



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2920

Introduced 1/20/2006, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143.33 new

Amends the Illinois Insurance Code. Provides that in instances where 2 or more commercial liability policies provide coverage for the same claim or loss, a party seeking coverage under one policy must also tender the defense and indemnity of the claim or loss to any other insurer that may also provide coverage. Provides that the allocation of defense costs and indemnity payments shall be determined by the terms of the policies of insurance. Provides that the failure of an insured to comply with the requirements of the Section does not preclude an insurer from seeking contribution from other insurers that also provide coverage for the claim or loss. Effective immediately.

LRB094 17120 LJB 52407 b

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 adding
5 Section 143.33 as follows:

6 (215 ILCS 5/143.33 new)

7 Sec. 143.33. Commercial Liability Insurance; multiple
8 policies.

9 (a) In instances where 2 or more commercial liability
10 policies provide coverage for the same claim or loss, a party
11 seeking coverage under one commercial liability policy must
12 also tender the defense and indemnity of the claim or loss to
13 any other insurer that may also provide coverage for the claim
14 or loss. Any tender shall not be construed to change the rights
15 or obligations of the parties pursuant to the terms of any
16 applicable contract.

17 (b) The allocation of defense costs and indemnity payments
18 for any insured who may be covered for a claim or loss under 2
19 or more policies of insurance shall be determined by the terms
20 of the policies of insurance and shall not be determined on the
21 basis of the insured's, additional insured's, or insurer's
22 selection of a particular policy of insurance to respond to the
23 claim or loss.

24 (c) This Section does not apply to:

25 (1) a professional design firm or individual
26 practicing architecture, engineering, structural
27 engineering, or land surveying who, by contract, has been
28 named as an additional insured under a commercial liability
29 policy; or

30 (2) a financial institution, as defined in Section 1402
31 of this Code, or any other lending institution engaged in
32 the business of making loans secured by real estate if the

1 financial institution or other lending institution is an
2 additional insured on a commercial liability policy solely
3 due to its status as a mortgagee and has not assumed an
4 operational role in the development, maintenance, or use of
5 the property.

6 (d) Failure of the insured to comply with the requirements
7 of this Section shall not preclude the responding insurer from
8 seeking contribution from any other insurer that also provides
9 coverage for the claim or loss.

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