



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0938

Introduced 2/8/2007, by Rep. Mark H. Beaubien, Jr.

SYNOPSIS AS INTRODUCED:

215 ILCS 5/531.09

from Ch. 73, par. 1065.80-9

Amends the Illinois Insurance Code. In an Article involving the Illinois Life and Health Insurance Guaranty Association, provides that the amount of any Class A assessment for member insurers shall be determined at the discretion of the board of directors of the Association and such assessments shall be authorized and called on a non pro-rata basis (instead of the amount being determined by the board, which may be made on a non-pro rata basis). Deletes a provision stating that such assessments shall not exceed \$200 per company in any one calendar year.

LRB095 07026 KBJ 27148 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Section 531.09 as follows:

6 (215 ILCS 5/531.09) (from Ch. 73, par. 1065.80-9)
7 Sec. 531.09. Assessments.

8 (1) For the purpose of providing the funds necessary to
9 carry out the powers and duties of the Association, the board
10 of directors shall assess the member insurers, separately for
11 each account, at such times and for such amounts as the board
12 finds necessary. Assessments shall be due not less than 30 days
13 after written notice to the member insurers and shall accrue
14 interest from the due date at such adjusted rate as is
15 established under Section 6621 of Chapter 26 of the United
16 States Code and such interest shall be compounded daily.

17 (2) There shall be 2 classes of assessments, as follows:

18 (a) Class A assessments shall be made for the purpose
19 of meeting administrative costs and other general expenses
20 and examinations conducted under the authority of the
21 Director under subsection (5) of Section 531.12.

22 (b) Class B assessments shall be made to the extent
23 necessary to carry out the powers and duties of the

1 Association under Section 531.08 with regard to an impaired
2 or insolvent domestic insurer or insolvent foreign or alien
3 insurers.

4 (3) (a) The amount of any Class A assessment shall be
5 determined at the discretion of the board of directors ~~by the~~
6 ~~Board~~ and such assessments shall ~~may~~ be authorized and called
7 ~~made~~ on a non-pro rata basis. ~~Such assessments shall not exceed~~
8 ~~\$200 per company in any one calendar year.~~ The amount of any
9 Class B assessment shall be allocated for assessment purposes
10 among the accounts and subaccounts pursuant to an allocation
11 formula which may be based on the premiums or reserves of the
12 impaired or insolvent insurer or any other standard deemed by
13 the board in its sole discretion as being fair and reasonable
14 under the circumstances.

15 (b) Class B assessments against member insurers for
16 each account and subaccount shall be in the proportion that
17 the premiums received on business in this State by each
18 assessed member insurer on policies or contracts covered by
19 each account or subaccount for the three most recent
20 calendar years for which information is available
21 preceding the year in which the insurer became impaired or
22 insolvent, as the case may be, bears to such premiums
23 received on business in this State for such calendar years
24 by all assessed member insurers.

25 (c) Assessments for funds to meet the requirements of
26 the Association with respect to an impaired or insolvent

1 insurer shall not be made until necessary to implement the
2 purposes of this Article. Classification of assessments
3 under subsection (2) and computations of assessments under
4 this subsection shall be made with a reasonable degree of
5 accuracy, recognizing that exact determinations may not
6 always be possible.

7 (4) The Association may abate or defer, in whole or in
8 part, the assessment of a member insurer if, in the opinion of
9 the board, payment of the assessment would endanger the ability
10 of the member insurer to fulfill its contractual obligations.
11 The total of all assessments upon a member insurer for the life
12 and annuity account and for each subaccount thereunder may not
13 in any one calendar year exceed 2% and for the health account
14 may not in any one calendar year exceed 2% of such insurer's
15 average premiums received in this State on the policies and
16 contracts covered by the account or subaccount during the three
17 calendar years preceding the year in which the insurer became
18 an impaired or insolvent insurer. If a one percent assessment
19 for any subaccount of the life and annuity account in any one
20 year does not provide an amount sufficient to carry out the
21 responsibilities of the Association, then pursuant to
22 subsection 3(b), the board shall access all subaccounts of the
23 life and annuity account for the necessary additional amount,
24 subject to the maximum stated in this subsection.

25 (5) In the event an assessment against a member insurer is
26 abated, or deferred, in whole or in part, because of the

1 limitations set forth in subsection (4) of this Section the
2 amount by which such assessment is abated or deferred, may be
3 assessed against the other member insurers in a manner
4 consistent with the basis for assessments set forth in this
5 Section. If the maximum assessment, together with the other
6 assets of the Association in either account, does not provide
7 in any one year in either account an amount sufficient to carry
8 out the responsibilities of the Association, the necessary
9 additional funds may be assessed as soon thereafter as
10 permitted by this Article. The board may provide in the plan of
11 operation a method of allocating funds among claims, whether
12 relating to one or more impaired or insolvent insurers, when
13 the maximum assessment will be insufficient to cover
14 anticipated claims.

15 (6) The board may, by an equitable method as established in
16 the plan of operation, refund to member insurers, in proportion
17 to the contribution of each insurer to that account, the amount
18 by which the assets of the account exceed the amount the board
19 finds is necessary to carry out during the coming year the
20 obligations of the Association with regard to that account,
21 including assets accruing from net realized gains and income
22 from investments. A reasonable amount may be retained in any
23 account to provide funds for the continuing expenses of the
24 Association and for future losses if refunds are impractical.

25 (7) An assessment is deemed to occur on the date upon which
26 the board votes such assessment. The board may defer calling

1 the payment of the assessment or may call for payment in one or
2 more installments.

3 (8) It is proper for any member insurer, in determining its
4 premium rates and policyowner dividends as to any kind of
5 insurance within the scope of this Article, to consider the
6 amount reasonably necessary to meet its assessment obligations
7 under this Article.

8 (9) The Association must issue to each insurer paying a
9 Class B assessment under this Article a certificate of
10 contribution, in a form acceptable to the Director, for the
11 amount of the assessment so paid. All outstanding certificates
12 are of equal dignity and priority without reference to amounts
13 or dates of issue. A certificate of contribution may be shown
14 by the insurer in its financial statement as an asset in such
15 form and for such amount, if any, and period of time as the
16 Director may approve, provided the insurer shall in any event
17 at its option have the right to show a certificate of
18 contribution as an admitted asset at percentages of the
19 original face amount for calendar years as follows:

20 100% for the calendar year after the year of issuance;

21 80% for the second calendar year after the year of
22 issuance;

23 60% for the third calendar year after the year of issuance;

24 40% for the fourth calendar year after the year of
25 issuance;

26 20% for the fifth calendar year after the year of issuance.

1 (Source: P.A. 86-753.)