



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1552

by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143	from Ch. 73, par. 755
215 ILCS 5/356z.12	
215 ILCS 5/1202	from Ch. 73, par. 1065.902
215 ILCS 5/1204	from Ch. 73, par. 1065.904

Amends the Illinois Insurance Code. Deletes language that provides that the Department of Insurance shall mail a quarterly invoice to companies transacting certain kinds of business in this State for the appropriate filing fees required under the provision concerning fees and charges. Deletes language that provides that certain notice regarding coverage for a dependent shall be provided to an insured by the insurer in a notice delivered to an insured on a semi-annual basis. Provides that the Director of Insurance shall make an annual report to the General Assembly no later than July 1 (rather than April 15) every year which shall include the Director's findings and recommendations regarding certain duties. Replaces references to Secretary of Financial and Professional Regulation with Director of Insurance and makes conforming changes. Deletes language specifying the types of insurance and makes changes regarding the additional information to be included in the report that the Director requires insurers to submit showing those insurers' direct writings in this State and companywide.

LRB098 02751 RPM 39104 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 Sections 143, 356z.12, and 1202 and by reenacting and
6 changing Section 1204 as follows:

7 (215 ILCS 5/143) (from Ch. 73, par. 755)

8 Sec. 143. Policy forms.

9 (1) Life, accident and health. No company transacting the
10 kind or kinds of business enumerated in Classes 1 (a), 1 (b)
11 and 2 (a) of Section 4 shall issue or deliver in this State a
12 policy or certificate of insurance or evidence of coverage,
13 attach an endorsement or rider thereto, incorporate by
14 reference bylaws or other matter therein or use an application
15 blank in this State until the form and content of such policy,
16 certificate, evidence of coverage, endorsement, rider, bylaw
17 or other matter incorporated by reference or application blank
18 has been filed electronically with the Director, either through
19 the System for Electronic Rate and Form Filing (SERFF) or as
20 otherwise prescribed by the Director, and approved by the
21 Director. ~~The Department shall mail a quarterly invoice to the~~
22 ~~company for the appropriate filing fees required under Section~~
23 ~~408.~~ Any such endorsement or rider that unilaterally reduces

1 benefits and is to be attached to a policy subsequent to the
2 date the policy is issued must be filed with, reviewed, and
3 formally approved by the Director prior to the date it is
4 attached to a policy issued or delivered in this State. It
5 shall be the duty of the Director to withhold approval of any
6 such policy, certificate, endorsement, rider, bylaw or other
7 matter incorporated by reference or application blank filed
8 with him if it contains provisions which encourage
9 misrepresentation or are unjust, unfair, inequitable,
10 ambiguous, misleading, inconsistent, deceptive, contrary to
11 law or to the public policy of this State, or contains
12 exceptions and conditions that unreasonably or deceptively
13 affect the risk purported to be assumed in the general coverage
14 of the policy. In all cases the Director shall approve or
15 disapprove any such form within 60 days after submission unless
16 the Director extends by not more than an additional 30 days the
17 period within which he shall approve or disapprove any such
18 form by giving written notice to the insurer of such extension
19 before expiration of the initial 60 days period. The Director
20 shall withdraw his approval of a policy, certificate, evidence
21 of coverage, endorsement, rider, bylaw, or other matter
22 incorporated by reference or application blank if he
23 subsequently determines that such policy, certificate,
24 evidence of coverage, endorsement, rider, bylaw, other matter,
25 or application blank is misrepresentative, unjust, unfair,
26 inequitable, ambiguous, misleading, inconsistent, deceptive,

1 contrary to law or public policy of this State, or contains
2 exceptions or conditions which unreasonably or deceptively
3 affect the risk purported to be assumed in the general coverage
4 of the policy or evidence of coverage.

5 If a previously approved policy, certificate, evidence of
6 coverage, endorsement, rider, bylaw or other matter
7 incorporated by reference or application blank is withdrawn for
8 use, the Director shall serve upon the company an order of
9 withdrawal of use, either personally or by mail, and if by
10 mail, such service shall be completed if such notice be
11 deposited in the post office, postage prepaid, addressed to the
12 company's last known address specified in the records of the
13 Department of Insurance. The order of withdrawal of use shall
14 take effect 30 days from the date of mailing but shall be
15 stayed if within the 30-day period a written request for
16 hearing is filed with the Director. Such hearing shall be held
17 at such time and place as designated in the order given by the
18 Director. The hearing may be held either in the City of
19 Springfield, the City of Chicago or in the county where the
20 principal business address of the company is located. The
21 action of the Director in disapproving or withdrawing such form
22 shall be subject to judicial review under the Administrative
23 Review Law.

24 This subsection shall not apply to riders or endorsements
25 issued or made at the request of the individual policyholder
26 relating to the manner of distribution of benefits or to the

1 reservation of rights and benefits under his life insurance
2 policy.

3 (2) Casualty, fire, and marine. The Director shall require
4 the filing of all policy forms issued or delivered by any
5 company transacting the kind or kinds of business enumerated in
6 Classes 2 (except Class 2 (a)) and 3 of Section 4 in an
7 electronic format either through the System for Electronic Rate
8 and Form Filing (SERFF) or as otherwise prescribed and approved
9 by the Director. In addition, he may require the filing of any
10 generally used riders, endorsements, certificates, application
11 blanks, and other matter incorporated by reference in any such
12 policy or contract of insurance. ~~The Department shall mail a~~
13 ~~quarterly invoice to the company for the appropriate filing~~
14 ~~fees required under Section 408.~~ Companies that are members of
15 an organization, bureau, or association may have the same filed
16 for them by the organization, bureau, or association. If the
17 Director shall find from an examination of any such policy
18 form, rider, endorsement, certificate, application blank, or
19 other matter incorporated by reference in any such policy so
20 filed that it (i) violates any provision of this Code, (ii)
21 contains inconsistent, ambiguous, or misleading clauses, or
22 (iii) contains exceptions and conditions that will
23 unreasonably or deceptively affect the risks that are purported
24 to be assumed by the policy, he shall order the company or
25 companies issuing these forms to discontinue their use. Nothing
26 in this subsection shall require a company transacting the kind

1 or kinds of business enumerated in Classes 2 (except Class 2
2 (a)) and 3 of Section 4 to obtain approval of these forms
3 before they are issued nor in any way affect the legality of
4 any policy that has been issued and found to be in conflict
5 with this subsection, but such policies shall be subject to the
6 provisions of Section 442.

7 (3) This Section shall not apply (i) to surety contracts or
8 fidelity bonds, (ii) to policies issued to an industrial
9 insured as defined in Section 121-2.08 except for workers'
10 compensation policies, nor (iii) to riders or endorsements
11 prepared to meet special, unusual, peculiar, or extraordinary
12 conditions applying to an individual risk.

13 (Source: P.A. 97-486, eff. 1-1-12.)

14 (215 ILCS 5/356z.12)

15 Sec. 356z.12. Dependent coverage.

16 (a) A group or individual policy of accident and health
17 insurance or managed care plan that provides coverage for
18 dependents and that is amended, delivered, issued, or renewed
19 after the effective date of this amendatory Act of the 95th
20 General Assembly shall not terminate coverage or deny the
21 election of coverage for an unmarried dependent by reason of
22 the dependent's age before the dependent's 26th birthday.

23 (b) A policy or plan subject to this Section shall, upon
24 amendment, delivery, issuance, or renewal, establish an
25 initial enrollment period of not less than 90 days during which

1 an insured may make a written election for coverage of an
2 unmarried person as a dependent under this Section. After the
3 initial enrollment period, enrollment by a dependent pursuant
4 to this Section shall be consistent with the enrollment terms
5 of the plan or policy.

6 (c) A policy or plan subject to this Section shall allow
7 for dependent coverage during the annual open enrollment date
8 or the annual renewal date if the dependent, as of the date on
9 which the insured elects dependent coverage under this
10 subsection, has:

11 (1) a period of continuous creditable coverage of 90
12 days or more; and

13 (2) not been without creditable coverage for more than
14 63 days.

15 An insured may elect coverage for a dependent who does not meet
16 the continuous creditable coverage requirements of this
17 subsection (c) and that dependent shall not be denied coverage
18 due to age.

19 For purposes of this subsection (c), "creditable coverage"
20 shall have the meaning provided under subsection (C)(1) of
21 Section 20 of the Illinois Health Insurance Portability and
22 Accountability Act.

23 (d) Military personnel. A group or individual policy of
24 accident and health insurance or managed care plan that
25 provides coverage for dependents and that is amended,
26 delivered, issued, or renewed after the effective date of this

1 amendatory Act of the 95th General Assembly shall not terminate
2 coverage or deny the election of coverage for an unmarried
3 dependent by reason of the dependent's age before the
4 dependent's 30th birthday if the dependent (i) is an Illinois
5 resident, (ii) served as a member of the active or reserve
6 components of any of the branches of the Armed Forces of the
7 United States, and (iii) has received a release or discharge
8 other than a dishonorable discharge. To be eligible for
9 coverage under this subsection (d), the eligible dependent
10 shall submit to the insurer a form approved by the Illinois
11 Department of Veterans' Affairs stating the date on which the
12 dependent was released from service.

13 (e) Calculation of the cost of coverage provided to an
14 unmarried dependent under this Section shall be identical.

15 (f) Nothing in this Section shall prohibit an employer from
16 requiring an employee to pay all or part of the cost of
17 coverage provided under this Section.

18 (g) No exclusions or limitations may be applied to coverage
19 elected pursuant to this Section that do not apply to all
20 dependents covered under the policy.

21 (h) A policy or plan subject to this Section shall not
22 condition eligibility for dependent coverage provided pursuant
23 to this Section on enrollment in any educational institution.

24 (i) Notice regarding coverage for a dependent as provided
25 pursuant to this Section shall be provided to an insured by the
26 insurer:

- 1 (1) upon application or enrollment;
- 2 (2) in the certificate of coverage or equivalent
3 document prepared for an insured and delivered on or about
4 the date on which the coverage commences; and
- 5 (3) (blank) ~~in a notice delivered to an insured on a~~
6 ~~semi-annual basis.~~

7 (Source: P.A. 95-958, eff. 6-1-09.)

8 (215 ILCS 5/1202) (from Ch. 73, par. 1065.902)

9 Sec. 1202. Duties. The Director shall:

10 (a) determine the relationship of insurance premiums and
11 related income as compared to insurance costs and expenses and
12 provide such information to the General Assembly and the
13 general public;

14 (b) study the insurance system in the State of Illinois,
15 and recommend to the General Assembly what it deems to be the
16 most appropriate and comprehensive cost containment system for
17 the State;

18 (c) respond to the requests by agencies of government and
19 the General Assembly for special studies and analysis of data
20 collected pursuant to this Article. Such reports shall be made
21 available in a form prescribed by the Director. The Director
22 may also determine a fee to be charged to the requesting agency
23 to cover the direct and indirect costs for producing such a
24 report, and shall permit affected insurers the right to review
25 the accuracy of the report before it is released. The fees

1 shall be deposited into the Statistical Services Revolving Fund
2 and credited to the account of the Department of Insurance;

3 (d) make an interim report to the General Assembly no later
4 than August 15, 1987, and a annual report to the General
5 Assembly no later than July 1 ~~April 15~~ every year thereafter
6 which shall include the Director's findings and
7 recommendations regarding its duties as provided under
8 subsections (a), (b), and (c) of this Section.

9 (Source: P.A. 91-357, eff. 7-29-99.)

10 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

11 (Text of Section WITH the changes made by P.A. 94-677,
12 which has been held unconstitutional)

13 Sec. 1204. (A) The Director ~~Secretary~~ shall promulgate
14 rules and regulations which shall require each insurer licensed
15 to write property or casualty insurance in the State and each
16 syndicate doing business on the Illinois Insurance Exchange to
17 record and report its loss and expense experience and other
18 data as may be necessary to assess the relationship of
19 insurance premiums and related income as compared to insurance
20 costs and expenses. The Director ~~Secretary~~ may designate one or
21 more rate service organizations or advisory organizations to
22 gather and compile such experience and data. The Director
23 ~~Secretary~~ shall require each insurer licensed to write property
24 or casualty insurance in this State and each syndicate doing
25 business on the Illinois Insurance Exchange to submit a report,

1 on a form furnished by the Director ~~Secretary~~, showing its
2 direct writings in this State and companywide.

3 (B) (Blank). ~~Such report required by subsection (A) of this~~
4 ~~Section may include, but not be limited to, the following~~
5 ~~specific types of insurance written by such insurer:~~

6 ~~----- (1) Political subdivision liability insurance reported~~
7 ~~separately in the following categories:~~

8 ~~(a) municipalities;~~

9 ~~(b) school districts;~~

10 ~~(c) other political subdivisions;~~

11 ~~(2) Public official liability insurance;~~

12 ~~(3) Dram shop liability insurance;~~

13 ~~(4) Day care center liability insurance;~~

14 ~~(5) Labor, fraternal or religious organizations~~
15 ~~liability insurance;~~

16 ~~(6) Errors and omissions liability insurance;~~

17 ~~(7) Officers and directors liability insurance~~
18 ~~reported separately as follows:~~

19 ~~(a) non profit entities;~~

20 ~~(b) for profit entities;~~

21 ~~(8) Products liability insurance;~~

22 ~~(9) Medical malpractice insurance;~~

23 ~~(10) Attorney malpractice insurance;~~

24 ~~(11) Architects and engineers malpractice insurance;~~

25 and

26 ~~(12) Motor vehicle insurance reported separately for~~

1 ~~commercial and private passenger vehicles as follows:~~

2 ~~(a) motor vehicle physical damage insurance;~~

3 ~~(b) motor vehicle liability insurance.~~

4 (C) Such report may include, but need not be limited to the
5 following data, both specific to this State and companywide, in
6 the aggregate or by type of insurance for the previous year on
7 a calendar year basis:

8 (1) Direct premiums written;

9 (2) Direct premiums earned;

10 (3) Number of policies;

11 (4) Net investment income, using appropriate estimates

12 where necessary;

13 (5) Losses paid;

14 (6) Losses incurred;

15 (7) Loss reserves:

16 (a) Losses unpaid on reported claims;

17 (b) Losses unpaid on incurred but not reported

18 claims;

19 (8) Number of claims:

20 (a) Paid claims;

21 (b) Arising claims;

22 (9) Loss adjustment expenses:

23 (a) Allocated loss adjustment expenses;

24 (b) Unallocated loss adjustment expenses;

25 (10) Net underwriting gain or loss;

26 (11) Net operation gain or loss, including net

1 investment income;

2 (12) Any other information requested by the Director
3 ~~Secretary~~.

4 (C-3) Additional information by an advisory organization
5 as defined in Section 463 of this Code.

6 (1) An advisory organization as defined in Section 463
7 of this Code shall report annually the following
8 information in such format as may be prescribed by the
9 Director Secretary:

10 (a) paid and incurred losses for each of the past
11 10 years;

12 (b) medical payments and medical charges, if
13 collected, for each of the past 10 years;

14 (c) the following indemnity payment information:
15 cumulative payments by accident year by calendar year
16 of development. This array will show payments made and
17 frequency of claims in the following categories:
18 medical only, permanent partial disability (PPD),
19 permanent total disability (PTD), temporary total
20 disability (TTD), and fatalities;

21 (d) injuries by frequency and severity;

22 (e) by class of employee.

23 (2) The report filed with the Director ~~Secretary of~~
24 ~~Financial and Professional Regulation~~ under paragraph (1)
25 of this subsection (C-3) shall be made available, on an
26 aggregate basis, to the General Assembly and to the general

1 public. The identity of the petitioner, the respondent, the
2 attorneys, and the insurers shall not be disclosed.

3 (3) Reports required under this subsection (C-3) shall
4 be filed with the Director ~~Secretary~~ no later than
5 September 1 in 2006 and no later than September 1 of each
6 year thereafter.

7 (C-5) Additional information required from medical
8 malpractice insurers. ~~(1)~~ In addition to the other requirements
9 of this Section, the following information shall be included in
10 the report required by subsection (A) of this Section in such
11 form and under such terms and conditions as may be prescribed
12 by the Director ~~Secretary~~: ~~(a) paid and incurred losses, paid~~
13 ~~allocated loss adjustment expenses, incurred allocated loss~~
14 ~~adjustment expenses, paid claim counts, incurred claim counts,~~
15 ~~earned exposures, and earned premiums by county for each of the~~
16 ~~past 10 policy years. ; (b) earned exposures by ISO code,~~
17 ~~policy type, and policy year by county for each of the past 10~~
18 ~~years; and (c) the following actuarial information:~~

19 ~~(i) Base class and territory equivalent~~
20 ~~exposures by report year by relative accident~~
21 ~~year.~~

22 ~~(ii) Cumulative loss array by accident year by~~
23 ~~calendar year of development. This array will show~~
24 ~~frequency of claims in the following categories:~~
25 ~~open, closed with indemnity (CWI), closed with~~
26 ~~expense (CWE), and closed no pay (GNP); paid~~

1 ~~severity in the following categories: indemnity~~
2 ~~and allocated loss adjustment expenses (ALAE) on~~
3 ~~closed claims; and indemnity and expense reserves~~
4 ~~on pending claims.~~

5 ~~(iii) Cumulative loss array by report year by~~
6 ~~calendar year of development. This array will show~~
7 ~~frequency of claims in the following categories:~~
8 ~~open, closed with indemnity (CWI), closed with~~
9 ~~expense (CWE), and closed no pay (CNP); paid~~
10 ~~severity in the following categories: indemnity~~
11 ~~and allocated loss adjustment expenses (ALAE) on~~
12 ~~closed claims; and indemnity and expense reserves~~
13 ~~on pending claims.~~

14 ~~(iv) Maturity year and tail factors.~~

15 ~~(v) Any expense, contingency ddr (death,~~
16 ~~disability, and retirement), commission, tax,~~
17 ~~and/or off balance factors.~~

18 ~~(2) The following information must also be annually~~
19 ~~provided to the Department:~~

20 ~~(a) copies of the company's reserve and surplus~~
21 ~~studies; and~~

22 ~~(b) consulting actuarial report and data~~
23 ~~supporting the company's rate filing.~~

24 ~~(3) All information collected by the Secretary under~~
25 ~~paragraphs (1) and (2) shall be made available, on a~~
26 ~~company by company basis, to the General Assembly and the~~

1 ~~general public. This provision shall supersede any other~~
2 ~~provision of State law that may otherwise protect such~~
3 ~~information from public disclosure as confidential.~~

4 (D) In addition to the information which may be requested
5 under subsection (C), the Director ~~Secretary~~ may also request
6 on a companywide, aggregate basis, Federal Income Tax
7 recoverable, net realized capital gain or loss, net unrealized
8 capital gain or loss, and all other expenses not requested in
9 subsection (C) above.

10 (E) Violations - Suspensions - Revocations.

11 (1) Any company or person subject to this Article, who
12 willfully or repeatedly fails to observe or who otherwise
13 violates any of the provisions of this Article or any rule
14 or regulation promulgated by the Director ~~Secretary~~ under
15 authority of this Article or any final order of the
16 Director ~~Secretary~~ entered under the authority of this
17 Article shall by civil penalty forfeit to the State of
18 Illinois a sum not to exceed \$2,000. Each day during which
19 a violation occurs constitutes a separate offense.

20 (2) No forfeiture liability under paragraph (1) of this
21 subsection may attach unless a written notice of apparent
22 liability has been issued by the Director ~~Secretary~~ and
23 received by the respondent, or the Director ~~Secretary~~ sends
24 written notice of apparent liability by registered or
25 certified mail, return receipt requested, to the last known
26 address of the respondent. Any respondent so notified must

1 be granted an opportunity to request a hearing within 10
2 days from receipt of notice, or to show in writing, why he
3 should not be held liable. A notice issued under this
4 Section must set forth the date, facts and nature of the
5 act or omission with which the respondent is charged and
6 must specifically identify the particular provision of
7 this Article, rule, regulation or order of which a
8 violation is charged.

9 (3) No forfeiture liability under paragraph (1) of this
10 subsection may attach for any violation occurring more than
11 2 years prior to the date of issuance of the notice of
12 apparent liability and in no event may the total civil
13 penalty forfeiture imposed for the acts or omissions set
14 forth in any one notice of apparent liability exceed
15 \$100,000.

16 (4) All administrative hearings conducted pursuant to
17 this Article are subject to 50 Ill. Adm. Code 2402 and all
18 administrative hearings are subject to the Administrative
19 Review Law.

20 (5) The civil penalty forfeitures provided for in this
21 Section are payable to the General Revenue Fund of the
22 State of Illinois, and may be recovered in a civil suit in
23 the name of the State of Illinois brought in the Circuit
24 Court in Sangamon County or in the Circuit Court of the
25 county where the respondent is domiciled or has its
26 principal operating office.

1 (6) In any case where the Director ~~Secretary~~ issues a
2 notice of apparent liability looking toward the imposition
3 of a civil penalty forfeiture under this Section that fact
4 may not be used in any other proceeding before the Director
5 ~~Secretary~~ to the prejudice of the respondent to whom the
6 notice was issued, unless (a) the civil penalty forfeiture
7 has been paid, or (b) a court has ordered payment of the
8 civil penalty forfeiture and that order has become final.

9 (7) When any person or company has a license or
10 certificate of authority under this Code and knowingly
11 fails or refuses to comply with a lawful order of the
12 Director ~~Secretary~~ requiring compliance with this Article,
13 entered after notice and hearing, within the period of time
14 specified in the order, the Director ~~Secretary~~ may, in
15 addition to any other penalty or authority provided, revoke
16 or refuse to renew the license or certificate of authority
17 of such person or company, or may suspend the license or
18 certificate of authority of such person or company until
19 compliance with such order has been obtained.

20 (8) When any person or company has a license or
21 certificate of authority under this Code and knowingly
22 fails or refuses to comply with any provisions of this
23 Article, the Director ~~Secretary~~ may, after notice and
24 hearing, in addition to any other penalty provided, revoke
25 or refuse to renew the license or certificate of authority
26 of such person or company, or may suspend the license or

1 certificate of authority of such person or company, until
2 compliance with such provision of this Article has been
3 obtained.

4 (9) No suspension or revocation under this Section may
5 become effective until 5 days from the date that the notice
6 of suspension or revocation has been personally delivered
7 or delivered by registered or certified mail to the company
8 or person. A suspension or revocation under this Section is
9 stayed upon the filing, by the company or person, of a
10 petition for judicial review under the Administrative
11 Review Law.

12 (Source: P.A. 94-277, eff. 7-20-05; 94-677, eff. 8-25-05;
13 95-331, eff. 8-21-07.)