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LRB096 18813 RPM 39867 a

1 AMENDMENT TO SENATE BILL 2817

2 AMENDMENT NO. _____. Amend Senate Bill 2817 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 131.4, 131.5, 131.8, 131.8a, 131.9, 131.10,
6 131.11, 131.23, 136, and 404 as follows:

7 (215 ILCS 5/131.4) (from Ch. 73, par. 743.4)

8 Sec. 131.4. Acquisition, transfer, or divestiture of
9 control of or merger with domestic company. No person other
10 than the issuer may make a tender for or a request or
11 invitation for tenders of, or enter into an agreement to
12 exchange securities for or acquire, transfer, or divest in the
13 open market, or otherwise, any voting security of a domestic
14 company or acquire, transfer, or divest policyholders' proxies
15 of a domestic company for consideration, or otherwise, if,
16 after the consummation thereof, that person would, directly or

1 indirectly, (or by conversion or by exercise of any right to
2 acquire) be in control of the company or transfer or divest a
3 controlling interest in the company, and no person may enter
4 into an agreement to merge or consolidate with or otherwise to
5 acquire, transfer, or divest control of a domestic company,
6 unless the offer, request, invitation, or agreement is
7 conditioned on receiving the approval of the Director based on
8 Section 131.8 of this Article and no such acquisition, transfer,
9 or divestiture of control or a merger with a domestic
10 company may be consummated unless the Director has approved the
11 transaction or granted an exemption. For purposes of this
12 Section a domestic company includes any other person which
13 controls a domestic company or holds or controls sufficient
14 policyholders' proxies to elect the majority of the board of
15 directors of the domestic company. Prior to the acquisition,
16 transfer, or divestiture, the Director may conclude that a
17 statement need not be filed by the acquiring, transferring, or
18 divesting party if ~~that the acquiring~~ party demonstrates to the
19 satisfaction of the Director that:

20 (1) such transaction will not result in the change of
21 control of the domestic company; or

22 (2) the person which is subject to the acquisition, transfer,
23 or divestiture has assets in excess of \$1,000,000
24 and shareholders of record of 500 or more and its insurance
25 business either directly or through its affiliates is an
26 insignificant portion of its total business; or

1 (3) the acquisition, transfer, or divestiture of, or
2 attempt to acquire, transfer, or divest control of, such
3 other person is subject to requirements in the jurisdiction
4 of its domicile which are substantially similar to those
5 contained in this Section and Sections 131.5 through
6 131.12; or

7 (4) the control of the policyholders' proxies is being
8 held ~~acquired~~ solely by virtue of the holders official
9 office and not as the result of any agreement or for any
10 consideration; or.

11 (5) such transaction involves a transfer or
12 divestiture of a controlling interest to a person acquiring
13 a controlling interest, for which the acquiring person must
14 file the statement required by Section 131.5 of this Code.

15 The purpose of this Section is to afford to the Director
16 the opportunity to review acquisitions, transfers, or
17 divestitures of control in order to determine whether or not
18 the acquisition, transfer, or divestiture would be adverse to
19 the interests of the existing and future policyholders of the
20 company. A controlling person may not enter into transactions
21 that are part of a plan or series of like transactions if the
22 purpose of those separate transactions is to avoid the
23 statutory definition of control and thereby avoid the
24 requirements of this Section.

25 (Source: P.A. 86-784.)

1 (215 ILCS 5/131.5) (from Ch. 73, par. 743.5)

2 Sec. 131.5. Statement-Contents. In order to seek the
3 approval of the Director pursuant to Section 131.8, the
4 applicant must file a statement with the Director under oath or
5 affirmation which contains as a minimum the following
6 information:

7 (1) The name and address of each acquiring, transferring,
8 or divesting party, and

9 (a) if such person is an individual, his principal
10 occupation and all offices and positions held during the
11 past 5 years, and any conviction of crimes, other than
12 minor traffic violations, during the past 10 years;

13 (b) if such person is not an individual, a report of
14 the nature of its business operations during the past 5
15 years or for such lesser period as the person and any
16 predecessors thereof has been in existence; an informative
17 description of the business intended to be conducted by the
18 person and the person's subsidiaries; and a list of all
19 individuals who are or who have been selected to become
20 directors or executive officers of the person, or who
21 perform or will perform functions appropriate to such
22 positions. The list must include for each individual the
23 information required by subsection (1)(a).

24 (2) The source, nature and amount of the consideration used
25 or to be used in effecting the merger, consolidation or other
26 acquisition, transfer, or divestiture of control, a

1 description of any transaction wherein funds were or are to be
2 obtained for any such purpose, including any pledge of the
3 company's own securities or the securities of any of its
4 subsidiaries or affiliates, and the identity of persons
5 furnishing such consideration. However, where a source of such
6 consideration is a loan made in the lender's ordinary course of
7 business, the identity of the lender must remain confidential,
8 if the person filing the statement so requests.

9 (3) Financial information as to the earnings and financial
10 condition of each applicant ~~acquiring party~~ for the preceding
11 fiscal years of each applicant ~~acquiring party~~ (or for such
12 lesser period as the applicant ~~acquiring party~~ and any
13 predecessors thereof have been in existence) audited by an
14 independent certified public accountant in accordance with
15 generally accepted auditing standards and similar unaudited
16 information for the second and third preceding fiscal years and
17 as of a date not earlier than 90 days prior to the filing of the
18 statement. If an applicant ~~acquiring party~~ is an insurer which
19 has been actively engaged in the business of insurance for 10
20 years, the financial information need not be audited, provided
21 it is based on the annual statements of such acquiring person
22 filed with the insurance department of the person's domiciliary
23 state and is in accordance with the requirement of insurance or
24 other accounting principles prescribed or permitted under the
25 laws and regulations of such state.

26 (a) When an applicant is controlled by an individual,

1 financial information for that individual will not be
2 required if the applicant is currently subject to the
3 registration and reporting requirements of Section 12(g)
4 of the Securities Exchange Act of 1934 or is an insurer
5 which has been actively engaged in the business of
6 insurance for a period in excess of 10 years;

7 (b) When an individual as an applicant ~~acquiring party~~
8 must file financial information under this paragraph such
9 information need not be delivered to the company. However,
10 such information shall be available if the Director holds a
11 hearing pursuant to Section 131.8.

12 (4) Any plans or proposals which each applicant ~~acquiring~~
13 ~~party~~ may have to liquidate such company, to sell its assets or
14 merge or consolidate it with any person, or to make any other
15 material change in its business or corporate structure or
16 management.

17 (5) The number of shares of any security referred to in
18 Section 131.4 which each applicant ~~acquiring party~~ proposes to
19 acquire, transfer, or divest, and the terms of the offer,
20 request, invitation, agreement, or acquisition, transfer, or
21 divestiture referred to in Section 131.4.

22 (6) The amount of each class of any security referred to in
23 Section 131.4 which is beneficially owned or concerning which
24 there is a right to acquire, transfer, or divest beneficial
25 ownership by each applicant ~~acquiring party~~.

26 (7) A full description of any existing contracts,

1 arrangements or understandings with respect to any security
2 referred to in Section 131.4 in which any applicant ~~acquiring~~
3 ~~party~~ is involved, including but not limited to transfer of any
4 of the securities, joint ventures, loan or option arrangements,
5 puts or calls, guarantees of loans, guarantees against loss or
6 guarantees of profits, division of losses or profits, or the
7 giving or withholding of proxies. The description must identify
8 the persons with whom such contracts, arrangements or
9 understandings have been entered into.

10 (8) A description of the acquisition, transfer, or
11 divestiture of any security or policyholders' proxy referred to
12 in Section 131.4 during the 12 calendar months preceding the
13 filing of the statement, by any applicant ~~acquiring party~~,
14 including the dates of acquisition, transfer, or divestiture,
15 names of parties to the transaction ~~the acquirers~~, and
16 consideration paid or agreed to be paid therefor.

17 (9) A description of any recommendations to acquire, transfer, or divest
18 any security referred to in Section 131.4
19 made during the 12 calendar months preceding the filing of the
20 statement, by any applicant ~~acquiring party~~, or by anyone based
21 upon interviews or at the suggestion of such applicant
22 ~~acquiring party~~.

23 (10) Copies of all tender offers for, requests or
24 invitations for tenders of, exchange offers for, and agreements
25 to acquire, transfer, divest, or exchange any securities
26 referred to in Section 131.4, and (if distributed) of

1 additional soliciting material relating thereto.

2 (11) The terms of any agreement, contract or understanding
3 made with any broker-dealer as to solicitation of securities
4 referred to in Section 131.4 for tender, and the amount of any
5 fees, commissions or other compensation to be paid to
6 broker-dealers with regard thereto.

7 (12) Any additional information as the Director may by rule
8 or regulation prescribe as necessary or appropriate for the
9 protection of policyholders or in the public interest.

10 (Source: P.A. 84-805.)

11 (215 ILCS 5/131.8) (from Ch. 73, par. 743.8)

12 Sec. 131.8. (1) After the statement required by Section
13 131.5 has been filed, the Director must disapprove any merger,
14 consolidation or other acquisition, transfer, or divestiture
15 of control referred to in Section 131.4 unless the applicant
16 ~~acquiring party~~ demonstrates to the Director that:

17 (a) After change of control the domestic company
18 referred to in Section 131.4 would be able to satisfy the
19 requirements for the issuance of a license to write the
20 line or lines of insurance for which it is presently
21 licensed;

22 (b) the effect of the merger, consolidation or other
23 acquisition, transfer, or divestiture of control would not
24 substantially lessen competition in insurance in this
25 State or not tend to create a monopoly therein. In applying

1 the competitive standard in this paragraph:

2 (i) the informational requirements of subsection
3 (3) (a) and the standards of subsection (4) (b) of
4 Section 131.12a shall apply,

5 (ii) the merger or other acquisition, transfer, or
6 divestiture shall not be disapproved if the applicant
7 ~~acquiring party~~ demonstrates that any of the
8 situations meeting the criteria provided by subsection
9 (4) (c) of Section 131.12a exist, and

10 (iii) the Director may condition the approval of
11 the merger or other acquisition, transfer, or
12 divestiture on the removal of the basis of disapproval
13 within a specified period of time;

14 (c) the financial condition of any applicant ~~acquiring~~
15 ~~party~~ is such as to not jeopardize the financial stability
16 of the domestic company or not jeopardize the interests of
17 its policyholders;

18 (d) the plans or proposals which the applicant
19 ~~acquiring party~~ has to liquidate the domestic company, sell
20 its assets or consolidate or merge it with any person, or
21 to make any other material change in its business or
22 corporate structure or management, are fair and reasonable
23 to policyholders of such company; or

24 (e) the competence, experience and integrity of those
25 persons who would control the operation of the domestic
26 company are such that it would be in the best interests of

1 policyholders of such company and of the insurance buying
2 public to permit the merger, consolidation or other
3 acquisition, transfer, or divestiture of control.

4 (2) The Director may hold a public hearing on any merger,
5 consolidation or other acquisition, transfer, or divestiture
6 of control referred to in Section 131.4 if the Director
7 determines that the statement filed as required by Section
8 131.5 does not demonstrate compliance with the standards
9 referred to in subsection (1), of this Section, or if he
10 determines that such acquisition, transfer, or divestiture of
11 control will adversely affect policyholders or the insurance
12 buying public.

13 (3) The public hearing referred to in subsection (2) must
14 be held within 60 days after the statement required by Section
15 131.5 is filed, and at least 20 days' notice thereof must be
16 given by the Director to the person filing the statement and to
17 the domestic company. Not less than 12 days' notice of such
18 hearing must be given by the person filing the statement to
19 such other persons as may be designated by the Director and by
20 the company to its securityholders. The Director must make a
21 determination within 30 days after the conclusion of the
22 hearing. At the hearing, the person filing the statement, the
23 domestic company, any person to whom notice of the hearing was
24 sent, and any other person whose interests may be affected
25 thereby has the right to present evidence, examine and
26 cross-examine witnesses, and offer oral and written arguments

1 and in connection therewith is entitled to conduct discovery
2 proceedings in the same manner as is presently allowed in the
3 Circuit Courts of this State. All discovery proceedings must be
4 concluded not later than 3 days prior to the commencement of
5 the public hearing.

6 (Source: P.A. 84-805.)

7 (215 ILCS 5/131.8a) (from Ch. 73, par. 743.8a)

8 Sec. 131.8a. The Director may retain at the applicant's
9 expense any attorneys, actuaries, accountants and other
10 experts not otherwise a part of the Director's staff as may be
11 reasonably necessary to assist in the conduct of financial or
12 character examinations in conjunction with an acquisition,
13 transfer, or divestiture proposed under Section 131.4. The
14 applicant shall deposit with the Director cash, bonds or
15 securities, acceptable to the Director, in a reasonable amount
16 not to exceed \$100,000, for purpose of securing the payment of
17 any expert's cost.

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

19 (215 ILCS 5/131.9) (from Ch. 73, par. 743.9)

20 Sec. 131.9. All statements, amendments or other material
21 filed under Section 131.5 must be delivered to the domestic
22 company within 10 business days after the applicant ~~acquiring~~
23 ~~party~~ has made the filing with the Director. The domestic
24 company shall then send to its securityholders the summary of

1 the proposed acquisition, transfer, or divestiture within 5
2 business days of such delivery. The notice shall contain an
3 address where a copy of the statement filed with the Director
4 can be obtained upon request. The expenses of the mailing and
5 any requests for the statement and the mailing of the notice of
6 hearing by the company required under subsection (2) of Section
7 131.8 must be borne by the person making the filing. As
8 security for the payment of the expenses, the person may be
9 required to file with the Director an acceptable bond or other
10 deposit in an amount to be determined by the Director.

11 (Source: P.A. 84-805.)

12 (215 ILCS 5/131.10) (from Ch. 73, par. 743.10)

13 Sec. 131.10. Sections 131.4 through 131.12 do not apply to:

14 (1) any transaction which is subject to Article X of this
15 Code dealing with merger, consolidation or plans of exchange;

16 (2) any offer, request, invitation, agreement or
17 acquisition, transfer, or divestiture which the Director by
18 order exempts therefrom as (a) not having been made or entered
19 into for the purpose and not having the effect of changing or
20 influencing the control of a domestic company, or (b) as
21 otherwise not comprehended within the purposes of Sections
22 131.4 through 131.12.

23 (Source: P.A. 80-545.)

24 (215 ILCS 5/131.11) (from Ch. 73, par. 743.11)

1 Sec. 131.11. The following are violations of Sections 131.4
2 through 131.12:

3 (1) the failure to file any statement, amendment, or
4 other material required to be filed under Sections 131.4 or
5 131.5; or

6 (2) the effectuation or any attempt to effectuate an
7 acquisition, transfer, or divestiture of control of or
8 merger or consolidation with, a domestic company unless the
9 Director has given his approval thereto.

10 (Source: P.A. 77-673.)

11 (215 ILCS 5/131.23) (from Ch. 73, par. 743.23)

12 Sec. 131.23. Injunctions; prohibitions against voting
13 securities; sequestration of voting securities.

14 (1) Whenever it appears to the Director that any company
15 or any director, officer, employee or agent thereof has
16 committed or is about to commit a violation of this Article or
17 of any rule, regulation, or order issued by the Director
18 hereunder, the Director may apply to the Circuit Court for the
19 county in which the principal office of the company is located
20 or to the Circuit Court for Sangamon County for an order
21 enjoining the company or the director, officer, employee or
22 agent thereof from violating or continuing to violate this
23 Article or any rule, regulation or order, and for any other
24 equitable relief as the nature of the case and the interests of
25 the company's policyholders, creditors or the public may

1 require. In any proceeding, the validity of the rule,
2 regulation or order alleged to have been violated may be
3 determined by the Court.

4 (2) No security which is the subject of any agreement or
5 arrangement regarding acquisition, transfer, or divestiture,
6 or which is acquired, transferred, or divested or to be
7 acquired, transferred, or divested in contravention of this
8 Article or of any rule, regulation or order issued by the
9 Director hereunder may be voted at any securityholders'
10 meeting, or may be counted for quorum purposes, and any action
11 of securityholders' requiring the affirmative vote of a
12 percentage of securities may be taken as though such securities
13 were not issued and outstanding; but no action taken at any
14 such meeting may be invalidated by the voting of such
15 securities, unless the action would materially affect control
16 of the company or unless any court of this State has so
17 ordered. If the Director has reason to believe that any
18 security of the company has been or is about to be acquired,
19 transferred, or divested in contravention of this Article or of
20 any rule, regulation or order issued by the Director hereunder
21 the company or the Director may apply to the Circuit Court for
22 Sangamon County or to the Circuit Court for the county in which
23 the company has its principal place of business (a) to enjoin
24 the further pursuit or use of any offer, request, invitation,
25 agreement or acquisition, transfer, or divestiture made in
26 contravention of Sections 131.4 through 131.12 or any rule,

1 regulation, or order issued by the Director thereunder; (b) to
2 enjoin the voting of any such security ~~so acquired~~; (c) to void
3 any vote of such security already cast at any meeting of
4 securityholders; and (d) for any other equitable relief as the
5 nature of the case and the interests of the company's
6 policyholders, creditors, or the public may require.

7 (3) In any case where a person has acquired, transferred,
8 or divested or is proposing to acquire, transfer, or divest any
9 voting securities in violation of this Article or any rule,
10 regulation or order issued by the Director hereunder, the
11 Circuit Court for Sangamon County or the Circuit Court for the
12 county in which the company has its principal place of business
13 may, on such notice as the court deems appropriate, upon the
14 application of the company or the Director seize or sequester
15 any voting securities of the company owned directly or
16 indirectly by such person, and issue any orders with respect
17 thereto as may be appropriate to effectuate this Article.
18 Notwithstanding any other provisions of law, for the purposes
19 of this Article, the situs of the ownership of the securities
20 of domestic companies is deemed to be in this State.

21 (4) If the Director has reason to believe that any
22 policyholders' proxies have been or are about to be acquired,
23 transferred, or divested in contravention of this Article or of
24 any rule, regulations or order issued by the Director
25 hereunder, the Director may apply to the Circuit Court for
26 Sangamon County or to the Circuit Court for the county in which

1 the company has its principal place of business (a) to enjoin
2 further pursuit or use of any offer, request, invitation,
3 agreement or acquisition, transfer, or divestiture made in
4 contravention of Section 131.4 through 131.12 and (b) for any
5 other equitable relief as the nature of the case and the
6 interests of the company's policyholders, creditors or the
7 public may require.

8 (Source: P.A. 84-805.)

9 (215 ILCS 5/136) (from Ch. 73, par. 748)

10 Sec. 136. Annual statement.

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

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

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

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

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

1 Commissioners annual and quarterly financial statement
2 information in computer readable format as required by the
3 Insurance Regulatory Information System. Failure of a company
4 to file financial statement information in computer readable
5 format shall subject the company to the provisions of Section
6 139.

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

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

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

1 considered as a document supporting the Actuarial Opinion
2 required in this subsection (6). Each foreign and alien
3 property and casualty company authorized to do business in
4 this State shall provide the Actuarial Opinion Summary upon
5 request.

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

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

25 (d) The Statement of Actuarial Opinion shall be
26 provided with the Annual Statement in accordance with the

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

1 any private civil action concerning any confidential
2 documents, materials, or information subject to this
3 subsection (6). Except where another provision of this Code
4 expressly prohibits a disclosure of confidential
5 information to the specific officials or organizations
6 described in this subsection, the Director may:

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

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

1 the jurisdiction that is the source of the document,
2 material, or information; and

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

5 (e) No waiver of any applicable privilege or claim of
6 confidentiality in the documents, materials or information
7 shall occur as a result of disclosure to the Director under
8 this Section or as a result of sharing as authorized in
9 subparagraphs (i), (ii), and (iii) of paragraph (d) of
10 subsection (6) of this Section. All 2008 Annual Statements,
11 which are filed in 2009, and all subsequent Annual
12 Statement filings shall be done in accordance with
13 subsection (6) of this Section.

14 (Source: P.A. 96-145, eff. 8-7-09.)

15 (215 ILCS 5/404) (from Ch. 73, par. 1016)

16 Sec. 404. Office of Director; A public office; destruction
17 or disposal of records, papers, documents, and memoranda.

18 (1) (a) The office of the Director shall be a public office
19 and the records, books, and papers thereof on file therein,
20 except those records or documents containing or disclosing any
21 analysis, opinion, calculation, ratio, recommendation, advice,
22 viewpoint, or estimation by any Department staff regarding the
23 financial or market condition of an insurer not otherwise made
24 part of the public record by the Director, shall be accessible
25 to the inspection of the public, except as the Director, for

1 good reason, may decide otherwise, or except as may be
2 otherwise provided in this Code.

3 (b) Except where another provision of this Code expressly
4 prohibits a disclosure of confidential information to the
5 specific officials or organizations described in this
6 subsection, the Director may disclose or share any confidential
7 records or information in his custody and control with any
8 insurance regulatory officials of any state or country, with
9 the law enforcement officials of this State, any other state,
10 or the federal government, or with the National Association of
11 Insurance Commissioners, upon the written agreement of the
12 official or organization receiving the information to hold the
13 information or records confidential and in a manner consistent
14 with this Code.

15 (c) The Director shall maintain as confidential any records
16 or information received from the National Association of
17 Insurance Commissioners or insurance regulatory officials of
18 other states or countries or law enforcement officials of this
19 or any other state or country or agency of the federal
20 government which is confidential in that other jurisdiction.

21 (2) Upon the filing of the examination to which they
22 relate, the Director is authorized to destroy or otherwise
23 dispose of all working papers relative to any company which
24 has been examined at any time prior to that last
25 examination by the Department, so that in such
26 circumstances only current working papers of that last

1 examination may be retained by the Department.

2 (3) Five years after the conclusion of the transactions
3 to which they relate, the Director is authorized to destroy
4 or otherwise dispose of all books, records, papers,
5 memoranda and correspondence directly related to consumer
6 complaints or inquiries.

7 (4) Two years after the conclusion of the transactions
8 to which they relate, the Director is authorized to destroy
9 or otherwise dispose of all books, records, papers,
10 memoranda, and correspondence directly related to all
11 void, obsolete, or superseded rate filings and schedules
12 required to be filed by statute; and all individual company
13 rating experience data and all records, papers, documents
14 and memoranda in the possession of the Director relating
15 thereto.

16 (5) Five years after the conclusion of the transactions
17 to which they relate, the Director is authorized to destroy
18 or otherwise dispose of all examination reports of
19 companies made by the insurance supervisory officials of
20 states other than Illinois; applications, requisitions,
21 and requests for licenses; all records of hearings; and all
22 similar records, papers, documents, and memoranda in the
23 possession of the Director.

24 (6) Ten years after the conclusion of the transactions
25 to which they relate, the Director is authorized to destroy
26 or otherwise dispose of all official correspondence of

1 foreign and alien companies, all foreign companies' and
2 alien companies' annual statements, valuation reports, tax
3 reports, and all similar records, papers, documents and
4 memoranda in the possession of the Director.

5 (7) Whenever any records, papers, documents or
6 memoranda are destroyed or otherwise disposed of pursuant
7 to the provisions of this section, the Director shall
8 execute and file in a separate, permanent office file a
9 certificate listing and setting forth by summary
10 description the records, papers, documents or memoranda so
11 destroyed or otherwise disposed of, and the Director may,
12 in his discretion, preserve copies of any such records,
13 papers, documents or memoranda by means of microfilming or
14 photographing the same.

15 (8) This Section shall apply to records, papers,
16 documents, and memoranda presently in the possession of the
17 Director as well as to records, papers, documents, and
18 memoranda hereafter coming into his possession.

19 (Source: P.A. 89-97, eff. 7-7-95.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."