



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5102

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

215 ILCS 5/136

from Ch. 73, par. 748

Amends the Illinois Insurance Code. Provides that every property and casualty insurance company doing business in this State, unless otherwise exempted by the Director of Insurance, shall annually submit the opinion of an appointed actuary entitled "Statement of Actuarial Opinion". Provides that the opinion shall be filed in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions. Provides that every property and casualty insurance company domiciled in this State that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the company's appointed actuary. Provides that an Actuarial Report and underlying workpapers as required by the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions shall be prepared to support each Actuarial Opinion. Provides that the appointed actuary shall not be liable for damages to any person (other than the insurance company and the Director) for any act, error, omission, decision, or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary. Makes other changes. Effective immediately.

LRB095 19518 KBJ 45827 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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 136 as follows:

6 (215 ILCS 5/136) (from Ch. 73, par. 748)

7 Sec. 136. Annual statement.

8 (1) Every company authorized to do business in this State
9 or accredited by this State shall file with the Director by
10 March 1st in each year 2 copies of its financial statement for
11 the year ending December 31st immediately preceding on forms
12 prescribed by the Director, which shall conform substantially
13 to the form of statement adopted by the National Association of
14 Insurance Commissioners. Unless the Director provides
15 otherwise, the annual statement is to be prepared in accordance
16 with the annual statement instructions and the Accounting
17 Practices and Procedures Manual adopted by the National
18 Association of Insurance Commissioners. The Director shall
19 have power to make such modifications and additions in this
20 form as he may deem desirable or necessary to ascertain the
21 condition and affairs of the company. The Director shall have
22 authority to extend the time for filing any statement by any
23 company for reasons which he considers good and sufficient. In

1 every statement the admitted assets shall be shown at the
2 actual values as of the last day of the preceding year, in
3 accordance with Section 126.7. The statement shall be verified
4 by oaths of the president and secretary of the company or, in
5 their absence, by 2 other principal officers. In addition, any
6 company may be required by the Director, when he considers that
7 action to be necessary and appropriate for the protection of
8 policyholders, creditors, shareholders, or claimants, to file,
9 within 60 days after mailing to the company a notice that such
10 is required, a supplemental summary statement as of the last
11 day of any calendar month occurring during the 100 days next
12 preceding the mailing of such notice designated by him on forms
13 prescribed and furnished by the Director. The Director may
14 require supplemental summary statements to be certified by an
15 independent actuary deemed competent by the Director or by an
16 independent certified public accountant.

17 (2) The statement of an alien company shall embrace only
18 its condition and transactions in the United States and shall
19 be verified by the oaths of its resident manager or principal
20 representative in the United States, except that in the case of
21 any life company organized under the laws of Canada or any
22 province thereof, the statement may be verified by the oaths of
23 any of its principal officers designated for that purpose by
24 its board of directors.

25 (3) For the information of the public generally the
26 Director shall cause an abstract of the information contained

1 in the annual statement to be made available to the public as
2 soon as practicable after filing with the Department, by
3 printing those abstracts in pamphlet tabular form for free
4 general distribution by the Department, or by such other
5 publication in the city of Springfield or in the city of
6 Chicago as may be reasonably necessary more fully to inform the
7 public of the financial condition of companies transacting
8 business in this State.

9 (4) Each domestic, foreign, and alien insurer authorized to
10 do business in this State or accredited by this State shall
11 participate in the National Association of Insurance
12 Commissioners' Insurance Regulatory Information System,
13 including the payment of all fees and charges of the system.
14 Each company shall, on or before March 1 of each year, file
15 with the National Association of Insurance Commissioners a copy
16 of its annual financial statement along with any additional
17 filings prescribed by the Director for the preceding year. The
18 statement filed with the National Association of Insurance
19 Commissioners shall be in the same format and scope as that
20 required by this Code and shall include a signed jurat page and
21 actuarial certification. Any amendments and addendums to the
22 annual statement shall also be filed with the National
23 Association of Insurance Commissioners. Each company shall
24 also file with the National Association of Insurance
25 Commissioners annual and quarterly financial statement
26 information in computer readable format as required by the

1 Insurance Regulatory Information System. Failure of a company
2 to file financial statement information in computer readable
3 format shall subject the company to the provisions of Section
4 139.

5 (5) All financial analysis ratios and examination synopsis
6 concerning insurance companies that are submitted to the
7 Director by the National Association of Insurance
8 Commissioners' Insurance Regulatory Information System are
9 confidential and may not be disclosed by the Director.

10 (6) Every property and casualty insurance company doing
11 business in this State, unless otherwise exempted by the
12 Director, shall annually submit the opinion of an appointed
13 actuary entitled "Statement of Actuarial Opinion". This
14 opinion shall be filed in accordance with the appropriate
15 National Association of Insurance Commissioners Property and
16 Casualty Annual Statement Instructions.

17 (a) Every property and casualty insurance company
18 domiciled in this State that is required to submit a
19 Statement of Actuarial Opinion shall annually submit an
20 Actuarial Opinion Summary, written by the company's
21 appointed actuary. This Actuarial Opinion Summary shall be
22 filed in accordance with the appropriate National
23 Association of Insurance Commissioners Property and
24 Casualty Annual Statement Instructions and shall be
25 considered as a document supporting the Actuarial Opinion
26 required in this subsection (6). Each foreign and alien

1 property and casualty company authorized to do business in
2 this State shall provide the Actuarial Opinion Summary upon
3 request.

4 (b) An Actuarial Report and underlying workpapers as
5 required by the appropriate National Association of
6 Insurance Commissioners Property and Casualty Annual
7 Statement Instructions shall be prepared to support each
8 Actuarial Opinion. If the insurance company fails to
9 provide a supporting Actuarial Report or workpapers at the
10 request of the Director or the Director determines that the
11 supporting Actuarial Report or workpapers provided by the
12 insurance company is otherwise unacceptable to the
13 Director, the Director may engage a qualified actuary at
14 the expense of the company to review the opinion and the
15 basis for the opinion and prepare the supporting Actuarial
16 Report or workpapers.

17 (c)The appointed actuary shall not be liable for
18 damages to any person (other than the insurance company and
19 the Director) for any act, error, omission, decision, or
20 conduct with respect to the actuary's opinion, except in
21 cases of fraud or willful misconduct on the part of the
22 appointed actuary.

23 (d) The Statement of Actuarial Opinion shall be
24 provided with the Annual Statement in accordance with the
25 appropriate National Association of Insurance
26 Commissioners Property and Casualty Annual Statement

1 Instructions and shall be treated as a public document.
2 Documents, materials, or other information in the
3 possession or control of the Director that are considered
4 an Actuarial Report, workpapers, or Actuarial Opinion
5 Summary provided in support of the opinion, and any other
6 material provided by the company to the Director in
7 connection with the Actuarial Report, workpapers or
8 Actuarial Opinion Summary, must be given confidential
9 treatment, are not subject to subpoena, and may not be made
10 public by the Director or any other persons. This paragraph
11 (d) shall not be construed to limit the Director's
12 authority to release the documents to the Actuarial Board
13 for Counseling and Discipline (ABCD), so long as the
14 material is required for the purpose of professional
15 disciplinary proceedings and that the ABCD establishes
16 procedures satisfactory to the Director for preserving the
17 confidentiality of the documents, nor shall this paragraph
18 (d) be construed to limit the Director's authority to use
19 the documents, materials or other information in
20 furtherance of any regulatory or legal action brought as
21 part of the Director's official duties. Neither the
22 Director nor any person who received documents, materials,
23 or other information while acting under the authority of
24 the Director shall be permitted or required to testify in
25 any private civil action concerning any confidential
26 documents, materials, or information subject to this

1 subsection (6). Except where another provision of this Code
2 expressly prohibits a disclosure of confidential
3 information to the specific officials or organizations
4 described in this subsection, the Director may:

5 (i) share documents, materials, or other
6 information, including the confidential and privileged
7 documents, materials or information subject to this
8 paragraph (d) with the insurance department of any
9 other state or country or with law enforcement
10 officials of this or any other state or agency of the
11 federal government at any time, as long as the agency
12 or office receiving the document, material, or other
13 information agrees in writing to hold it confidential
14 and in a manner consistent with this Code;

15 (ii) receive documents, materials, or information,
16 including otherwise confidential and privileged
17 documents, materials, or information, from the
18 National Association of Insurance Commissioners and
19 its affiliates and subsidiaries, and from regulatory
20 and law enforcement officials of other foreign or
21 domestic jurisdictions, and shall maintain as
22 confidential or privileged any document, material, or
23 information received with notice or the understanding
24 that it is confidential or privileged under the laws of
25 the jurisdiction that is the source of the document,
26 material, or information; and

1 (iii) enter into agreements governing sharing and
2 use of information consistent with paragraph (d).

3 (e) No waiver of any applicable privilege or claim of
4 confidentiality in the documents, materials or information
5 shall occur as a result of disclosure to the Director under
6 this Section or as a result of sharing as authorized in
7 subparagraphs (i), (ii), and (iii) of paragraph (d) of
8 subsection (6) of this Section. All 2005 Annual Statements,
9 which are filed in 2006, and all subsequent Annual
10 Statement filings shall be done in accordance with
11 subsection (6) of this Section.

12 (Source: P.A. 90-418, eff. 8-15-97.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.