books of the company, there are owing amounts on such policies
2 and he shall set opposite the name of each person such amount
3 so owing to such person. The Director shall incur no personal
4 liability by reason of any mistake in such list. Each person
5 whose name shall appear upon said list shall be deemed to have
6 duly filed prior to the last day set for filing of claims a
7 proof of claim for the amount set opposite his name on said
8 list.

9 (4) (a) When a Liquidation, Rehabilitation, or Conservation
10 Order has been entered in a proceeding against an insurer under
11 this Code, any insured under an insurance policy shall have the
12 right to file a contingent claim. The Court at the time of the
13 entry of the Order of Liquidation, Rehabilitation or
14 Conservation shall fix the final date for the liquidation of
15 insureds' contingent claims, but in no event shall said date be
16 more than 3 years after the last day fixed for the filing of
17 claims, provided, such date may be extended by the Court on
18 petition of the Director should the Director determine that
19 such extension will not delay distribution of assets under
20 Section 210. Such a contingent claim shall be allowed if such
21 claim is liquidated and the insured claimant presents evidence
22 of payment of such claim to the Director on or before the last
23 day fixed by the Court.

24 (b) When an insured has been unable to liquidate its claim
25 under paragraph (a) of this subsection (4), the insured may
26 have its claim allowed by estimation if (i) it may be
27 reasonably inferred from the proof presented upon the claim
28 that a claim exists under the policy; (ii) the insured has
29 furnished suitable proof, unless the court for good cause shown
30 shall otherwise direct, that no further valid claims against
31 the insurer arising out of the cause of action other than those
32 already presented can be made, and (iii) the total liability of
33 the insurer to all claimants arising out of the same act shall
34 be no greater than its total liability would be were it not in
35 liquidation, rehabilitation, or conservation.

36 (5) The obligation of the insurer, if any, to defend or

1 continue the defense of any claim or suit under a liability
2 insurance policy shall terminate on the entry of the Order of
3 Liquidation, Rehabilitation or Conservation, except during the
4 appeal of an Order of Liquidation as provided by Section 190.1
5 or, unless upon the petition of the Director, the court directs
6 otherwise. Insureds may include in contingent claims
7 reasonable attorneys fees for services rendered subsequent to
8 the date of Liquidation, Rehabilitation or Conservation in
9 defense of claims or suits covered by the insured's policy
10 provided such attorneys fees have actually been paid by the
11 assured and evidence of payment presented in the manner
12 required for insured's contingent claims.

13 (6) When a liquidation, rehabilitation, or conservation
14 order has been entered in a proceeding against an insurer under
15 this Code, any person who has a cause of action against an
16 insured of the insurer under an insurance policy issued by the
17 insurer shall have the right to file a claim in the proceeding,
18 regardless of the fact that the claim may be contingent, and
19 the claim may be allowed by estimation (a) if it may be
20 reasonably, inferred from proof presented upon the claim that
21 the claimant would be able to obtain a judgment upon the cause
22 of action against the insured; and (b) if the person has
23 furnished suitable proof, unless the court for good cause shown
24 shall otherwise direct, that no further valid claims against
25 the insurer arising out of the cause of action other than those
26 already presented can be made, and (c) the total liability of
27 the insurer to all claimants arising out of the same act shall
28 be no greater than its total liability would be were it not in
29 liquidation, rehabilitation, or conservation.

30 (7) Contingent or unliquidated general creditors' and
31 ceding insurers' claims that are not made absolute and
32 liquidated by the last day fixed by the court pursuant to
33 subsection (4) may ~~shall~~ be determined and allowed by
34 estimation. Any such estimate shall be based upon an actuarial
35 evaluation made with reasonable actuarial certainty or upon
36 another accepted method of valuing claims with reasonable

1 certainty and, with respect to ceding insurers' claims, may
2 include an estimate of incurred but not reported losses.

3 (7.5) (a) The estimation and allowance of the loss
4 development on a known loss or occurrence shall trigger a
5 reinsurer's obligation to pay pursuant to its reinsurance
6 contract with the insolvent company, provided that the
7 allowance is made in accordance with paragraph (b) of
8 subsection (4) or subsection (6). The Director shall have the
9 authority to exercise all available remedies on behalf of the
10 insolvent company to marshal these reinsurance recoverables.

11 (b) That portion of any estimated and allowed contingent
12 claim that is attributable to claims incurred but not reported
13 to the insolvent company's reinsured shall not be billable to
14 the insolvent company's reinsurers, except to the extent that
15 (A) such claims develop into known losses or occurrences and
16 become billable under paragraph (a) of this subsection or (B)
17 the reinsurance contract specifically provides for the payment
18 of such losses or reserves.

19 (c) Notwithstanding any other provision of this Code, the
20 liquidator may negotiate a voluntary commutation and release of
21 all obligations arising from reinsurance contracts or other
22 agreements.

23 (8) No judgment against such an insured or an insurer taken
24 after the date of the entry of the liquidation, rehabilitation,
25 or conservation order shall be considered in the proceedings as
26 evidence of liability, or of the amount of damages, and no
27 judgment against an insured or an insurer taken by default, or
28 by collusion prior to the entry of the liquidation order shall
29 be considered as conclusive evidence in the proceeding either
30 of the liability of such insured to such person upon such cause
31 of action or of the amount of damages to which such person is
32 therein entitled.

33 (9) The value of securities held by secured creditors shall
34 be determined by converting the same into money according to
35 the terms of the agreement pursuant to which such securities
36 were delivered to such creditors, or by such creditors and the

1 Director by agreement, or by the court, and the amount of such
2 value shall be credited upon the claims of such secured
3 creditors and their claims allowed only for the balance.

4 (10) Claims of creditors or policyholders who have received
5 preferences voidable under Section 204 or to whom conveyances
6 or transfers, assignments or incumbrances have been made or
7 given which are void under Section 204, shall not be allowed
8 unless such creditors or policyholders shall surrender such
9 preferences, conveyances, transfers, assignments or
10 incumbrances.

11 (11) (a) When the Director denies a claim or allows a claim
12 for less than the amount requested by the claimant, written
13 notice of the determination and of the right to object shall be
14 given promptly to the claimant or the claimant's representative
15 by first class mail at the address shown on the proof of claim.
16 Within 60 days from the mailing of the notice, the claimant may
17 file his written objections with the Director. If no such
18 filing is made on a timely basis, the claimant may not further
19 object to the determination.

20 (b) Whenever objections are filed with the Director and he
21 does not alter his determination as a result of the objection
22 and the claimant continues to object, the Director shall
23 petition the court for a hearing as soon as practicable and
24 give notice of the hearing by first class mail to the claimant
25 or his representative and to any other persons known by the
26 Director to be directly affected, not less than 10 days before
27 the date of the hearing.

28 (12) The Director shall review all claims duly filed in the
29 liquidation, rehabilitation, or conservation proceeding,
30 unless otherwise directed by the court, and shall make such
31 further investigation as he considers necessary. The Director
32 may compound, compromise, or in any other manner negotiate the
33 amount for which claims will be recommended to the court.
34 Unresolved disputes shall be determined under subsection (11).

35 (13) (a) The Director shall present to the court reports of
36 claims reviewed under subsection (12) with his recommendations

1 as to each claim.

2 (b) The court may approve or disapprove any recommendations
3 contained in the reports of claims filed by the Director,
4 except that the Director's agreements with claimants shall be
5 accepted as final by the court on claims settled for \$10,000 or
6 less.

7 (14) The changes made in this Section by this amendatory
8 Act of 1993 apply to all liquidation, rehabilitation, or
9 conservation proceedings that are pending on the effective date
10 of this amendatory Act of 1993 and to all future liquidation,
11 rehabilitation, or conservation proceedings, except that the
12 changes made to the provisions of this Section by this
13 amendatory Act of 1993 shall not apply to any company ordered
14 into liquidation on or before January 1, 1982.

15 (15) The changes made in this Section by this amendatory
16 Act of the 93rd General Assembly do not apply to any company
17 ordered into liquidation on or before January 1, 2004.

18 (Source: P.A. 91-357, eff. 7-29-99.)

19 (215 ILCS 5/408) (from Ch. 73, par. 1020)

20 Sec. 408. Fees and charges.

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

23 (a) For filing all documents submitted for the
24 incorporation or organization or certification of a
25 domestic company, except for a fraternal benefit society,
26 \$2,000.

27 (b) For filing all documents submitted for the
28 incorporation or organization of a fraternal benefit
29 society, \$500.

30 (c) For filing amendments to articles of incorporation
31 and amendments to declaration of organization, except for a
32 fraternal benefit society, a mutual benefit association, a
33 burial society or a farm mutual, \$200.

34 (d) For filing amendments to articles of incorporation
35 of a fraternal benefit society, a mutual benefit

1 association or a burial society, \$100.

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

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

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

6 (i) for a domestic company, except for a fraternal
7 benefit society, a mutual benefit association, a
8 burial society, or a farm mutual, \$2,000.

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

11 (iii) for a fraternal benefit society, a mutual
12 benefit association, a burial society, or a farm
13 mutual, \$200.

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

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

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

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

25 (l) For filing annual statement, except a fraternal
26 benefit society, a mutual benefit association, a burial
27 society, or a farm mutual, \$200.

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

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

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

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

36 (q) For issuing an amended certificate of authority,

1 \$50.

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

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

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

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

9 (v) For multiple copies of documents or certificates
10 listed in subparagraphs (r), (s), and (u) of paragraph (1)
11 of this Section, \$10 for the first copy of a certificate of
12 any type and \$5 for each additional copy of the same
13 certificate requested at the same time, unless, pursuant to
14 paragraph (2) of this Section, the Director finds these
15 additional fees excessive.

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

18 (i) in connection with a public stock offering,
19 \$300;

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

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

23 (y) For filing a plan of exchange of the stock of a
24 domestic stock insurance company, a plan of
25 demutualization of a domestic mutual company, or a plan of
26 reorganization under Article XII, \$2,000.

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

29 (aa) For filing an agreement to purchase the business
30 of an organization authorized under the Dental Service Plan
31 Act or the Voluntary Health Services Plans Act or of a
32 health maintenance organization or a limited health
33 service organization, \$2,000.

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

1 (cc) For filing a registration statement as required in
2 Sections 131.13 and 131.14, the notification as required by
3 Sections 131.16, 131.20a, or 141.4, or an agreement or
4 transaction required by Sections 124.2(2), 141, 141a, or
5 141.1, \$200.

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

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

9 (ii) a workers' compensation service company,
10 \$500;

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

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

14 (ee) For filing articles of incorporation for a
15 syndicate to engage in the business of insurance through
16 the Illinois Insurance Exchange, \$2,000.

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

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

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

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

29 (jj) For the filing of each form as required in Section
30 143 of this Code, \$50 per form. The fee for advisory and
31 rating organizations shall be \$200 per form.

32 (i) For the purposes of the form filing fee,
33 filings made on insert page basis will be considered
34 one form at the time of its original submission.
35 Changes made to a form subsequent to its approval shall
36 be considered a new filing.

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

4 (iii) (Blank). ~~Fees charged for a policy filed as~~
5 ~~it will be issued regardless of the number of forms~~
6 ~~comprising that policy shall not exceed \$1,000 or~~
7 ~~\$2,000 for advisory or rating organizations.~~

8 (iv) The Director may by rule exempt forms from
9 such fees.

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

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

14 (2) When printed copies or numerous copies of the same
15 paper or records are furnished or certified, the Director may
16 reduce such fees for copies if he finds them excessive. He may,
17 when he considers it in the public interest, furnish without
18 charge to state insurance departments and persons other than
19 companies, copies or certified copies of reports of
20 examinations and of other papers and records.

21 (3) The expenses incurred in any performance examination
22 authorized by law shall be paid by the company or person being
23 examined. The charge shall be reasonably related to the cost of
24 the examination including but not limited to compensation of
25 examiners, electronic data processing costs, supervision and
26 preparation of an examination report and lodging and travel
27 expenses. All lodging and travel expenses shall be in accord
28 with the applicable travel regulations as published by the
29 Department of Central Management Services and approved by the
30 Governor's Travel Control Board, except that out-of-state
31 lodging and travel expenses related to examinations authorized
32 under Section 132 shall be in accordance with travel rates
33 prescribed under paragraph 301-7.2 of the Federal Travel
34 Regulations, 41 C.F.R. 301-7.2, for reimbursement of
35 subsistence expenses incurred during official travel. All
36 lodging and travel expenses may be reimbursed directly upon

1 authorization of the Director. With the exception of the direct
2 reimbursements authorized by the Director, all performance
3 examination charges collected by the Department shall be paid
4 to the Insurance Producers Administration Fund, however, the
5 electronic data processing costs incurred by the Department in
6 the performance of any examination shall be billed directly to
7 the company being examined for payment to the Statistical
8 Services Revolving Fund.

9 (4) At the time of any service of process on the Director
10 as attorney for such service, the Director shall charge and
11 collect the sum of \$20, which may be recovered as taxable costs
12 by the party to the suit or action causing such service to be
13 made if he prevails in such suit or action.

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

23 (b) For purposes of this subsection (5) costs incurred
24 shall mean the hearing officer fees, court reporter fees, and
25 travel expenses of Department of Insurance officers and
26 employees; provided however, that costs incurred shall not
27 include hearing officer fees or court reporter fees unless the
28 Department has retained the services of independent
29 contractors or outside experts to perform such functions.

30 (c) The Director shall make the assessment of costs
31 incurred as part of the final order or decision arising out of
32 the proceeding; provided, however, that such order or decision
33 shall include findings and conclusions in support of the
34 assessment of costs. This subsection (5) shall not be construed
35 as permitting the payment of travel expenses unless calculated
36 in accordance with the applicable travel regulations of the

1 Department of Central Management Services, as approved by the
2 Governor's Travel Control Board. The Director as part of such
3 order or decision shall require all assessments for hearing
4 officer fees and court reporter fees, if any, to be paid
5 directly to the hearing officer or court reporter by the
6 party(s) assessed for such costs. The assessments for travel
7 expenses of Department officers and employees shall be
8 reimbursable to the Director of Insurance for deposit to the
9 fund out of which those expenses had been paid.

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

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

24 (a) Combination of nationwide direct premium income
25 and nationwide reinsurance assumed premium.

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

28 (ii) \$750, if the premium is \$500,000 or more, but
29 less than \$5,000,000 and there is no reinsurance
30 assumed premium; or if the premium is less than
31 \$5,000,000 and the reinsurance assumed premium is less
32 than \$10,000,000;

33 (iii) \$3,750, if the premium is less than
34 \$5,000,000 and the reinsurance assumed premium is
35 \$10,000,000 or more;

36 (iv) \$7,500, if the premium is \$5,000,000 or more,

1 but less than \$10,000,000;

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

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

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

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

10 (b) Admitted assets.

11 (i) \$150, if admitted assets are less than
12 \$1,000,000;

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

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

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

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

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

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

25 (viii) \$37,500, if admitted assets are
26 \$1,000,000,000 or more.

27 (c) The sum of financial regulation fees charged to the
28 domestic companies of the same affiliated group shall not
29 exceed \$250,000 in the aggregate in any single year and
30 shall be billed by the Director to the member company
31 designated by the group.

32 (7) The Director shall charge and collect an annual
33 financial regulation fee from every foreign or alien company,
34 except fraternal benefit societies, for the examination and
35 analysis of its financial condition and to fund the internal
36 costs and expenses of the Interstate Insurance Receivership

1 Commission as may be allocated to the State of Illinois and
2 companies doing an insurance business in this State pursuant to
3 Article X of the Interstate Insurance Receivership Compact. The
4 fee shall be a fixed amount based upon Illinois direct premium
5 income and nationwide reinsurance assumed premium income in
6 accordance with the following schedule:

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

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

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

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

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

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

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

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

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

29 (8) Beginning January 1, 1992, the financial regulation
30 fees imposed under subsections (6) and (7) of this Section
31 shall be paid by each company or domestic affiliated group
32 annually. After January 1, 1994, the fee shall be billed by
33 Department invoice based upon the company's premium income or
34 admitted assets as shown in its annual statement for the
35 preceding calendar year. The invoice is due upon receipt and
36 must be paid no later than June 30 of each calendar year. All

1 financial regulation fees collected by the Department shall be
2 paid to the Insurance Financial Regulation Fund. The Department
3 may not collect financial examiner per diem charges from
4 companies subject to subsections (6) and (7) of this Section
5 undergoing financial examination after June 30, 1992.

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

12 Electronic data processing costs incurred by the
13 Department in the performance of any examination shall be
14 billed directly to the company undergoing examination for
15 payment to the Statistical Services Revolving Fund. Except for
16 direct reimbursements authorized by the Director or direct
17 payments made under Section 131.21 or subsection (d) of Section
18 132.4 of this Code, all financial regulation fees and all
19 financial examination charges collected by the Department
20 shall be paid to the Insurance Financial Regulation Fund.

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

32 In the case of an organization or person not subject to the
33 financial regulation fee, the expenses incurred in any
34 financial examination authorized by law shall be paid by the
35 organization or person being examined. The charge shall be
36 reasonably related to the cost of the examination including,

1 but not limited to, compensation of examiners and other costs
2 described in this subsection.

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

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

10 (12) For purposes of this Section:

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

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

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

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

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

35 (f) "Burial society" means a person, firm,
36 corporation, society or association of individuals

1 authorized by the Director to do business in this State
2 under the provisions of Article XIX of this Code.

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

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

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