

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 Sections 131.1, 131.2, 131.3, 131.4, 131.5, 131.6,
6 131.8, 131.8a, 131.11, 131.12, 131.12a, 131.13, 131.14,
7 131.16, 131.17, 131.18, 131.19, 131.20, 131.20a, 131.20b,
8 131.21, 131.22, 131.23, 131.24, 131.26, 131.27, and 408.3 and
9 by adding Sections 131.9a, 131.14a, 131.14b, 131.14c, 131.14d,
10 131.20c, 131.29, and 131.30 as follows:

11 (215 ILCS 5/131.1) (from Ch. 73, par. 743.1)

12 Sec. 131.1. Definitions. As used in this Article, the
13 following terms have the respective meanings set forth in this
14 Section unless the context requires otherwise:

15 (a) An "affiliate" of, or person "affiliated" with, a
16 specific person, is a person that directly, or indirectly
17 through one or more intermediaries, controls, or is controlled
18 by, or is under common control with, the person specified.

19 (a-5) "Acquiring party" means such person by whom or on
20 whose behalf the merger or other acquisition of control
21 referred to in Section 131.4 is to be affected and any person
22 that controls such person or persons.

23 (a-10) "Associated person" means, with respect to an

1 acquiring party, (1) any beneficial owner of shares of the
2 company to be acquired, owned, directly or indirectly, of
3 record or beneficially by the acquiring party, (2) any
4 affiliate of the acquiring party or beneficial owner, and (3)
5 any other person acting in concert, directly or indirectly,
6 pursuant to any agreement, arrangement, or understanding,
7 whether written or oral, with the acquiring party or beneficial
8 owner, or any of their respective affiliates, in connection
9 with the merger, consolidation, or other acquisition of control
10 referred to in Section 131.4 of this Code.

11 (a-15) "Company" has the same meaning as "company" as
12 defined in Section 2 of this Code, except that it does not
13 include agencies, authorities, or instrumentalities of the
14 United States, its possessions and territories, the
15 Commonwealth of Puerto Rico, the District of Columbia, or a
16 state or political subdivision of a state.

17 (b) "Control" (including the terms "controlling",
18 "controlled by" and "under common control with") means the
19 possession, direct or indirect, of the power to direct or cause
20 the direction of the management and policies of a person,
21 whether through the ownership of voting securities, the holding
22 of shareholders' or policyholders' proxies by contract other
23 than a commercial contract for goods or non-management
24 services, or otherwise, unless the power is solely the result
25 of an official position with or corporate office held by the
26 person. Control is presumed to exist if any person, directly or

1 indirectly, owns, controls, holds with the power to vote, or
2 holds shareholders' proxies representing 10% or more of the
3 voting securities of any other person, or holds or controls
4 sufficient policyholders' proxies to elect the majority of the
5 board of directors of the domestic company. This presumption
6 may be rebutted by a showing made in the manner as the Director
7 may provide by rule. The Director may determine, after
8 furnishing all persons in interest notice and opportunity to be
9 heard and making specific findings of fact to support such
10 determination, that control exists in fact, notwithstanding
11 the absence of a presumption to that effect.

12 (b-5) "Enterprise risk" means any activity, circumstance,
13 event, or series of events involving one or more affiliates of
14 a company that, if not remedied promptly, is likely to have a
15 material adverse effect upon the financial condition or
16 liquidity of the company or its insurance holding company
17 system as a whole, including, but not limited to, anything that
18 would cause the company's risk-based capital to fall into
19 company action level as set forth in Article IIA of this Code
20 or would cause the company to be in hazardous financial
21 condition as set forth in Article XII 1/2 of this Code.

22 (b-10) "Exchange Act" means the Securities Exchange Act of
23 1934, as amended, together with the rules and regulations
24 promulgated thereunder.

25 (c) "Insurance holding company system" means two or more
26 affiliated persons, one or more of which is an insurance

1 company as defined in paragraph (e) of Section 2 of this Code.

2 (d) (Blank). ~~"Company" has the same meaning as "Company" as~~
3 ~~defined in Section 2 of this Code, except that it does not~~
4 ~~include agencies, authorities or instrumentalities of the~~
5 ~~United States, its possessions and territories, the~~
6 ~~Commonwealth of Puerto Rico, the District of Columbia or a~~
7 ~~State or political subdivision of a State.~~

8 (d-5) "Non-operating holding company" is a general
9 business corporation functioning solely for the purpose of
10 forming, owning, acquiring, and managing subsidiary business
11 entities and having no other business operations not related
12 thereto.

13 (d-10) "Own", "owned," or "owning" means shares (1) with
14 respect to which a person has title or to which a person's
15 nominee, custodian, or other agent has title and which such
16 nominee, custodian, or other agent is holding on behalf of the
17 person or (2) with respect to which a person (A) has purchased
18 or has entered into an unconditional contract, binding on both
19 parties, to purchase the shares, but has not yet received the
20 shares, (B) owns a security convertible into or exchangeable
21 for the shares and has tendered the security for conversion or
22 exchange, (C) has an option to purchase or acquire, or rights
23 or warrants to subscribe to, the shares and has exercised such
24 option, rights, or warrants, or (D) holds a securities futures
25 contract to purchase the shares and has received notice that
26 the position will be physically settled and is irrevocably

1 bound to receive the underlying shares. To the extent that any
2 affiliates of the stockholder or beneficial owner are acting in
3 concert with the stockholder or beneficial owner, the
4 determination of shares owned may include the effect of
5 aggregating the shares owned by the affiliate or affiliates.
6 Whether shares constitute shares owned shall be decided by the
7 Director in his or her reasonable determination.

8 (e) "Person" means an individual, a corporation, a limited
9 liability company, a partnership, an association, a joint stock
10 company, a trust, an unincorporated organization, any similar
11 entity or any combination of the foregoing acting in concert,
12 but does not include any securities broker performing no more
13 than the usual and customary broker's function or joint venture
14 partnership exclusively engaged in owning, managing, leasing
15 or developing real or tangible personal property other than
16 capital stock.

17 (e-5) "Policyholders' proxies" are proxies that give the
18 holder the right to vote for the election of the directors and
19 other corporate actions not in the day to day operations of the
20 company.

21 (f) (Blank). ~~"Securityholder" of a specified person is one~~
22 ~~who owns any security of such person, including common stock,~~
23 ~~preferred stock, debt obligations, and any other security~~
24 ~~convertible into or evidencing the right to acquire any of the~~
25 ~~foregoing.~~

26 (g) "Subsidiary" of a specified person is an affiliate

1 controlled by such person directly, or indirectly through one
2 or more intermediaries.

3 (h) "Voting Security" is a security which gives to the
4 holder thereof the right to vote for the election of directors
5 and includes any security convertible into or evidencing a
6 right to acquire a voting security.

7 (i) (Blank). ~~"Acquiring Party" means such person by whom or~~
8 ~~on whose behalf the merger or other acquisition of control~~
9 ~~referred to in Section 131.4 is to be affected and any person~~
10 ~~that controls such person or persons.~~

11 (j) (Blank). ~~"Policyholders' Proxies" are proxies which~~
12 ~~give the holder the right to vote for the election of the~~
13 ~~directors and other corporate actions not in the day-to-day~~
14 ~~operations of the company.~~

15 (k) (Blank). ~~"Non-operating Holding Company" is a general~~
16 ~~business corporation functioning solely for the purpose of~~
17 ~~forming, owning, acquiring and managing subsidiary business~~
18 ~~entities and having no other business operations not related~~
19 ~~thereto.~~

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

21 (215 ILCS 5/131.2) (from Ch. 73, par. 743.2)

22 Sec. 131.2. Subsidiaries. A domestic company, either by
23 itself or in cooperation with one or more persons, may organize
24 or acquire one or more subsidiaries. The subsidiaries may
25 conduct any kind of business or businesses and their authority

1 to do so shall not be limited by reason of the fact that they
2 are subsidiaries of a domestic company. In addition to
3 investments in common stock, preferred stock, debt obligations
4 and other securities of subsidiaries permitted under all other
5 sections of this Code, a domestic company, other than a company
6 subject to Articles XVIII or XIX, may also:

7 (a) invest, in common stock, preferred stock, debt
8 obligations, and other securities of one or more
9 subsidiaries, amounts which do not exceed the lesser of 10%
10 of the company's assets or 50% of the company's surplus as
11 regards policyholders, but after such investments the
12 company's surplus as regards policyholders must be
13 reasonable in relation to the company's outstanding
14 liabilities and adequate to its financial needs. In
15 calculating the amount of such investments, there must be
16 included (i) total net monies or other consideration
17 expended and obligations assumed in the acquisition or
18 formation of a subsidiary, including all organizational
19 expenses and contributions to capital and surplus of the
20 subsidiary whether or not represented by the purchase of
21 capital stock or issuance of other securities, and (ii) all
22 amounts expended in acquiring additional common stock,
23 preferred stock, debt obligations, and other securities,
24 and all contributions to the capital or surplus of a
25 subsidiary subsequent to its acquisition or formation;

26 (b) invest any amount in common stock, preferred stock,

1 debt obligations and other securities of one or more direct
2 subsidiaries acting only as a non-operating holding
3 company or engaged or organized exclusively for the
4 ownership and management of assets authorized as
5 investments for the company, provided that each subsidiary
6 agrees to limit its investments in any asset so that such
7 investments will not cause the amount of the total
8 investment of the company to exceed the amount the company
9 could have invested in such asset. For the purpose of this
10 clause, "the total investment of the company" will include
11 (i) any direct investment by the company in an asset and
12 (ii) the company's proportionate share of any investment in
13 such asset by any ~~direct~~ subsidiary of the company, which
14 must be calculated by multiplying the amount of the
15 subsidiary's investment by the percentage of the company's
16 ownership of such subsidiary;

17 (c) invest in common stock of one or more insurance
18 corporation subsidiaries any amount by which the investing
19 company's capital and surplus exceeds the minimum capital
20 and surplus required of a new company under Section 13 to
21 qualify for a certificate of authority to write the kind or
22 kinds of insurance which the company is authorized to
23 write, if the company is a stock company, and if the
24 company is other than a stock company, the company may
25 invest the amount by which the company's surplus exceeds
26 the minimum surplus required of a new company under Section

1 43 or 66 to qualify for a certificate of authority to write
2 the kind or kinds of insurance which the company is
3 authorized to write;

4 (d) with the approval of the Director, invest any
5 greater amount in common stock, preferred stock, debt
6 obligations, or other securities of one or more
7 subsidiaries, but after such investment the company's
8 surplus as regards policyholders must be reasonable in
9 relation to the company's outstanding liabilities and
10 adequate to its financial needs.

11 (Source: P.A. 85-1186.)

12 (215 ILCS 5/131.3) (from Ch. 73, par. 743.3)

13 Sec. 131.3. (1) Investments in common stock, preferred
14 stock, debt obligations or other securities of subsidiaries
15 made under Section 131.2 of this Article are subject to
16 Sections 126.3, 126.4, 126.5, 126.6, 126.7, and 133 of this
17 Code but are not subject to any other of the otherwise
18 applicable restrictions or prohibitions contained in this Code
19 applicable to such investments of a domestic company subject to
20 this Code.

21 (2) If a company ceases to control a subsidiary, it must
22 dispose of any investment therein made under this section
23 within 3 years from the time of the cessation of control or
24 within such further time as the Director may prescribe, unless
25 at any time after the investment is made, the investment meets

1 the requirements for investment under any other section of this
2 Code, and the company has notified the Director thereof.

3 (3) Whether any investment made pursuant to this Section
4 meets the applicable requirements of this Section is to be
5 determined before the investment is made by calculating the
6 applicable investment limitations as though the investment had
7 already been made, taking into account the then outstanding
8 principal balance on all previous investments in debt
9 obligations, and the value of all previous investments in
10 equity securities as of the day they were made, net of any
11 return of capital invested, not including dividends.

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

13 (215 ILCS 5/131.4) (from Ch. 73, par. 743.4)

14 Sec. 131.4. Acquisition of control of or merger with
15 domestic company.

16 (a) No person other than the issuer may make a tender for
17 or a request or invitation for tenders of, or enter into an
18 agreement to exchange securities for, or seek to acquire or
19 acquire shareholders' proxies to vote or seek to acquire or
20 acquire in the open market, or otherwise, any voting security
21 of a domestic company or acquire policyholders' proxies of a
22 domestic company or any entity that controls a domestic
23 company, for consideration if, after the consummation thereof,
24 that person would, directly or indirectly, (or by conversion or
25 by exercise of any right to acquire) be in control of the

1 company, and no person may enter into an agreement to merge or
2 consolidate with or otherwise to acquire control of a domestic
3 company, unless the offer, request, invitation, or agreement is
4 conditioned on receiving the approval of the Director based on
5 Section 131.8 of this Article and no such acquisition of
6 control or a merger with a domestic company may be consummated
7 unless the person has filed with the Director and has sent to
8 the company a statement containing the information required by
9 Section 131.5 and the Director has approved the transaction or
10 granted an exemption. ~~For purposes of this Section a domestic~~
11 ~~company includes any other person which controls a domestic~~
12 ~~company or holds or controls sufficient policyholders' proxies~~
13 ~~to elect the majority of the board of directors of the domestic~~
14 ~~company.~~ Prior to the acquisition, the Director may conclude
15 that a statement need not be filed by the acquiring party if
16 the acquiring party demonstrates to the satisfaction of the
17 Director that:

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

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

25 (3) the acquisition of, or attempt to acquire control
26 of, such other person is subject to requirements in the

1 jurisdiction of its domicile which are substantially
2 similar to those contained in this Section and Sections
3 131.5 through 131.12; or

4 (4) the control of the policyholders' proxies is being
5 acquired solely by virtue of the holders official office
6 and not as the result of any agreement or for any
7 consideration.

8 The purpose of this Section is to afford to the
9 Director the opportunity to review acquisitions in order to
10 determine whether or not the acquisition would be adverse
11 to the interests of the existing and future policyholders
12 of the company.

13 (b) For purposes of this Section, any controlling person of
14 a domestic company seeking to divest its controlling interest
15 in the domestic company in any manner shall file with the
16 Director, with a copy to the company, confidential notice of
17 its proposed divestiture at least 30 days prior to the
18 cessation of control. The Director shall determine those
19 instances in which the party or parties seeking to divest or to
20 acquire a controlling interest in a company shall be required
21 to file for and obtain approval of the transaction. The
22 information shall remain confidential until the conclusion of
23 the transaction unless the Director, in his or her discretion,
24 determines that confidential treatment shall interfere with
25 enforcement of this Section. If the statement referred to in
26 subsection (a) of this Section is otherwise filed in connection

1 with the proposed divesture or related acquisition, this
2 subsection (b) shall not apply.

3 (c) For purposes of this Section, a domestic company shall
4 include any person controlling a domestic company unless the
5 person, as determined by the Director, is either directly or
6 through its affiliates primarily engaged in business other than
7 the business of insurance. For the purposes of this Section,
8 "person" shall not include any securities broker holding, in
9 the usual and customary broker's function, less than 20% of the
10 voting securities of an insurance company or of any person that
11 controls an insurance company.

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

13 (215 ILCS 5/131.5) (from Ch. 73, par. 743.5)

14 Sec. 131.5. Statement; contents ~~Statement-Contents~~. In
15 order to seek the approval of the Director pursuant to Section
16 131.8, the applicant must file a statement with the Director
17 under oath or affirmation which contains as a minimum the
18 following information:

19 (1) The name and address of each acquiring party, and

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

24 (b) if such person is not an individual, a report of the
25 nature of its business operations during the past 5 years or

1 for such lesser period as the person and any predecessors
2 thereof has been in existence; an informative description of
3 the business intended to be conducted by the person and the
4 person's subsidiaries; and a list of all individuals who are or
5 who have been selected to become directors or executive
6 officers of the person, or who perform or will perform
7 functions appropriate to such positions. The list must include
8 for each individual the information required by subsection
9 (1) (a).

10 (2) The source, nature and amount of the consideration used
11 or to be used in effecting the merger, consolidation or other
12 acquisition of control, a description of any transaction
13 wherein funds were or are to be obtained for any such purpose,
14 including any pledge of the company's own securities or the
15 securities of any of its subsidiaries or affiliates, and the
16 identity of persons furnishing such consideration. However,
17 where a source of such consideration is a loan made in the
18 lender's ordinary course of business, the identity of the
19 lender must remain confidential, if the person filing the
20 statement so requests.

21 (3) Financial information as to the earnings and financial
22 condition of each acquiring party for the preceding 5 fiscal
23 years of each acquiring party (or for such lesser period as the
24 acquiring party and any predecessors thereof have been in
25 existence) audited by an independent certified public
26 accountant in accordance with generally accepted auditing

1 standards and similar unaudited information ~~for the second and~~
2 ~~third preceding fiscal years and~~ as of a date not earlier than
3 90 days prior to the filing of the statement. ~~If an acquiring~~
4 ~~party is an insurer which has been actively engaged in the~~
5 ~~business of insurance for 10 years, the financial information~~
6 ~~need not be audited, provided it is based on the annual~~
7 ~~statements of such acquiring person filed with the insurance~~
8 ~~department of the person's domiciliary state and is in~~
9 ~~accordance with the requirement of insurance or other~~
10 ~~accounting principles prescribed or permitted under the laws~~
11 ~~and regulations of such state.~~

12 ~~(a) When an applicant is controlled by an individual,~~
13 ~~financial information for that individual will not be required~~
14 ~~if the applicant is currently subject to the registration and~~
15 ~~reporting requirements of Section 12(g) of the Securities~~
16 ~~Exchange Act of 1934 or is an insurer which has been actively~~
17 ~~engaged in the business of insurance for a period in excess of~~
18 ~~10 years;~~

19 ~~(b) When an individual as an acquiring party must file~~
20 ~~financial information under this paragraph such information~~
21 ~~need not be delivered to the company. However, such information~~
22 ~~shall be available if the Director holds a hearing pursuant to~~
23 ~~Section 131.8.~~

24 (4) Any plans or proposals which each acquiring party may
25 have to liquidate such company, to sell its assets or merge or
26 consolidate it with any person, or to make any other material

1 change in its business or corporate structure or management.

2 (5) The number of shares of any security referred to in
3 Section 131.4 which each acquiring party proposes to acquire,
4 ~~and~~ the terms of the offer, request, invitation, agreement, or
5 acquisition referred to in Section 131.4, and a statement as to
6 the method by which the fairness of the proposal was arrived.

7 (6) The amount of each class of any security referred to in
8 Section 131.4 which is beneficially owned or concerning which
9 there is a right to acquire beneficial ownership by each
10 acquiring party.

11 (7) A full description of any existing contracts,
12 arrangements or understandings with respect to any security
13 referred to in Section 131.4 in which any acquiring party is
14 involved, including but not limited to transfer of any of the
15 securities, joint ventures, loan or option arrangements, puts
16 or calls, guarantees of loans, guarantees against loss or
17 guarantees of profits, division of losses or profits, or the
18 giving or withholding of proxies. The description must identify
19 the persons with whom such contracts, arrangements or
20 understandings have been entered into.

21 (8) A description of the acquisition of any security or
22 policyholders' proxy referred to in Section 131.4 during the 12
23 calendar months preceding the filing of the statement, by any
24 acquiring party, including the dates of acquisition, names of
25 the acquiring parties ~~acquirers~~, and consideration paid or
26 agreed to be paid therefor.

1 (9) A description of any recommendations to acquire any
2 security referred to in Section 131.4 made during the 12
3 calendar months preceding the filing of the statement, by any
4 acquiring party, or by anyone based upon interviews or at the
5 suggestion of such acquiring party.

6 (10) Copies of all tender offers for, requests or
7 invitations for tenders of, exchange offers for, and agreements
8 to acquire or exchange any securities referred to in Section
9 131.4, and (if distributed) of additional soliciting material
10 relating thereto.

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

16 (12) Beginning July 1, 2014, an agreement by the person
17 required to file the statement referred to in this Section
18 131.5 that the person will provide the annual report specified
19 in Section 131.14b for so long as control exists.

20 (13) Beginning July 1, 2014, an acknowledgement by the
21 person required to file the statement referred to in this
22 Section 131.5 that the person and all subsidiaries within its
23 control in the insurance holding company system shall provide
24 information to the Director upon request as necessary to
25 evaluate enterprise risk to the company.

26 (14) Any additional information as the Director may by rule

1 or regulation prescribe as necessary or appropriate for the
2 protection of policyholders or in the public interest.

3 (15) With respect to each acquiring party, the following
4 information:

5 (A) the name and address of all associated persons and
6 a detailed description of every agreement, arrangement,
7 and understanding between the acquiring party and all
8 associated persons in connection with the merger,
9 consolidation, or other acquisition of control;

10 (B) the class or series and number of shares of
11 securities of the company that are directly or indirectly
12 owned beneficially and of record by the acquiring party or
13 the associated persons or both; and

14 (C) a detailed description of each proxy, contract,
15 arrangement, understanding, or relationship pursuant to
16 which the acquiring party or the associated persons, or
17 both, have a right to vote, or cause or direct the vote of,
18 any securities of the company.

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

20 (215 ILCS 5/131.6) (from Ch. 73, par. 743.6)

21 Sec. 131.6. (1) If the person required to file the
22 statement referred to in Section 131.5 is a partnership,
23 limited partnership, syndicate or other group, the Director may
24 require that the information be given with respect to each
25 partner of such partnership or limited partnership, each member

1 of such syndicate or group, and each person who controls such
2 partner or member. If any partner, member or person is a
3 corporation or the person required to file the statement
4 referred to in Section 131.5 is a corporation, the Director may
5 require that the information be given with respect to the
6 corporation, each officer and director of the corporation, and
7 each person who is directly or indirectly the beneficial owner
8 of more than 10% of the outstanding voting securities of the
9 corporation.

10 (2) If any material change occurs in the facts set forth in
11 the statement filed with the Director and sent to the company
12 under Section 131.5 ~~131.9~~, an amendment setting forth the
13 change, together with copies of all documents and other
14 material relevant to the change, must be filed with the
15 Director and sent to the company within 2 business days after
16 the person learns of the change.

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

18 (215 ILCS 5/131.8) (from Ch. 73, par. 743.8)

19 Sec. 131.8. (1) After the statement required by Section
20 131.5 has been filed, the Director shall approve ~~must~~
21 ~~disapprove~~ any merger, consolidation or other acquisition of
22 control referred to in Section 131.4 unless ~~the acquiring party~~
23 ~~demonstrates to~~ the Director finds that:

24 (a) after the ~~After~~ change of control, the domestic
25 company referred to in Section 131.4 would not be able to

1 satisfy the requirements for the issuance of a license to
2 write the line or lines of insurance for which it is
3 presently licensed;

4 (b) the effect of the merger, consolidation or other
5 acquisition of control would be not substantially to lessen
6 competition in insurance in this State or ~~not~~ tend to
7 create a monopoly therein. In applying the competitive
8 standard in this paragraph:

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

12 (ii) the merger or other acquisition shall not be
13 found substantially to lessen competition in insurance
14 in this State or tend to create a monopoly therein
15 ~~disapproved~~ if the Director finds ~~acquiring party~~
16 ~~demonstrates~~ that any of the situations meeting the
17 criteria provided by subsection (4)(c) of Section
18 131.12a exist, and

19 (iii) the Director may condition the approval of
20 the merger or other acquisition on the removal of the
21 basis of disapproval within a specified period of time;

22 (c) the financial condition of any acquiring party is
23 such as might ~~to not~~ jeopardize the financial stability of
24 the domestic company or ~~not~~ jeopardize the interests of its
25 policyholders;

26 (d) the plans or proposals which the acquiring party

1 has to liquidate the domestic company, sell its assets or
2 consolidate or merge it with any person, or to make any
3 other material change in its business or corporate
4 structure or management, are unfair ~~fair~~ and unreasonable
5 ~~reasonable~~ to policyholders of such company and not in the
6 public interest; or

7 (e) the competence, experience and integrity of those
8 persons who would control the operation of the domestic
9 company are such that it would be in the best interests of
10 policyholders of such company and of the insurance buying
11 public to permit the merger, consolidation or other
12 acquisition of control.

13 (2) The Director may hold a public hearing on any merger,
14 consolidation or other acquisition of control referred to in
15 Section 131.4 if the Director determines that the statement
16 filed as required by Section 131.5 does not demonstrate
17 compliance with the standards referred to in subsection (1), of
18 this Section, or if he determines that such acquisition of
19 control is likely to be hazardous or prejudicial to the ~~will~~
20 ~~adversely affect policyholders or the~~ insurance buying public.

21 (3) The public hearing referred to in subsection (2) must
22 be held within 60 days after the statement required by Section
23 131.5 is filed, and at least 20 days' notice thereof must be
24 given by the Director to the person filing the statement and to
25 the domestic company. Not less than 7 ~~12~~ days' notice of such
26 hearing must be given by the person filing the statement to

1 such other persons as may be designated by the Director and by
2 the company to its shareholders ~~securityholders~~. The Director
3 must make a determination within 60 ~~30~~ days after the
4 conclusion of the hearing. At the hearing, the person filing
5 the statement, the domestic company, any person to whom notice
6 of the hearing was sent, and any other person whose interests
7 may be affected thereby has the right to present evidence,
8 examine and cross-examine witnesses, and offer oral and written
9 arguments and in connection therewith is entitled to conduct
10 discovery proceedings in the same manner as is presently
11 allowed in the Circuit Courts of this State. All discovery
12 proceedings must be concluded not later than 3 days prior to
13 the commencement of the public hearing.

14 (4) If the proposed acquisition of control will require the
15 approval of more than one state insurance commissioner, the
16 public hearing referred to in subsection (2) of this Section
17 may be held on a consolidated basis upon request of the person
18 filing the statement referred to in Section 131.5 of this Code.
19 Such person shall file the statement referred to in Section
20 131.5 of this Code with the National Association of Insurance
21 Commissioners (NAIC) within 5 days after making the request for
22 a public hearing. A commissioner may opt out of a consolidated
23 hearing and shall provide notice to the applicant of the opt
24 out within 10 days after the receipt of the statement referred
25 to in Section 131.5 of this Code. A hearing conducted on a
26 consolidated basis shall be public and shall be held within the

1 United States before the commissioners of the states in which
2 the companies are domiciled. Such commissioners shall hear and
3 receive evidence. A commissioner may attend such hearing in
4 person or by telecommunication.

5 (5) In connection with a change of control of a domestic
6 company, any determination by the Director that the person
7 acquiring control of the company shall be required to maintain
8 or restore the capital of the company to the level required by
9 the laws and regulations of this State shall be made not later
10 than 60 days after the filing of the statement required by
11 Section 131.5 of this Code.

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

13 (215 ILCS 5/131.8a) (from Ch. 73, par. 743.8a)

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

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

24 (215 ILCS 5/131.9a new)

1 Sec. 131.9a. Exemptions. Sections 131.4 through 131.12 do
2 not apply to:

3 (1) any transaction that is subject to Article X of
4 this Code dealing with merger, consolidation, or plans of
5 exchange; or

6 (2) any offer, request, invitation, agreement, or
7 acquisition that the Director by order exempts therefrom as
8 (A) not having been made or entered into for the purpose
9 and not having the effect of changing or influencing the
10 control of a domestic company or (B) otherwise not
11 comprehended within the purposes of Sections 131.4 through
12 131.12.

13 (215 ILCS 5/131.11) (from Ch. 73, par. 743.11)

14 Sec. 131.11. The following are violations of Sections 131.4
15 through 131.12:

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

18 (2) the effectuation or any attempt to effectuate an
19 acquisition of control of, divestiture of, or merger or
20 consolidation with, a domestic company unless the Director has
21 given his approval ~~thereto~~.

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

23 (215 ILCS 5/131.12) (from Ch. 73, par. 743.12)

24 Sec. 131.12. The courts of this State are hereby vested

1 with jurisdiction over every person not resident, domiciled, or
2 authorized to do business in this State who files a statement
3 with the Director under Section 131.4, and over all actions
4 involving such person arising out of violations of Sections
5 131.4, 131.5, 131.6, ~~131.9~~ or 131.11, and each such person is
6 deemed to have performed acts equivalent to and constituting an
7 appointment by such a person of the Director to be his true and
8 lawful attorney upon whom may be served all lawful process in
9 any action, suit or proceeding arising out of violations of
10 Sections 131.4, 131.5, 131.6, ~~131.9~~ or 131.11. Copies of all
11 such lawful process must be served on the Director and
12 transmitted by registered or certified mail by the Director to
13 such person at his last known address.

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

15 (215 ILCS 5/131.12a) (from Ch. 73, par. 743.12a)

16 Sec. 131.12a. Acquisitions involving companies ~~insurers~~
17 not otherwise covered.

18 (1) Definitions. The following definitions shall apply for
19 the purposes of this Section only:

20 (a) "Acquisition" means any agreement, arrangement or
21 activity the consummation of which results in a person
22 acquiring directly or indirectly the control of another person
23 or control of the insurance in force of another person, and
24 includes but is not limited to the acquisition of voting
25 securities, the acquisition of assets, the transaction of bulk

1 reinsurance and the act of merging or consolidating.

2 (b) An "involved company insurer" includes a company ~~an~~
3 ~~insurer~~ which either acquires or is acquired, is affiliated
4 with an acquirer or acquired or is the result of a merger.

5 (2) Scope.

6 (a) Except as exempted in paragraph (b) of this subsection
7 (2), this Section applies to any acquisition in which there is
8 a change in control of a company ~~an insurer~~ authorized to do
9 business in this State.

10 (b) This Section shall not apply to the following:

11 (i) an acquisition subject to approval or disapproval
12 by the Director pursuant to Section 131.8;

13 (ii) a purchase of securities solely for investment
14 purposes so long as such securities are not used by voting
15 or otherwise to cause or attempt to cause the substantial
16 lessening of competition in any insurance market in this
17 State. If a purchase of securities results in a presumption
18 of control under subsection (b) of Section 131.1, it is not
19 solely for investment purposes unless the commissioner of
20 the company's ~~insurer's~~ state of domicile accepts a
21 disclaimer of control or affirmatively finds that control
22 does not exist and such disclaimer action or affirmative
23 finding is communicated by the domiciliary commissioner to
24 the Director of this State;

25 (iii) the acquisition of a person by another person

1 when both persons are neither directly nor through
2 affiliates primarily engaged in the business of insurance,
3 if pre-acquisition notification is filed with the Director
4 in accordance with subsection (3)(a) of this Section, 30
5 days prior to the proposed effective date of the
6 acquisition. However, such pre-acquisition notification is
7 not required for exclusion from this Section if the
8 acquisition would otherwise be excluded from this Section
9 by any other subparagraph of subsection (2)(b);

10 (iv) the acquisition of already affiliated persons;

11 (v) an acquisition if, as an immediate result of the
12 acquisition,

13 (A) in no market would the combined market share of
14 the involved companies ~~insurers~~ exceed 5% of the total
15 market,

16 (B) there would be no increase in any market share,
17 or

18 (C) in no market would the combined market share of
19 the involved companies ~~insurers~~ exceed 12% of the total
20 market, and the market share increase by more than 2%
21 of the total market.

22 For the purpose of this subparagraph (b)(v), "market"
23 means direct written insurance premium in this State for a
24 line of business as contained in the annual statement
25 required to be filed by companies ~~insurers~~ licensed to do
26 business in this State;

1 (vi) an acquisition for which a pre-acquisition
2 notification would be required pursuant to this Section due
3 solely to the resulting effect on the ocean marine
4 insurance line of business;

5 (vii) an acquisition of a company ~~an insurer~~ whose
6 domiciliary commissioner affirmatively finds that such
7 company insurer is in failing condition; there is a lack of
8 feasible alternative to improving such condition; the
9 public benefits of improving such company's insurer's
10 condition through the acquisition exceed the public
11 benefits that would arise from not lessening competition;
12 and such findings are communicated by the domiciliary
13 commissioner to the Director of this State.

14 (3) Pre-acquisition Notification; Waiting Period. An
15 acquisition covered by subsection (2) may be subject to an
16 order pursuant to subsection (5) unless the acquiring person
17 files a pre-acquisition notification and the waiting period has
18 expired. The acquired person may file a pre-acquisition
19 notification. The Director shall give confidential treatment
20 to information submitted under this subsection in the same
21 manner as provided in Section 131.22 of this Article.

22 (a) The pre-acquisition notification shall be in such form
23 and contain such information as prescribed by the Director,
24 which shall conform substantially to the form of notification
25 adopted by the National Association of Insurance Commissioners

1 relating to those markets which, under subsection (b)(v) of
2 Section (2), cause the acquisition not to be exempted from the
3 provisions of this Section. The Director may require such
4 additional material and information as he deems necessary to
5 determine whether the proposed acquisition, if consummated,
6 would violate the competitive standard of subsection (4). The
7 required information may include an opinion of an economist as
8 to the competitive impact of the acquisition in this State
9 accompanied by a summary of the education and experience of
10 such person indicating his or her ability to render an informed
11 opinion.

12 (b) The waiting period required shall begin on the date of
13 the receipt by the Director of a pre-acquisition notification
14 and shall end on the earlier of the 30th day after the date of
15 such receipt, or termination of the waiting period by the
16 Director. Prior to the end of the waiting period, the Director
17 on a one time basis may require the submission of additional
18 needed information relevant to the proposed acquisition, in
19 which event the waiting period shall end on the earlier of the
20 30th day after the receipt of such additional information by
21 the Director or termination of the waiting period by the
22 Director.

23 (4) Competitive Standard.

24 (a) The Director may enter an order under subsection (5)(a)
25 with respect to an acquisition if there is substantial evidence

1 that the effect of the acquisition may be substantially to
 2 lessen competition in any line of insurance in this State or
 3 tend to create a monopoly therein or if the company insurer
 4 fails to file adequate information in compliance with
 5 subsection (3).

6 (b) In determining whether a proposed acquisition would
 7 violate the competitive standard of paragraph (a) of this
 8 subsection the Director shall consider the following:

9 (i) any acquisition covered under subsection (2)
 10 involving 2 or more companies ~~insurers~~ competing in the
 11 same market is prima facie evidence of violation of the
 12 competitive standards:

13 (A) if the market is highly concentrated and the
 14 involved companies ~~insurers~~ possess the following
 15 shares of the market:

<u>Company</u> Insurer A	<u>Company</u> Insurer B
4%	4% or more
10%	2% or more
15%	1% or more

20 (B) if the market is not highly concentrated and
 21 the involved companies ~~insurers~~ possess the following
 22 shares of the market:

<u>Company</u> Insurer A	<u>Company</u> Insurer B
5%	5% or more
10%	4% or more
15%	3% or more

1 19% 1% or more

2 A highly concentrated market is one in which the share
3 of the 4 largest companies ~~insurers~~ is 75% or more of the
4 market. Percentages not shown in the tables are to be
5 interpolated proportionately to the percentages that are
6 shown. If more than 2 companies ~~insurers~~ are involved,
7 exceeding the total of the 2 columns in the table is prima
8 facie evidence of violation of the competitive standard in
9 paragraph (a) of this subsection. For the purpose of this
10 subparagraph, the company ~~insurer~~ with the largest share of
11 the market shall be deemed to be Company ~~Insurer~~ A.

12 (ii) There is a significant trend toward increased
13 concentration when the aggregate market share of any
14 grouping of the largest companies ~~insurers~~ in the market
15 from the 2 largest to the 8 largest has increased by 7% or
16 more of the market over a period of time extending from any
17 base year 5-10 years prior to the acquisition up to the
18 time of the acquisition. Any acquisition covered under
19 subsection (2) involving 2 or more companies ~~insurers~~
20 competing in the same market is prima facie evidence of
21 violation of the competitive standard in paragraph (a) of
22 this subsection if:

23 (A) there is a significant trend toward increased
24 concentration in the market,

25 (B) one of the companies ~~insurers~~ involved is one
26 of the companies ~~insurers~~ in a grouping of such large

1 companies ~~insurers~~ showing the requisite increase in
2 the market share, and

3 (C) another involved company's ~~insurer's~~ market is
4 2% or more.

5 (iii) For the purpose of subsection (4) (b) :

6 (A) The term "company" ~~"insurer"~~ includes any
7 company or group of companies under common management,
8 ownership or control.

9 (B) The term "market" means the relevant product
10 and geographic markets. In determining the relevant
11 product and geographical markets, the Director shall
12 give due consideration to, among other things, the
13 definitions or guidelines, if any, promulgated by the
14 National Association of Insurance Commissioners and to
15 information, if any, submitted by parties to the
16 acquisition. In the absence of sufficient information
17 to the contrary, the relevant product market is assumed
18 to be the direct written insurance premium for a line
19 of business with such line being that used in the
20 annual statement required to be filed by companies
21 ~~insurers~~ doing business in this State and the relevant
22 geographical market is assumed to be this State.

23 (C) The burden of showing prima facie evidence of
24 violation of the competitive standard rests upon the
25 Director.

26 (iv) Even though an acquisition is not prima facie

1 violative of the competitive standard under subparagraph
2 (b) (i) and (b) (ii) of this subsection the Director may
3 establish the requisite anticompetitive effect based upon
4 other substantial evidence. Even though an acquisition is
5 prima facie violative of the competitive standard under
6 subparagraphs (b) (i) and (b) (ii) of this subsection (4), a
7 party may establish the absence of the requisite
8 anticompetitive effect based upon other substantial
9 evidence. Relevant factors in making a determination under
10 this paragraph include, but are not limited to, the
11 following: market shares, volatility of ranking of market
12 leaders, number of competitors, concentration, trend of
13 concentration in the industry, and ease of entry and exit
14 into the market.

15 (c) An order may not be entered under subsection (5) (a) if:

16 (i) the acquisition will yield substantial economies
17 of scale or economies in resource utilization that cannot
18 be feasibly achieved in any other way, and the public
19 benefits which would arise from such economies exceed the
20 public benefits which would arise from not lessening
21 competition; or

22 (ii) the acquisition will substantially increase the
23 availability of insurance, and the public benefits of such
24 increase exceed the public benefits which would arise from
25 not lessening competition.

1 (5) Orders and Penalties:

2 (a) (i) If an acquisition violates the standard of this
3 Section, the Director may enter an order

4 (A) requiring an involved company insurer to cease
5 and desist from doing business in this State with
6 respect to the line or lines of insurance involved in
7 the violation, or

8 (B) denying the application of an acquired or
9 acquiring company insurer for a license to do business
10 in this State.

11 (ii) Such an order shall not be entered unless there is
12 a hearing, notice of such hearing is issued prior to the
13 end of the waiting period ~~and not less than 15 days prior~~
14 ~~to the end of the waiting period~~ and not less than 15 days
15 prior to the hearing, and the hearing is concluded and the
16 order is issued no later than 60 days after the end of the
17 waiting period. Every order shall be accompanied by a
18 written decision of the Director setting forth his findings
19 of fact and conclusions of law.

20 (iii) (Blank). ~~An order entered under this paragraph~~
21 ~~shall not become final earlier than 30 days after it is~~
22 ~~issued, during which time the involved insurer may submit a~~
23 ~~plan to remedy the anticompetitive impact of the~~
24 ~~acquisition within a reasonable time. Based upon such plan~~
25 ~~or other information, the Director shall specify, if any,~~
26 ~~the conditions under and the time period during which the~~

1 ~~aspects of the acquisition causing a violation of the~~
2 ~~standards of this Section would be remedied and the order~~
3 ~~vacated or modified.~~

4 (iv) An order pursuant to this paragraph shall not
5 apply if the acquisition is not consummated.

6 (b) Any person who violates a cease and desist order of the
7 Director under paragraph (a) and while such order is in effect
8 may after notice and hearing and upon order of the Director be
9 subject at the discretion of the Director to any one or more of
10 the following:

11 (i) a monetary penalty of not more than \$10,000 for
12 every day of violation or

13 (ii) suspension or revocation of such person's license
14 ~~or both.~~

15 (c) Any company insurer ~~insurer~~ or other person who fails to make
16 any filing required by this Section and who also fails to
17 demonstrate a good faith effort to comply with any such filing
18 requirement shall be subject to a civil penalty of not more
19 than \$50,000.

20 (6) Inapplicable Provisions. Subsections (2) and (3) of
21 Section 131.23 and Section 131.25 do not apply to acquisitions
22 covered under subsection (2).

23 (Source: P.A. 92-16, eff. 6-28-01.)

24 (215 ILCS 5/131.13) (from Ch. 73, par. 743.13)

1 Sec. 131.13. Registration of companies. Every company
2 which is authorized to do business in this State and which is a
3 member of an insurance holding company system must register
4 with the Director, except a foreign or alien company subject to
5 registration requirements and standards adopted by statute or
6 regulation in the jurisdiction of its domicile which are
7 substantially similar to those contained in this section and
8 Sections 131.14 through 131.20a ~~131.19~~. Any company which is
9 subject to registration under this section must register within
10 60 days after the effective date of this Article or 15 days
11 after it becomes subject to registration, whichever is later,
12 unless the Director for good cause shown extends the time for
13 registration, and then within such extended time. The Director
14 may require any authorized company which is a member of a
15 holding company system which is not subject to registration
16 under this section to furnish a copy of the registration
17 statement or other information filed by such company with the
18 insurance regulatory authority of its domiciliary
19 jurisdiction.

20 ~~If upon review of the information filed pursuant to this~~
21 ~~Section and the information included in the annual statement~~
22 ~~filed pursuant to Section 136, the Director determines there is~~
23 ~~a potential for adverse economic impact due to substantial~~
24 ~~ownership of companies authorized to do business in this State~~
25 ~~by persons who are not citizens or residents of the United~~
26 ~~States or entities which are not organized or created under the~~

1 ~~laws of any state or territory of the United States, he shall~~
2 ~~report such determination along with any legislative~~
3 ~~recommendations to the General Assembly.~~

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

5 (215 ILCS 5/131.14) (from Ch. 73, par. 743.14)

6 Sec. 131.14. Every company subject to registration must
7 file a registration statement on a ~~in the~~ form and in a format
8 prescribed ~~designated~~ by the Director, which shall contain the
9 following ~~contains~~ current information ~~about~~:

10 (1) the capital structure, general financial condition,
11 ownership and management of the company and any person
12 controlling the company;

13 (2) the identity and relationship of every member of the
14 insurance holding company system;

15 (3) the following agreements in force, relationships
16 subsisting, and transactions currently outstanding or that
17 have occurred during the last calendar year between such
18 company and its affiliates:

19 (a) loans, other investments, or purchases, sales or
20 exchanges of ~~or~~ securities of the affiliates by the company or
21 of the company by its affiliates;

22 (b) purchases, sales, or exchanges of assets;

23 (c) transactions not in the ordinary course of business;

24 (d) guarantees or undertakings for the benefit of an
25 affiliate which result in an actual contingent exposure of the

1 company's assets to liability, other than insurance contracts
2 entered into in the ordinary course of the company's business;

3 (e) all management agreements, and service contracts, and
4 ~~all cost-sharing arrangements, other than cost allocation~~
5 ~~arrangements based upon generally accepted accounting~~
6 ~~principles; and~~

7 (f) reinsurance agreements;

8 (f-5) dividends and other distributions to shareholders;

9 (g) any pledge of the company's own securities, securities
10 of any subsidiary or controlling affiliate, to secure a loan
11 made to any member of the insurance holding company system; and

12 (h) consolidated tax allocation agreements;~~;~~

13 (4) (blank); ~~other matters concerning transactions between~~
14 ~~registered companies and any affiliates as may be included from~~
15 ~~time to time in any registration forms adopted or approved by~~
16 ~~the Director.~~

17 (5) financial statements of or within an insurance holding
18 company system, including all affiliates, if requested by the
19 Director; financial statements may include, but are not limited
20 to, annual audited financial statements filed with the U.S.
21 Securities and Exchange Commission (SEC) pursuant to the
22 Securities Act of 1933, as amended, or the Securities Exchange
23 Act of 1934, as amended; a company required to file financial
24 statements pursuant to this paragraph (5) may satisfy the
25 request by providing the Director with the most recently filed
26 parent corporation financial statements that have been filed

1 with the SEC;

2 (6) statements that the company's or its parent company's
3 board of directors or a committee thereof oversees corporate
4 governance and internal controls and that the company's
5 officers or senior management have approved and implemented and
6 continue to maintain and monitor corporate governance and
7 internal controls; and

8 (7) other matters concerning transactions between
9 registered companies and any affiliates as may be included from
10 time to time in any registration forms adopted or approved by
11 the Director.

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

13 (215 ILCS 5/131.14a new)

14 Sec. 131.14a. Summary filing. Every company subject to
15 registration must file a summary outlining all items in the
16 current registration statement representing changes from the
17 prior registration statement.

18 (215 ILCS 5/131.14b new)

19 Sec. 131.14b. Enterprise risk filing. The ultimate
20 controlling person of every company subject to registration
21 shall also file an annual enterprise risk report. The report
22 shall, to the best of the ultimate controlling person's
23 knowledge and belief, identify the material risks within the
24 insurance holding company system that could pose enterprise

1 risk to the company. The report shall be filed with the lead
2 state commissioner of the insurance holding company system as
3 determined by the procedures within the Financial Analysis
4 Handbook adopted by the National Association of Insurance
5 Commissioners.

6 (215 ILCS 5/131.14c new)

7 Sec. 131.14c. Violations. The failure to file a
8 registration statement or any summary of the registration
9 statement or enterprise risk filing required by this Article
10 within the time specified for filing shall be a violation of
11 this Article.

12 (215 ILCS 5/131.14d new)

13 Sec. 131.14d. Confidentiality.

14 (a) Documents, materials, or other information in the
15 possession or control of the Director that are obtained by,
16 created by, or disclosed to the Director or any other person
17 pursuant to Section 131.14b are recognized as being proprietary
18 and to contain trade secrets. Disclosure of such documents,
19 materials, or other information is recognized as damaging to
20 the competitive position of the insurer whose confidential
21 information is in the possession or control of the Director.
22 All such documents, materials, or other information shall be
23 confidential by law and privileged, shall not be subject to the
24 Freedom of Information Act, shall not be subject to subpoena,

1 and shall not be subject to discovery or admissible in evidence
2 in any private civil action. However, the Director is
3 authorized to use such documents, materials, or other
4 information in the furtherance of any regulatory or legal
5 action brought as a part of the Director's official duties. The
6 Director shall not otherwise disclose or make such documents,
7 materials, or other information public without the prior
8 written consent of the insurer.

9 (b) An insurer whose documents, materials, or other
10 information is in the possession or control of the Director or
11 any other person pursuant to Section 131.14b of this Code and
12 who is aggrieved by an actual or threatened disclosure of such
13 documents, materials, or other information or by any violation
14 of this Section, may commence proceedings, subject in the case
15 of the Director to Article III of the Code of Civil Procedure,
16 in any court of competent jurisdiction to prevent such
17 disclosure or to enforce the provisions of this Section.

18 (c) Neither the Director nor any person who received
19 documents, materials, or other information relating to the
20 report required by Section 131.14b of this Code, through
21 examination or otherwise, while acting under the authority of
22 the Director or with whom such documents, materials, or other
23 information are shared pursuant to this Section, Section
24 131.14b or Section 131.20c of this Code shall be permitted or
25 required to testify in any private civil action concerning any
26 confidential documents, materials, or information subject to

1 subsection (a) of this Section.

2 (d) Solely to assist in the performance of the Director's
3 regulatory duties, the Director may do the following:

4 (1) upon request, share documents, materials, or other
5 information relating to the report required by Section
6 131.14b of this Code, including the confidential and
7 privileged documents, materials, or information subject to
8 subsection (a) of this Section, including proprietary and
9 trade secret documents and materials with other state,
10 federal, and international financial regulatory agencies,
11 including members of any supervisory college as provided
12 for in Section 131.20c of this Code, with the NAIC and with
13 any third-party consultants designated by the Director,
14 provided that the recipient agrees in writing to maintain
15 the confidentiality and privileged status of the
16 documents, materials, or other information relating to the
17 report required by Section 131.14b of this Code and has
18 verified in writing the legal authority to maintain
19 confidentiality; and

20 (2) receive documents, materials, or other information
21 relating to the report required by Section 131.14b of this
22 Code, including otherwise confidential and privileged
23 documents, materials, or information, including
24 proprietary and trade secret information or documents,
25 from regulatory officials of other foreign or domestic
26 jurisdictions, including members of any supervisory

1 college as defined in Section 131.20c of this Code, and
2 from the NAIC, and shall maintain as confidential or
3 privileged any documents, materials, or information
4 received with notice or the understanding that it is
5 confidential or privileged under the laws of the
6 jurisdiction that is the source of the document, material,
7 or information.

8 (e) The Director shall enter into a written agreement with
9 any member of a supervisory college as provided for in Section
10 131.20c of this Code, the International Association of
11 Insurance Supervisors (IAIS), the NAIC, or any third-party
12 consultant governing sharing and use of information provided
13 pursuant to this Section. The agreement shall do the following:

14 (1) specify procedures and protocols regarding the
15 confidentiality and security of information shared with
16 the member of a supervisory college, the IAIS, the NAIC, or
17 the third-party consultant pursuant to this Section,
18 including procedures and protocols for sharing by the
19 member of a supervisory college, the IAIS, or the NAIC with
20 international, federal, or state regulators;

21 (2) specify that ownership of information shared with
22 the member of a supervisory college, the IAIS, the NAIC, or
23 the third-party consultant pursuant to this Section
24 remains with the Director and that the member of a
25 supervisory college's, the IAIS's, the NAIC's, or the
26 third-party consultant's use of the information is subject

1 to the direction of the Director;

2 (3) restrict the member of a supervisory college, the
3 IAIS, the NAIC, or the third-party consultant from storing
4 the information shared pursuant to this Section in a
5 permanent database;

6 (4) require notice to be given within 5 business days
7 to an insurer whose confidential information, in the
8 possession of the member of a supervisory college, the
9 IAIS, the NAIC, or the third-party consultant pursuant to
10 this Section, is subject to a request or subpoena to the
11 member of a supervisory college, the IAIS, the NAIC, or the
12 third-party consultant for disclosure or production;

13 (5) require the member of a supervisory college, the
14 IAIS, the NAIC, or the third-party consultant to consent to
15 intervention by an insurer in any judicial or
16 administrative action in which the member of a supervisory
17 college, the IAIS, the NAIC, or the third-party consultant
18 may be required to disclose confidential information about
19 the insurer shared with the member of a supervisory
20 college, the IAIS, the NAIC, or the third-party consultant
21 pursuant to this Section; and

22 (6) in the case of an agreement involving a third-party
23 consultant, provide for the insurer's prior written
24 consent to the sharing of information with that third-party
25 consultant.

26 (f) The sharing of information and documents by the

1 Director pursuant to this Section shall not constitute a
2 delegation of regulatory authority or rulemaking, and the
3 Director is solely responsible for the administration and
4 execution of the provisions of this Section. An insurer whose
5 confidential information is in the possession of the member of
6 a supervisory college, the IAIS, the NAIC, or third-party
7 consultant pursuant to this Section and who is aggrieved by an
8 actual or threatened disclosure of confidential information,
9 or by any violation of this Section, may commence proceedings
10 in any court of competent jurisdiction to prevent such
11 disclosure or to enforce the provisions of this Section.

12 (g) No waiver of any applicable privilege or claim of
13 confidentiality in the documents, proprietary and trade secret
14 materials, or other information relating to the report required
15 by Section 131.14b of this Section, shall occur as a result of
16 disclosure of such documents, materials, or other information
17 relating to the report required by Section 131.14b of this
18 Section to the Director or as a result of sharing as authorized
19 in this Section.

20 (h) Documents, materials, or other information in the
21 possession or control of a member of a supervisory college, the
22 IAIS, the NAIC, or a third-party consultant pursuant to this
23 Section shall be confidential by law and privileged, shall not
24 be subject to the Freedom of Information Act, shall not be
25 subject to subpoena, and shall not be subject to discovery or
26 admissible in evidence in any private civil action.

1 (215 ILCS 5/131.16) (from Ch. 73, par. 743.16)

2 Sec. 131.16. Reporting material changes or additions;
3 penalty for late registration statement.

4 (1) Each registered company must keep current the
5 information required to be included in its registration
6 statement by reporting all material changes or additions on
7 amendment forms designated by the Director within 15 days after
8 the end of the month in which it learns of each change or
9 addition, or within a longer time thereafter as the Director
10 may establish. Any transaction which has been submitted to the
11 Director pursuant to Section 131.20a need not be reported to
12 the Director under this subsection; except each registered
13 company must report all dividends and other distributions to
14 shareholders within 15 ~~5~~ business days following the
15 declaration ~~and no less than 10 business days prior to payment~~
16 ~~thereof.~~

17 (2) On or before May 1 each year, each company subject to
18 registration under this Article shall file a statement in a
19 format as designated by the Director. This statement shall
20 include information previously included in an amendment under
21 subsection (1) of this Section, transactions and agreements
22 submitted under Section 131.20a, and any other material
23 transactions which are required to be reported.

24 (2.5) Any person within an insurance holding company system
25 subject to registration shall be required to provide complete

1 and accurate information to a company where the information is
2 reasonably necessary to enable the company to comply with the
3 provisions of this Article.

4 (3) Any company failing, without just cause, to file any
5 registration statement, any summary of changes to a
6 registration statement, or any Enterprise Risk Filing or any
7 person within an insurance holding company system who fails to
8 provide complete and accurate information to a company as
9 required in this Code shall be required, after notice and
10 hearing, to pay a penalty of up to \$1,000 for each day's delay,
11 to be recovered by the Director of Insurance of the State of
12 Illinois and the penalty so recovered shall be paid into the
13 General Revenue Fund of the State of Illinois. The maximum
14 penalty under this section is \$50,000. The Director may reduce
15 the penalty if the company demonstrates to the Director that
16 the imposition of the penalty would constitute a financial
17 hardship to the company.

18 (Source: P.A. 88-364.)

19 (215 ILCS 5/131.17) (from Ch. 73, par. 743.17)

20 Sec. 131.17. (1) The Director must terminate the
21 registration of any company which demonstrates that it no
22 longer is a member of an insurance holding company system.

23 (2) The Director may require or allow 2 or more affiliated
24 companies subject to registration to file a consolidated
25 registration statement. ~~Two or more affiliated companies~~

1 ~~subject to registration hereunder may file a consolidated~~
2 ~~registration statement or consolidated reports amending their~~
3 ~~consolidated registration statement or their individual~~
4 ~~registration statements unless the Director requires a~~
5 ~~separate registration statement or report from each registered~~
6 ~~company.~~

7 (3) A company which is authorized to do business in this
8 State and which is part of an insurance holding company system
9 may register on behalf of any affiliated company which is
10 required to register under Section 131.13 and to file all
11 information and material required to be filed under this
12 Article unless the Director requires a separate registration by
13 the affiliated company.

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

15 (215 ILCS 5/131.18) (from Ch. 73, par. 743.18)

16 Sec. 131.18. Sections 131.13 through 131.19 do not apply to
17 any company, information, or transaction if and to the extent
18 that the Director by rule, regulation, or order may exempt the
19 same from Sections 131.13 through 131.19.

20 ~~Any requirement for the furnishing of financial statements~~
21 ~~of the insurance holding company system, or any member thereof,~~
22 ~~as part of or in connection with the registration statement~~
23 ~~filed under Section 131.14 shall not apply to any company which~~
24 ~~submits and maintains in effect in lieu thereof a guarantee or~~
25 ~~a bond acceptable to the Director in an amount equal to the~~

1 ~~capital and surplus of the company as shown on its most recent~~
2 ~~audited financial statements, payable to the Director for the~~
3 ~~benefit of the creditors, policyholders and stockholders of the~~
4 ~~company as their interests may appear. Such guarantee, if~~
5 ~~issued by a national bank, and such a bond, if issued by a~~
6 ~~licensed insurance company which is not a member of the~~
7 ~~insurance holding company system, in each case having capital~~
8 ~~and surplus in excess of \$25,000,000, shall be deemed~~
9 ~~acceptable.~~

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

11 (215 ILCS 5/131.19) (from Ch. 73, par. 743.19)

12 Sec. 131.19. Disclaimer of affiliation. Any person may file
13 with the Director a disclaimer of affiliation with any
14 authorized company or a disclaimer may be filed by the a
15 company or any member of an insurance holding company system.
16 The disclaimer shall ~~must~~ fully disclose all material
17 relationships and bases ~~basis~~ for affiliation between the
18 person and the company as well as the basis for disclaiming the
19 affiliation. A disclaimer of affiliation shall be deemed to
20 have been granted unless the Director, within 30 days following
21 receipt of a complete disclaimer, notifies the filing party
22 that the disclaimer is disallowed. In the event of
23 disallowance, the disclaiming party may request an
24 administrative hearing, which shall be granted. The
25 disclaiming party shall be relieved of its duty to register

1 under Section 131.13 of this Code if approval of the disclaimer
2 has been granted by the Director or if the disclaimer is deemed
3 to have been approved. ~~After a disclaimer is filed, the company~~
4 ~~is relieved of any duty to register or report under Section~~
5 ~~131.13 which may arise out of the company's relationship with~~
6 ~~the person unless and until the Director disallows the~~
7 ~~disclaimer. The Director may disallow such a disclaimer only~~
8 ~~after furnishing all parties in interest with notice and~~
9 ~~opportunity to be heard and after making specific findings of~~
10 ~~fact to support the disallowance.~~

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

12 (215 ILCS 5/131.20) (from Ch. 73, par. 743.20)

13 Sec. 131.20. Standards for transactions with affiliates;
14 adequacy of surplus.

15 (1) Transactions ~~Material transactions~~ with their
16 affiliates by companies subject to registration are subject to
17 the following standards:

18 (a) the terms are fair and reasonable;

19 (a-5) agreements for cost sharing services and
20 management shall include such provisions as may be required
21 by rules and regulations issued by the Director;

22 (b) charges or fees for services performed are
23 reasonable;

24 (c) expenses incurred and payment received must be
25 allocated to the company ~~insurer~~ in conformity with

1 customary insurance accounting practices consistently
2 applied;

3 (d) the books, accounts, and records of each party must
4 be so maintained as to clearly and accurately disclose the
5 precise nature and details of the transactions, including
6 accounting information necessary to support the
7 reasonableness of the charges or fees to the respective
8 parties; and

9 (e) the company's surplus as regards policyholders
10 following any transactions with affiliates or dividends or
11 distributions to securityholders or affiliates must be
12 reasonable in relation to the company's outstanding
13 liabilities and adequate to meet its financial needs.

14 (2) For purposes of this Article, in determining whether a
15 company's surplus as regards policyholders is reasonable in
16 relation to the company's outstanding liabilities and adequate
17 to meet its needs, the following factors, among others, may be
18 considered:

19 (a) the size of the company as measured by its assets,
20 capital and surplus, reserves, premium writings, insurance
21 in force and other appropriate criteria;

22 (b) the extent to which the company's business is
23 diversified among ~~the~~ several lines of insurance;

24 (c) the number and size of risks insured in each line
25 of business;

26 (d) the extent of the geographical dispersion of the

1 company's insured risks;

2 (e) the nature and extent of the company's reinsurance
3 program;

4 (f) the quality, diversification, and liquidity of the
5 company's investment portfolio;

6 (g) the recent past and projected future trend in the
7 size of the company's investment portfolio ~~surplus as~~
8 ~~regards policyholders;~~

9 (h) the surplus as regards policyholders maintained by
10 companies comparable to the registrant in respect of the
11 factors enumerated in this paragraph;

12 (i) the adequacy of the company's reserves;

13 (j) the quality of the company's earnings and the
14 extent to which the reported earnings include
15 extraordinary items; and

16 (k) the quality and liquidity of investments in
17 affiliates ~~subsidiaries made under Section 131.2 or 131.3.~~

18 The Director may discount any such investment or treat any
19 such investment as a non-admitted asset for purposes of
20 determining the adequacy of surplus as regards
21 policyholders whenever the investment so warrants.

22 (Source: P.A. 88-364.)

23 (215 ILCS 5/131.20a) (from Ch. 73, par. 743.20a)

24 Sec. 131.20a. Prior notification of transactions;
25 dividends and distributions.

1 (1) (a) The following transactions listed in items (i)
2 through (vii) involving ~~between~~ a domestic company and any
3 person in its insurance holding company system, including
4 amendments or modifications (other than termination) of
5 affiliate agreements previously filed pursuant to this
6 Section, which are subject to any materiality standards
7 contained in this Section, may not be entered into unless the
8 company has notified the Director in writing of its intention
9 to enter into such transaction at least 30 days prior thereto,
10 or such shorter period as the Director may permit, and the
11 Director has not disapproved it within such period. The notice
12 for amendments or modifications (other than termination) shall
13 include the reasons for the change and the financial impact on
14 the domestic company. Informal notice shall be reported, within
15 30 days after a termination of a previously filed agreement, to
16 the Director for determination of the type of filing required,
17 if any.†

18 (i) Sales, purchases, exchanges of assets, loans or
19 extensions of credit, guarantees, investments, or any
20 other transaction, except dividends, ~~(A)~~ that involves the
21 transfer of assets from or liabilities to a company (A)
22 equal to or exceeding the lesser of 3% of the company's
23 admitted assets or 25% of its surplus as regards
24 policyholders as of the 31st day of December next preceding
25 or (B) that is proposed when the domestic company is not
26 eligible to declare and pay a dividend or other

1 distribution pursuant to the provisions of Section 27.

2 (ii) Loans or extensions of credit to any person that
3 is not an affiliate (A) that involve the lesser of 3% of
4 the company's admitted assets or 25% of the company's
5 surplus, each as of the 31st day of December next
6 preceding, made with the agreement or understanding that
7 the proceeds of such transactions, in whole or in
8 substantial part, are to be used to make loans or
9 extensions of credit to, to purchase assets of, or to make
10 investments in, any affiliate of the company making such
11 loans or extensions of credit or (B) that are proposed when
12 the domestic company is not eligible to declare and pay a
13 dividend or other distribution pursuant to the provisions
14 of Section 27.

15 (iii) Reinsurance agreements or modifications thereto,
16 including all reinsurance pooling agreements, reinsurance
17 agreements in which the reinsurance premium or a change in
18 the company's liabilities, or the projected reinsurance
19 premium or a change in the company's liabilities in any of
20 the next 3 years, equals or exceeds 5% of the company's
21 surplus as regards policyholders, as of the 31st day of
22 December next preceding, including those agreements that
23 may require as consideration the transfer of assets from a
24 company ~~an insurer~~ to a nonaffiliate, if an agreement or
25 understanding exists between the company ~~insurer~~ and
26 nonaffiliate that any portion of those assets will be

1 transferred to one or more affiliates of the company
2 insurer.

3 (iv) All management agreements;~~;~~ service contracts,
4 other than agency contracts; tax allocation agreements;
5 all reinsurance allocation agreements related to
6 reinsurance agreements required to be filed under this
7 Section; and all cost-sharing arrangements, ~~and any other~~
8 ~~contracts providing for the rendering of services on a~~
9 ~~regular systematic basis.~~

10 (v) Direct or indirect acquisitions or investments in a
11 person that controls the company, or in an affiliate of the
12 company, in an amount which, together with its present
13 holdings in such investments, exceeds 2.5% of the company's
14 surplus as regards policyholders. Direct or indirect
15 acquisitions or investments in subsidiaries acquired
16 pursuant to Section 131.2 of this Article (or authorized
17 under any other Section of this Code), or in non-subsidiary
18 insurance affiliates that are subject to the provisions of
19 this Article, are exempt from this requirement.

20 (vi) Any series of the previously described
21 transactions that are substantially similar to each other,
22 that take place within any 180 day period, and that in
23 total are equal to or exceed the lesser of 3% of the
24 domestic company's ~~insurer's~~ admitted assets or 25% of its
25 policyholders surplus, as of the 31st day of the December
26 next preceding.

1 (vii) ~~(vi)~~ Any other material transaction that the
2 Director by rule determines might render the company's
3 surplus as regards policyholders unreasonable in relation
4 to the company's outstanding liabilities and inadequate to
5 its financial needs or may otherwise adversely affect the
6 interests of the company's policyholders or shareholders.

7 Nothing herein contained shall be deemed to authorize or
8 permit any transactions that, in the case of a company ~~an~~
9 ~~insurer~~ not a member of the same holding company system, would
10 be otherwise contrary to law.

11 (b) Any transaction or contract otherwise described in
12 paragraph (a) of this subsection that is between a domestic
13 company ~~insurer~~ and any person that is not its affiliate and
14 that precedes or follows within 180 days or is concurrent with
15 a similar transaction between that nonaffiliate and an
16 affiliate of the domestic company and that involves amounts
17 that are equal to or exceed the lesser of 3% of the domestic
18 company's ~~insurer's~~ admitted assets or 25% of its surplus as
19 regards policyholders at the end of the prior year may not be
20 entered into unless the company has notified the Director in
21 writing of its intention to enter into the transaction at least
22 30 days prior thereto or such shorter period as the Director
23 may permit, and the Director has not disapproved it within such
24 period.

25 (c) A company may not enter into transactions which are
26 part of a plan or series of like transactions with any person

1 within the holding company system if the purpose of those
2 separate transactions is to avoid the statutory threshold
3 amount and thus avoid the review that would occur otherwise. If
4 the Director determines that such separate transactions were
5 entered into for such purpose, he may exercise his authority
6 under subsection (2) of Section 131.24.

7 (d) The Director, in reviewing transactions pursuant to
8 paragraph (a), shall consider whether the transactions comply
9 with the standards set forth in Section 131.20 and whether they
10 may adversely affect the interests of policyholders.

11 (e) The Director shall be notified within 30 days of any
12 investment of the domestic company ~~insurer~~ in any one
13 corporation if the total investment in that corporation by the
14 insurance holding company system exceeds 10% of that
15 corporation's voting securities.

16 (f) Except for those transactions subject to approval under
17 other Sections of this Code, any such transaction or agreements
18 which are not disapproved by the Director may be effective as
19 of the date set forth in the notice required under this
20 Section.

21 (g) If a domestic company ~~insurer~~ enters into a transaction
22 described in this subsection without having given the required
23 notification, the Director may cause the company ~~insurer~~ to pay
24 a civil forfeiture of not more than \$250,000. Each transaction
25 so entered shall be considered a separate offense.

26 (2) No domestic company subject to registration under

1 Section 131.13 may pay any extraordinary dividend or make any
2 other extraordinary distribution to its shareholders
3 ~~securityholders~~ until: (a) 30 days after the Director has
4 received notice of the declaration thereof and has not within
5 such period disapproved the payment, or (b) the Director
6 approves such payment within the 30-day period. For purposes of
7 this subsection, an extraordinary dividend or distribution is
8 any dividend or distribution of cash or other property whose
9 fair market value, together with that of other dividends or
10 distributions, made within the period of 12 consecutive months
11 ending on the date on which the proposed dividend is scheduled
12 for payment or distribution exceeds the greater of: (a) 10% of
13 the company's surplus as regards policyholders as of the 31st
14 day of December next preceding, or (b) the net income of the
15 company for the 12-month period ending the 31st day of December
16 next preceding, but does not include pro rata distributions of
17 any class of the company's own securities.

18 Notwithstanding any other provision of law, the company may
19 declare an extraordinary dividend or distribution which is
20 conditional upon the Director's approval, and such a
21 declaration confers no rights upon security holders until: (a)
22 the Director has approved the payment of the dividend or
23 distribution, or (b) the Director has not disapproved the
24 payment within the 30-day period referred to above.

25 (Source: P.A. 92-140, eff. 7-24-01.)

1 (215 ILCS 5/131.20b)

2 Sec. 131.20b. Controlled companies ~~insurers~~; management;
3 directors.

4 (1) Notwithstanding the control of a domestic company
5 ~~insurer~~ by any person, the officers and directors of the
6 company ~~insurer~~ shall not thereby be relieved of any obligation
7 or liability to which they would otherwise be subject by law,
8 and the company ~~insurer~~ shall be managed so as to assure its
9 separate operating identity consistent with this Article ~~VIII~~
10 ~~1/2 of this Code.~~

11 (2) Nothing in this Section shall preclude a domestic
12 company ~~insurer~~ from having or sharing a common management or a
13 cooperative or joint use of personnel, property, or services
14 with one or more affiliated persons under arrangements meeting
15 the standards and requirements of Sections 131.20 and 131.20a.

16 (3) ~~Not After June 30, 2002, not~~ less than one-third of the
17 directors of a domestic company, and not less than one-third of
18 the members of each committee of the board of directors of any
19 domestic company, ~~insurer~~ that is a member of an insurance
20 holding company system shall be persons who are not officers or
21 employees of the company ~~insurer~~ or of any entity controlling,
22 controlled by, or under common control with the company ~~insurer~~
23 and who are not beneficial owners of a controlling interest in
24 the voting stock of the company ~~insurer~~ or any such entity. At
25 least one such person shall be included in any quorum for the
26 transaction of business at any meeting of the board of

1 directors or any committee thereof.

2 (3.5) The board of directors of a domestic company or
3 ultimate controlling company shall establish one or more
4 committees comprised solely of directors who are not officers
5 or employees of the company or of any entity controlling,
6 controlled by, or under common control with the company and who
7 are not beneficial owners of a controlling interest in the
8 voting stock of the company or any such entity. The committee
9 or committees shall have responsibility for nominating
10 candidates for director for election by shareholders or
11 policyholders, evaluating the performance of officers deemed
12 to be principal officers of the company, and recommending to
13 the board of directors the selection and compensation of the
14 principal officers.

15 (4) Subsections ~~Subsection~~ (3) and (3.5) of this Section do
16 does not apply to a domestic company insurer if the ultimate
17 controlling company or the person entity controlling the
18 company, such as a company, a mutual insurance holding company,
19 or a publicly held corporation, has a board of directors and
20 committees thereof that meet the requirements of subsections
21 (3) and (3.5) with respect to such controlling entity or are
22 subject to and meet the requirements of the corporate
23 governance rules of a national securities exchange, such as the
24 New York Stock Exchange, or an inter-dealer quotation system,
25 such as the National Association of Securities Dealers
26 Automatic Quotation the insurer, whether directly or through an

1 ~~intermediate subsidiary, has a board of directors composed in~~
2 ~~accordance with that subsection.~~

3 (5) (Blank). ~~Subsection (3) of this Section does not apply~~
4 ~~to a domestic insurer if the ultimate controlling party of the~~
5 ~~domestic insurer is a corporation whose equity securities or~~
6 ~~equivalent instruments are listed on the New York Stock~~
7 ~~Exchange.~~

8 (6) A company may make application to the Director for a
9 waiver from the requirements of this Section, if the company's
10 annual direct written and assumed premium, excluding premiums
11 reinsured with the Federal Crop Insurance Corporation and
12 Federal Flood Program, is less than \$300,000,000. A company may
13 also make application to the Director for a waiver from the
14 requirements of this Section based upon unique circumstances.
15 The Director may consider various factors, including, but not
16 limited to, the type of business entity, volume of business
17 written, availability of qualified board members, or the
18 ownership or organizational structure of the entity.

19 (Source: P.A. 92-140, eff. 7-24-01.)

20 (215 ILCS 5/131.20c new)

21 Sec. 131.20c. Supervisory colleges.

22 (a) With respect to any company registered under Section
23 131.13 of this Code, and in accordance with subsection (c) of
24 this Section, the Director shall also have the power to
25 participate in a supervisory college for any domestic company

1 that is part of an insurance holding company system with
2 international operations in order to determine compliance by
3 the company with this Article. The powers of the Director with
4 respect to supervisory colleges include, but are not limited
5 to:

6 (1) initiating the establishment of a supervisory
7 college;

8 (2) clarifying the membership and participation of
9 other supervisors in the supervisory college;

10 (3) clarifying the functions of the supervisory
11 college and the role of other regulators, including the
12 establishment of a group-wide supervisor;

13 (4) coordinating the ongoing activities of the
14 supervisory college, including planning meetings,
15 supervisory activities, and processes for information
16 sharing; and

17 (5) establishing a crisis management plan.

18 (b) Each registered company subject to this Section shall
19 be liable for and shall pay the reasonable expenses of the
20 Director's participation in a supervisory college in
21 accordance with subsection (c) of this Section, including
22 reasonable travel expenses. For purposes of this Section, a
23 supervisory college may be convened as either a temporary or
24 permanent forum for communication and cooperation between the
25 regulators charged with the supervision of the company or its
26 affiliates, and the Director may establish a regular assessment

1 to the company for the payment of these expenses.

2 (c) In order to assess the business strategy, financial
3 position, legal and regulatory position, risk exposure, risk
4 management, and governance processes, and as part of the
5 examination of individual companies in accordance with Section
6 131.21 of this Code, the Director may participate in a
7 supervisory college with other regulators charged with
8 supervision of the company or its affiliates, including other
9 state, federal, and international regulatory agencies. The
10 Director may enter into agreements in accordance with Section
11 131.22 of this Code providing the basis for cooperation between
12 the Director and the other regulatory agencies and the
13 activities of the supervisory college. Nothing in this Section
14 shall delegate to the supervisory college the authority of the
15 Director to regulate or supervise the company or its affiliates
16 within its jurisdiction.

17 (215 ILCS 5/131.21) (from Ch. 73, par. 743.21)

18 Sec. 131.21. Examination.

19 (1) Subject to the limitation contained in this section and
20 in addition to the powers which the Director has under Sections
21 132 through 132.7 and 401 through 403 of this Code relating to
22 the examination of companies, the Director shall have the power
23 to examine any company registered under Section 131.13 of this
24 Code and its affiliates to ascertain the financial condition of
25 the company, including the enterprise risk to the company by

1 the ultimate controlling party, or by any entity or combination
2 of entities within the insurance holding company system, or by
3 the insurance holding company system on a consolidated basis.
4 ~~also has the power to order any company registered under~~
5 ~~Section 131.13 to produce such records, books, or other~~
6 ~~information papers in the possession of the company or its~~
7 ~~affiliates as are reasonably necessary to ascertain the~~
8 ~~financial condition of such company or to determine compliance~~
9 ~~with this Article. In the event the company fails to comply~~
10 ~~with the order, the Director has the power to examine the~~
11 ~~affiliates to obtain such information.~~

12 (1.5) The Director may order any company registered under
13 Section 131.13 of this Code to produce such records, books, or
14 other information papers in the possession of the company or
15 its affiliates as are reasonably necessary to determine
16 compliance with this Article. To determine compliance with this
17 Article, the Director may order any company registered under
18 Section 131.13 of this Code to produce information not in the
19 possession of the company if the company can obtain access to
20 such information pursuant to contractual relationships,
21 statutory obligations, or other methods. In the event the
22 company cannot obtain the information requested by the
23 Director, the company shall provide the Director a detailed
24 explanation of the reason that the company cannot obtain the
25 information and the identity of the holder of the information.
26 Whenever the Director determines that the detailed explanation

1 is without merit, the Director may require, after notice and
2 hearing, the company to pay a penalty of up to \$1,000 for each
3 day's delay, or may suspend or revoke the company's license.

4 (2) The Director may retain at the registered company's
5 expense any attorneys, actuaries, accountants and other
6 experts not otherwise a part of the Director's staff as may be
7 reasonably necessary to assist in the conduct of the
8 examination under subsection (1). Any persons so retained are
9 under the direction and control of the Director and may act in
10 a purely advisory capacity.

11 (3) Each registered company producing for examination
12 records, books and papers under subsection (1.5) ~~(1)~~ is liable
13 for and must pay the expense of the examination in accordance
14 with Section 408 of this Code.

15 (4) The Director may retain at the registered company's
16 expense any attorneys, actuaries, accountants, and other
17 experts not otherwise a part of the Director's staff as may be
18 reasonably necessary to assist in the conduct of the
19 examination under subsection (1) of this Section. Any persons
20 so retained are under the direction and control of the Director
21 and may act in a purely advisory capacity.

22 (5) In the event the company fails to comply with an order,
23 the Director shall have the power to examine the affiliates to
24 obtain the information. The Director shall also have the power
25 to issue subpoenas, to administer oaths, and to examine under
26 oath any person for purposes of determining compliance with

1 this Section. Upon the failure or refusal of any person to obey
2 a subpoena, the Director may petition a court of competent
3 jurisdiction and, upon proper showing, the court may enter an
4 order compelling the witness to appear and testify or produce
5 documentary evidence. Failure to obey the court order shall be
6 punishable as contempt of court. Every person shall be obliged
7 to attend as a witness at the place specified in the subpoena,
8 when subpoenaed, anywhere within the State. He or she shall be
9 entitled to the same fees and mileage, if claimed, as a witness
10 in the Circuit Court, which fees, mileage, and actual expense,
11 if any, necessarily incurred in securing the attendance of
12 witnesses, and their testimony, shall be itemized and charged
13 against, and be paid by, the company being examined.

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

15 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

16 Sec. 131.22. Confidential treatment.

17 (a) Documents, materials, or other information in the
18 possession or control of the Department that are obtained by or
19 disclosed to the Director or any other person in the course of
20 an examination or investigation made pursuant to this Article
21 and all information reported pursuant to this Article shall be
22 confidential by law and privileged, shall not be subject to the
23 Illinois Freedom of Information Act, shall not be subject to
24 subpoena, and shall not be subject to discovery or admissible
25 in evidence in any private civil action. However, the Director

1 is authorized to use the documents, materials, or other
2 information in the furtherance of any regulatory or legal
3 action brought as a part of the Director's official duties. The
4 Director shall not otherwise make the documents, materials, or
5 other information public without the prior written consent of
6 the company to which it pertains unless the Director, after
7 giving the company and its affiliates who would be affected
8 thereby prior written notice and an opportunity to be heard,
9 determines that the interest of policyholders, shareholders,
10 or the public shall be served by the publication thereof, in
11 which event the Director may publish all or any part in such
12 manner as may be deemed appropriate.

13 (b) Neither the Director nor any person who received
14 documents, materials, or other information while acting under
15 the authority of the Director or with whom such documents,
16 materials, or other information are shared pursuant to this
17 Article shall be permitted or required to testify in any
18 private civil action concerning any confidential documents,
19 materials, or information subject to subsection (a) of this
20 Section.

21 (c) In order to assist in the performance of the Director's
22 duties, the Director:

23 (1) may share documents, materials, or other
24 information, including the confidential and privileged
25 documents, materials, or information subject to subsection
26 (a) of this Section, with other state, federal, and

1 international regulatory agencies, with the NAIC and its
2 affiliates and subsidiaries, and with state, federal, and
3 international law enforcement authorities, including
4 members of any supervisory college allowed by this Article,
5 provided that the recipient agrees in writing to maintain
6 the confidentiality and privileged status of the document,
7 material, or other information, and has verified in writing
8 the legal authority to maintain confidentiality;

9 (1.5) notwithstanding paragraph (1) of this subsection
10 (c), may only share confidential and privileged documents,
11 material, or information reported pursuant to Section
12 131.14b with commissioners of states having statutes or
13 regulations substantially similar to subsection (a) of
14 this Section and who have agreed in writing not to disclose
15 such information;

16 (2) may receive documents, materials, or information,
17 including otherwise confidential and privileged documents,
18 materials, or information from the NAIC and its affiliates
19 and subsidiaries and from regulatory and law enforcement
20 officials of other foreign or domestic jurisdictions, and
21 shall maintain as confidential or privileged any document,
22 material, or information received with notice or the
23 understanding that it is confidential or privileged under
24 the laws of the jurisdiction that is the source of the
25 document, material, or information; any such documents,
26 materials, or information, while in the Director's

1 possession, shall not be subject to the Illinois Freedom of
2 Information Act and shall not be subject to subpoena; and

3 (3) shall enter into written agreements with the NAIC
4 governing sharing and use of information provided pursuant
5 to this Article consistent with this subsection (c) that
6 shall (i) specify procedures and protocols regarding the
7 confidentiality and security of information shared with
8 the NAIC and its affiliates and subsidiaries pursuant to
9 this Article, including procedures and protocols for
10 sharing by the NAIC with other state, federal, or
11 international regulators; (ii) specify that ownership of
12 information shared with the NAIC and its affiliates and
13 subsidiaries pursuant to this Article remains with the
14 Director and the NAIC's use of the information is subject
15 to the direction of the Director; (iii) require prompt
16 notice to be given to a company whose confidential
17 information in the possession of the NAIC pursuant to this
18 Article is subject to a request or subpoena to the NAIC for
19 disclosure or production; and (iv) require the NAIC and its
20 affiliates and subsidiaries to consent to intervention by a
21 company in any judicial or administrative action in which
22 the NAIC and its affiliates and subsidiaries may be
23 required to disclose confidential information about the
24 company shared with the NAIC and its affiliates and
25 subsidiaries pursuant to this Article.

26 (d) The sharing of documents, materials, or information by

1 the Director pursuant to this Article shall not constitute a
2 delegation of regulatory authority or rulemaking, and the
3 Director is solely responsible for the administration,
4 execution, and enforcement of the provisions of this Article.

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 subsection (c) of this Section.

10 (f) Documents, materials, or other information in the
11 possession or control of the NAIC pursuant to this Article
12 shall be confidential by law and privileged, shall not be
13 subject to the Illinois Freedom of Information Act, shall not
14 be subject to subpoena, and shall not be subject to discovery
15 or admissible in evidence in any private civil action. All
16 information, documents, and copies thereof obtained by or
17 disclosed to the Director or any other person in the course of
18 an examination or investigation made under Section 131.21 and
19 all information submitted under Sections 131.13 or 131.20a and
20 all personal financial statement information submitted under
21 Section 131.5 must be given confidential treatment and is not
22 subject to subpoena and may not be made public by the Director
23 or any other person, without the prior written consent of the
24 company to which it pertains unless the Director, after giving
25 the company and its affiliates who would be affected thereby
26 notice and opportunity to be heard, determines that the

1 ~~interests of policyholders, shareholders or the public will be~~
2 ~~served by the publication thereof in which event he may publish~~
3 ~~all or any part thereof in such manner as he may deem~~
4 ~~appropriate.~~

5 ~~Nothing contained in this Section shall prevent or be~~
6 ~~construed as prohibiting the Director from disclosing such~~
7 ~~information to the insurance department of any other state or~~
8 ~~county or to law enforcement officials of this or any other~~
9 ~~state or agency of the federal government at any time upon the~~
10 ~~written agreement of the entity receiving the information to~~
11 ~~hold that information confidential and in a manner consistent~~
12 ~~with this Code.~~

13 (Source: P.A. 88-364.)

14 (215 ILCS 5/131.23) (from Ch. 73, par. 743.23)

15 Sec. 131.23. Injunctions; prohibitions against voting
16 securities; sequestration of voting securities. (1) Whenever
17 it appears to the Director that any company or any director,
18 officer, employee or agent thereof has committed or is about to
19 commit a violation of this Article or of any rule, regulation,
20 or order issued by the Director hereunder, the Director may
21 apply to the Circuit Court for the county in which the
22 principal office of the company is located or to the Circuit
23 Court for Sangamon County for an order enjoining the company or
24 the director, officer, employee or agent thereof from violating
25 or continuing to violate this Article or any rule, regulation

1 or order, and for any other equitable relief as the nature of
2 the case and the interests of the company's policyholders,
3 creditors or the public may require. In any proceeding, the
4 validity of the rule, regulation or order alleged to have been
5 violated may be determined by the Court.

6 (2) No security or shareholder's or policyholder's proxy
7 which is the subject of any agreement or arrangement regarding
8 acquisition, or which is acquired or to be acquired, in
9 contravention of this Article or of any rule, regulation or
10 order issued by the Director hereunder may be voted at any
11 shareholders' ~~securityholders'~~ meeting, or may be counted for
12 quorum purposes, and any action of shareholders
13 ~~securityholders'~~ requiring the affirmative vote of a
14 percentage of securities shall ~~may~~ be taken as though such
15 securities (including securities that may be voted pursuant to
16 such proxies) were not issued and outstanding; but no action
17 taken at any such meeting may be invalidated by the voting of
18 such securities or proxies, unless the action would materially
19 affect control of the company or unless any court of this State
20 has so ordered. If the Director has reason to believe that any
21 security or shareholder's or policyholder's proxy of the
22 company has been or is about to be acquired in contravention of
23 this Article or of any rule, regulation or order issued by the
24 Director hereunder the company or the Director may apply to the
25 Circuit Court for Sangamon County or to the Circuit Court for
26 the county in which the company has its principal place of

1 business (a) to enjoin the further pursuit or use of any offer,
2 request, invitation, agreement or acquisition made in
3 contravention of Sections 131.4 through 131.12 or any rule,
4 regulation, or order issued by the Director thereunder; (b) to
5 enjoin the voting of any security or proxy so acquired; (c) to
6 void any vote of such security or proxy already cast at any
7 meeting of shareholders ~~securityholders~~; and (d) for any other
8 equitable relief as the nature of the case and the interests of
9 the company's policyholders, creditors, or the public may
10 require.

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

26 (4) If the Director has reason to believe that any

1 shareholders' or policyholders' proxies have been or are about
2 to be acquired in contravention of this Article or of any rule,
3 regulations or order issued by the Director hereunder, the
4 Director may apply to the Circuit Court for Sangamon County or
5 to the Circuit Court for the county in which the company has
6 its principal place of business (a) to enjoin further pursuit
7 or use of any offer, request, invitation, agreement or
8 acquisition made in contravention of Section 131.4 through
9 131.12 and (b) for any other equitable relief as the nature of
10 the case and the interests of the company's policyholders,
11 creditors or the public may require.

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

13 (215 ILCS 5/131.24) (from Ch. 73, par. 743.24)

14 Sec. 131.24. Sanctions.

15 (1) Every director or officer of an insurance holding
16 company system who knowingly violates, participates in, or
17 assents to, or who knowingly permits any of the officers or
18 agents of the company to engage in transactions or make
19 investments which have not been properly filed or approved or
20 which violate this Article, shall pay, in their individual
21 capacity, a civil forfeiture of not more than \$100,000 per
22 violation, after notice and hearing before the Director. In
23 determining the amount of the civil forfeiture, the Director
24 shall take into account the appropriateness of the forfeiture
25 with respect to the gravity of the violation, the history of

1 previous violations, and such other matters as justice may
2 require.

3 (2) Whenever ~~it appears to~~ the Director determines that any
4 company subject to this Article or any director, officer,
5 employee or agent thereof has engaged in any transaction or
6 entered into a contract which is subject to Section 131.20, and
7 any one of Sections 131.16, 131.20a, 141, 141.1, or 174 of this
8 Code and which would not have been approved had such approval
9 been requested or would have been disapproved had required
10 notice been given, the Director may order the company to cease
11 and desist immediately any further activity under that
12 transaction or contract. After notice and hearing the Director
13 may also order (a) the company to void any such contracts and
14 restore the status quo if such action is in the best interest
15 of the policyholders or the public, and (b) any affiliate of
16 the company, which has received from the company dividends,
17 distributions, assets, loans, extensions of credit,
18 guarantees, or investments in violation of any such Section, to
19 immediately repay, refund or restore to the company such
20 dividends, distributions, assets, extensions of credit,
21 guarantees or investments.

22 (3) Whenever ~~it appears to~~ the Director determines that any
23 company or any director, officer, employee or agent thereof has
24 committed a willful violation of this Article, the Director may
25 cause criminal proceedings to be instituted in the Circuit
26 Court for the county in which the principal office of the

1 company is located or in the Circuit Court of Sangamon or Cook
2 County against such company or the responsible director,
3 officer, employee or agent thereof. Any company which willfully
4 violates this Article commits a business offense and may be
5 fined up to \$500,000. Any individual who willfully violates
6 this Article commits a Class 4 felony and may be fined in his
7 individual capacity not more than \$500,000 or be imprisoned for
8 not less than one year nor more than 3 years, or both.

9 (4) Any officer, director, or employee of an insurance
10 holding company system who willfully and knowingly subscribes
11 to or makes or causes to be made any false statements or false
12 reports or false filings with the intent to deceive the
13 Director in the performance of his duties under this Article,
14 commits a Class 3 felony and upon conviction thereof, shall be
15 imprisoned for not less than 2 years nor more than 5 years or
16 fined \$500,000 or both. Any fines imposed shall be paid by the
17 officer, Director, or employee in his individual capacity.

18 (5) Whenever the Director determines that any person has
19 committed a violation of Section 131.14b of this Code which
20 prevents the full understanding of the enterprise risk to the
21 company by affiliates or by the insurance holding company
22 system, the violation may serve as an independent basis, after
23 an opportunity for a hearing, for disapproving dividends or
24 distributions and for placing the company under an order of
25 supervision in accordance with Article XII 1/2 of this Code.

26 (Source: P.A. 93-32, eff. 7-1-03.)

1 (215 ILCS 5/131.26) (from Ch. 73, par. 743.26)

2 Sec. 131.26. Revocation, suspension, or non-renewal of
3 company's license. Whenever ~~it appears to~~ the Director
4 determines that any person has committed a violation of this
5 Article which makes the continued operation of a company
6 contrary to the interests of policyholders or the public, the
7 Director may, after notice and hearing suspend, revoke or
8 refuse to renew the company's license or authority to do
9 business in this State for such a period as the Director ~~he~~
10 finds is required for the protection of policyholders or the
11 public. Any such determination must be accompanied by specific
12 findings of fact and conclusions of law.

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

14 (215 ILCS 5/131.27) (from Ch. 73, par. 743.27)

15 Sec. 131.27. Judicial review.

16 (1) Any order or decision made, issued or executed by the
17 Director under this Article whereby any person or company is
18 aggrieved is subject to review by the Circuit Court of Sangamon
19 County or the Circuit Court of Cook County.

20 The Administrative Review Law, as now or hereafter amended,
21 and the rules adopted pursuant thereto, applies to and governs
22 all proceedings for review of final administrative decisions of
23 the Director provided for in this Section. The term
24 "administrative decision" is defined as in Section 3-101 of the

1 Code of Civil Procedure.

2 (2) The filing of an appeal pursuant to this Section shall
3 stay the application of any rule, regulation, order, or other
4 action of the Director to the appealing party unless the court,
5 after giving the party notice and an opportunity to be heard,
6 determines that a stay would be detrimental to the interest of
7 policyholders, shareholders, creditors, or the public.

8 (3) Any person aggrieved by any failure of the Director to
9 act or make a determination required by this Article may
10 petition the circuit courts of Sangamon County or Cook County
11 for a writ in the nature of a mandamus or a peremptory mandamus
12 directing the Director to act or make a determination.

13 (Source: P.A. 82-783.)

14 (215 ILCS 5/131.29 new)

15 Sec. 131.29. Rulemaking power. The Director may adopt such
16 administrative rules as are necessary to implement the
17 provisions of this Article.

18 (215 ILCS 5/131.30 new)

19 Sec. 131.30. Conflict with other laws. This Article
20 supersedes all laws and parts of laws of this State
21 inconsistent with this Code with respect to matters covered by
22 this Code.

23 (215 ILCS 5/408.3) (from Ch. 73, par. 1020.3)

1 Sec. 408.3. Insurance Financial Regulation Fund; uses. The
2 monies deposited into the Insurance Financial Regulation Fund
3 shall be used only for (i) payment of the expenses of the
4 Department, including related administrative expenses,
5 incurred in analyzing, investigating and examining the
6 financial condition or control of insurance companies and other
7 entities licensed or seeking to be licensed by the Department,
8 including the collection, analysis and distribution of
9 information on insurance premiums, other income, costs and
10 expenses, and (ii) to pay internal costs and expenses of the
11 Interstate Insurance Receivership Commission allocated to this
12 State and authorized and admitted companies doing an insurance
13 business in this State under Article X of the Interstate
14 Receivership Compact. All distributions and payments from the
15 Insurance Financial Regulation Fund shall be subject to
16 appropriation as otherwise provided by law for payment of such
17 expenses.

18 Sums appropriated under clause (ii) of the preceding
19 paragraph shall be deemed to satisfy, pro tanto, the
20 obligations of insurers doing business in this State under
21 Article X of the Interstate Insurance Receivership Compact.

22 Nothing in this Code shall prohibit the General Assembly
23 from appropriating funds from the General Revenue Fund to the
24 Department for the purpose of administering this Code.

25 No fees collected pursuant to Section 408 of this Code
26 shall be used for the regulation of pension funds or activities

1 by the Department in the performance of its duties under
2 Article 22 of the Illinois Pension Code.

3 If at the end of a fiscal year the balance in the Insurance
4 Financial Regulation Fund which remains unexpended or
5 unobligated exceeds the amount of funds that the Director may
6 certify is needed for the purposes enumerated in this Section,
7 then the General Assembly may appropriate that excess amount
8 for purposes other than those enumerated in this Section.

9 ~~Moneys in the Insurance Financial Regulation Fund may be~~
10 ~~transferred to the Professions Indirect Cost Fund, as~~
11 ~~authorized under Section 2105-300 of the Department of~~
12 ~~Professional Regulation Law of the Civil Administrative Code of~~
13 ~~Illinois.~~

14 (Source: P.A. 94-91, eff. 7-1-05.)

15 Section 97. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 99. Effective date. This Act takes effect January
18 1, 2014, except that Section 131.14b of the Illinois Insurance
19 Code takes effect July 1, 2014.