



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4883

Introduced 1/19/2006, by Rep. George Scully, Jr.

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/107a.11  
215 ILCS 5/145 from Ch. 73, par. 757  
215 ILCS 5/Art. XLV heading new  
215 ILCS 5/1500 new  
215 ILCS 5/1501 new  
215 ILCS 5/1505 new  
215 ILCS 5/1510 new  
215 ILCS 5/1515 new

Amends the Illinois Insurance Code. Requires that all securities eligible for registration by a Workers' Compensation Pool shall be maintained (i) in a State or National Bank having trust powers and located within Illinois or (ii) with a broker or dealer meeting certain requirements (now, in a State or National Bank having trust powers and located within Illinois). Creates an Article concerning custodial agreements and the use of clearing corporations. Provides definitions. Allows domestic insurance companies to deposit securities held or purchased for its general account in a clearing corporation. Allows certificates representing securities of the same class of the same issuer to be merged and held in bulk in the name of the nominee of the clearing corporation regardless of the ownership of the securities and for certificates representing smaller denominations to be merged into one or more certificates of larger denominations. Allows ownership and other interests in securities to be transferred by bookkeeping entry without physical delivery of certificates. Authorizes the Secretary of Financial and Professional Regulation to adopt rules governing the deposit of securities in clearing corporations. Allows securities of domestic, foreign, and alien insurance companies required to be deposited with the Secretary as a condition of doing business in this State that meet deposit requirements to be deposited in clearing corporations. Prohibits the removal of these deposits by the insurance company without the approval of the Secretary. Requires the insurance company to provide evidence to the Secretary that the securities are recorded in the name of the custodian and that the securities are held subject to the order of the Secretary.

LRB094 15081 LJB 50244 b

FISCAL NOTE ACT  
MAY APPLY

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 Insurance Code is amended by  
5 changing Sections 107a.11 and 145 and by adding Article XLV as  
6 follows:

7 (215 ILCS 5/107a.11)

8 Sec. 107a.11. Admissible assets.

9 (a) Admitted assets include amounts permitted under  
10 Section 107a.12 as modified by only the following:

11 (1) Direct obligations of the United States of America  
12 for the payment of money or obligations for the payment of  
13 money that are guaranteed as to the payment of principal  
14 and interest by the United States of America.

15 (2) Direct obligations for the payment of money issued  
16 by an agency or instrumentality of the United States of  
17 America or obligations for the payment of money that are  
18 guaranteed as to payment of principal and interest by an  
19 agency or instrumentality of the United States of America.

20 (3) Bonds or securities that are issued by any state of  
21 the United States and that are secured by the full faith  
22 and credit of that state.

23 (4) Certificates of deposit, time deposits, or demand  
24 deposits in a bank in the State of Illinois that has  
25 deposits insured by the Federal Deposit Insurance  
26 Corporation.

27 (5) Saving certificates issued by any savings and loan  
28 association in the State of Illinois that has deposits  
29 insured by the Federal Deposit Insurance Corporation.

30 (6) Direct, unconditional obligations of a solvent  
31 business corporation for the payment of money on the  
32 following conditions:

1 (A) the corporation is incorporated under the laws  
2 of the United States of America or any state of the  
3 United States of America;

4 (B) the corporation has a tangible net worth of not  
5 less than \$500,000 and the obligations have been  
6 awarded a "1" or "2" rating by the Securities Valuation  
7 Office of the National Association of Insurance  
8 Commissioners;

9 (C) the corporation is not affiliated with any  
10 member of the pool;

11 (D) no such obligation of the corporation has been  
12 in default as to principal or interest during the 5  
13 years preceding the date of investment, however, the  
14 corporation need not have had obligations outstanding  
15 during that period and need not have been in existence  
16 for that period, and obligations acquired under this  
17 Section may be newly issued;

18 (E) a pool may not invest more than 33 1/3% of its  
19 assets under this item (6); and

20 (F) a pool may not invest under this Section more  
21 than 5% of its assets in the obligations of any one  
22 corporation.

23 (7) Obligations of any political subdivision of any  
24 state of the United States of America for the payment of  
25 money on the following conditions:

26 (A) the obligations are payable from ad valorem  
27 taxes;

28 (B) the political subdivision is not in default in  
29 the payment of principal or interest on any of its  
30 direct, general obligations;

31 (C) no investment may be made under this Section in  
32 obligations that are secured only by special  
33 assessments for local improvements;

34 (D) a pool may not invest under this Section more  
35 than 4% of its assets in direct, general obligations  
36 issued by any one political subdivision; and

1 (E) a pool may not invest more than 50% of its  
2 assets under this item (7).

3 (8) Mutual funds:

4 (A) government money market mutual funds that meet  
5 the conditions of paragraphs (c)(2), (c)(3), and  
6 (c)(4) of 17 C.F.R. 270.2a-7, revised as of April 1,  
7 1992, that have been rated in one of the 2 highest  
8 rating categories by an independent rating agency  
9 recognized by the National Association of Insurance  
10 Commissioners, and that invest in obligations issued,  
11 guaranteed, or insured by the United States or Canada  
12 or any agency or instrumentality of the United States  
13 or Canada.

14 (B) fixed income bond mutual funds that meet the  
15 conditions of paragraphs (c)(2), (c)(3), and (c)(4) of  
16 17 C.F.R. 270.2a-7, revised as of April 1, 1992, and  
17 that have been rated in one of the 2 highest rating  
18 categories by an independent rating agency recognized  
19 by the National Association of Insurance  
20 Commissioners, however, a pool may not invest in fixed  
21 income bond mutual funds more than the greater of  
22 \$100,000 or 10% of its total assets in any one fund.

23 (9) Not more than 5% of a pool's admitted assets may be  
24 assessment receivables. In order to be an admitted asset,  
25 an assessment receivable cannot be more than 60 days past  
26 due.

27 (10) Not more than 10% of a pool's admitted assets may  
28 be reinsurance receivables. In order to be an admitted  
29 asset, a reinsurance receivable cannot be more than 90 days  
30 past due.

31 (b) Amounts recoverable from authorized reinsurers on  
32 unpaid losses may be deducted from the reserves required by  
33 Section 4 of the Workers' Compensation Act.

34 (c) All securities eligible for registration shall be  
35 registered in the name of the pool and all securities shall be  
36 maintained (i) in a State or National Bank having trust powers

1 and located within this State or (ii) with a broker or dealer  
2 that is registered with and subject to the jurisdiction of the  
3 federal Securities and Exchange Commission, maintains a  
4 membership in the Securities Investor Protection Corporation,  
5 and has a tangible net worth equal to or greater than  
6 \$250,000,000.

7 (Source: P.A. 91-757, eff. 1-1-01.)

8 (215 ILCS 5/145) (from Ch. 73, par. 757)

9 Sec. 145. Deposits.

10 When any company is required by the laws of this State or  
11 of any state or country, or by other competent authority, to  
12 make a deposit with an insurance supervising official or other  
13 financial officer and the company desires to make such deposit  
14 in this State the Director shall accept such deposit, if made  
15 in securities authorized for investment by Article VIII of this  
16 Code. So long as the company continues solvent and complies  
17 with the laws of this State it may collect the income on such  
18 securities. The company may substitute therefor other like  
19 securities as prescribed by this Code for deposit. If the value  
20 of securities deposited by any company shall decline below the  
21 amount so required, the company shall make a further deposit. A  
22 deposit made with the Secretary under this Section may be done  
23 in the manner authorized in Section 1515 of this Code.

24 (Source: Laws 1959, p. 1431.)

25 (215 ILCS 5/Art. XLV heading new)

26 ARTICLE XLV. CUSTODIAL AGREEMENTS AND THE USE OF CLEARING  
27 CORPORATIONS

28 (215 ILCS 5/1500 new)

29 Sec. 1500. Title. This Article may be cited as the  
30 Custodial Agreements and the Use of Clearing Corporations Law.

31 (215 ILCS 5/1501 new)

32 Sec. 1501. Purpose. The purpose of this Article is to

1 authorize domestic insurance companies to utilize modern  
2 systems for holding and transferring securities without  
3 physical delivery of securities certificates, subject to  
4 appropriate regulations of the Secretary.

5 (215 ILCS 5/1505 new)

6 Sec. 1505. Definitions. As used in this Article, unless the  
7 context otherwise requires, the following terms shall have the  
8 meanings ascribed to them:

9 "Clearing corporation" means a corporation as defined in  
10 paragraph (5) of subsection (a) of Section 8-102 of the Uniform  
11 Commercial Code, except that with respect to securities issued  
12 by institutions organized or existing under the laws of any  
13 foreign country or securities used to meet the deposit  
14 requirements pursuant to the laws of a foreign country as a  
15 condition of doing business therein, "clearing corporation"  
16 includes a corporation which is organized or existing under the  
17 laws of any foreign country and is legally qualified under law  
18 to effect transactions in securities by computerized  
19 book-entry. "Clearing corporation" also includes  
20 "Treasury/Reserve Automated Debt Entry Securities System" and  
21 "Treasury Direct" book-entry securities systems established  
22 pursuant to federal law.

23 "Custodian" means a national bank, state bank, trust  
24 company, or broker or dealer which participates in a clearing  
25 corporation.

26 "Securities" means instruments as defined in paragraph  
27 (15) of subsection (a) of Section 8-102 of the Uniform  
28 Commercial Code.

29 (215 ILCS 5/1510 new)

30 Sec. 1510. Use of book-entry systems.

31 (a) Notwithstanding any other provision of law, a domestic  
32 insurance company may deposit or arrange for the deposit of  
33 securities held in or purchased for its general account and its  
34 separate account in a clearing corporation. When securities are

1 deposited with a clearing corporation, certificates  
2 representing securities of the same class of the same issuer  
3 may be merged and held in bulk in the name of the nominee of the  
4 clearing corporation with any other securities deposited with  
5 the clearing corporation by any person, regardless of the  
6 ownership of the securities, and certificates representing  
7 securities of smaller denominations may be merged into one or  
8 more certificates of larger denominations. The records of any  
9 custodian through which an insurance company holds securities  
10 in a clearing corporation shall at all times show that the  
11 securities are held for the insurance company and for which  
12 accounts thereof. Ownership of, and other interests in, the  
13 securities may be transferred by bookkeeping entry on the books  
14 of the clearing corporation without physical delivery of  
15 certificates representing the securities.

16 (b) The Secretary is authorized to adopt rules governing  
17 the deposit by insurance companies of securities with clearing  
18 corporations, including establishing standards for national  
19 banks, state banks, trust companies, and brokers or dealers to  
20 qualify as custodians for insurance company securities.

21 (215 ILCS 5/1515 new)

22 Sec. 1515. Deposit of securities by domestic, foreign, and  
23 alien insurance companies with the Secretary. Notwithstanding  
24 any other provision of law, the securities required to be  
25 deposited with the Secretary as a condition of doing business  
26 in this State may be deposited with a clearing corporation.  
27 Securities deposited with a clearing corporation and used to  
28 meet the requirements of the Secretary for doing business in  
29 this State shall be under the control of the Secretary and  
30 shall not be withdrawn by the insurance company without the  
31 approval of the Secretary. Any insurance company holding  
32 securities in this manner shall provide to the Secretary  
33 evidence issued by its custodian through which the insurance  
34 company has deposited the securities in a clearing corporation  
35 to establish that the securities are actually recorded in an

1 account in the name of a custodian and that the records of the  
2 custodian reflect that the securities are held subject to the  
3 order of the Secretary.