

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 35A-5, 35A-10, 35A-15, 35A-30, and 35A-60 as  
6 follows:

7 (215 ILCS 5/35A-5)

8 Sec. 35A-5. Definitions. As used in this Article, the terms  
9 listed in this Section have the meaning given herein.

10 "Adjusted RBC Report" means an RBC Report that has been  
11 adjusted by the Director in accordance with subsection (f) of  
12 Section 35A-10.

13 "Authorized control level RBC" means the number determined  
14 under the risk-based capital formula in accordance with the RBC  
15 Instructions.

16 "Company action level RBC" means the product of 2.0 and the  
17 insurer's authorized control level RBC.

18 "Corrective Order" means an order issued by the Director in  
19 accordance with Article XII 1/2 specifying corrective actions  
20 that the Director determines are required.

21 "Domestic insurer" means any insurance company domiciled  
22 in this State under Article II, Article III, Article III 1/2,  
23 or Article IV or a health organization as defined by this

1 Article, except this shall include only those health  
2 maintenance organizations that are "domestic companies" in  
3 accordance with Section 5-3 of the Health Maintenance  
4 Organization Act and only those limited health service  
5 organizations that are "domestic companies" in accordance with  
6 Section 4003 of the Limited Health Service Organization Act.

7 "Fraternal benefit society" means any insurance company  
8 licensed under Article XVII of this Code.

9 "Foreign insurer" means any foreign or alien insurance  
10 company licensed under Article VI that is not domiciled in this  
11 State and any health maintenance organization that is not a  
12 "domestic company" in accordance with Section 5-3 of the Health  
13 Maintenance Organization Act and any limited health service  
14 organization that is not a "domestic company" in accordance  
15 with Section 4003 of the Limited Health Service Organization  
16 Act.

17 "Health organization" means an entity operating under a  
18 certificate of authority issued pursuant to the Health  
19 Maintenance Organization Act, the Dental Service Plan Act, the  
20 Limited Health Service Organization Act, or the Voluntary  
21 Health Services Plans Act, unless the entity is otherwise  
22 defined as a "life, health, or life and health insurer"  
23 pursuant to this Act.

24 "Life, health, or life and health insurer" means an  
25 insurance company that has authority to transact the kinds of  
26 insurance described in either or both clause (a) or clause (b)

1 of Class 1 of Section 4 or a licensed property and casualty  
2 insurer writing only accident and health insurance.

3 "Mandatory control level RBC" means the product of 0.70 and  
4 the insurer's authorized control level RBC.

5 "NAIC" means the National Association of Insurance  
6 Commissioners.

7 "Negative trend" means, with respect to a life, health, or  
8 life and health insurer or a fraternal benefit society, a  
9 negative trend over a period of time, as determined in  
10 accordance with the trend test calculation included in the Life  
11 or Fraternal RBC Instructions.

12 "Property and casualty insurer" means an insurance company  
13 that has authority to transact the kinds of insurance in either  
14 or both Class 2 or Class 3 of Section 4 or a licensed insurer  
15 writing only insurance authorized under clause (c) of Class 1,  
16 but does not include monoline mortgage guaranty insurers,  
17 financial guaranty insurers, and title insurers.

18 "RBC" means risk-based capital.

19 "RBC Instructions" means the RBC Report including  
20 risk-based capital instructions adopted by the NAIC as those  
21 instructions may be amended by the NAIC from time to time in  
22 accordance with the procedures adopted by the NAIC.

23 "RBC level" means an insurer's company action level RBC,  
24 regulatory action level RBC, authorized control level RBC, or  
25 mandatory control level RBC.

26 "RBC Plan" means a comprehensive financial plan containing

1 the elements specified in subsection (b) of Section 35A-15.

2 "RBC Report" means the risk-based capital report required  
3 under Section 35A-10.

4 "Receivership" means conservation, rehabilitation, or  
5 liquidation under Article XIII.

6 "Regulatory action level RBC" means the product of 1.5 and  
7 the insurer's authorized control level RBC.

8 "Revised RBC Plan" means an RBC Plan rejected by the  
9 Director and revised by the insurer with or without the  
10 Director's recommendations.

11 "Total adjusted capital" means the sum of (1) an insurer's  
12 statutory capital and surplus and (2) any other items that the  
13 RBC Instructions may provide.

14 (Source: P.A. 90-794, eff. 8-14-98; 91-549, eff. 8-14-99.)

15 (215 ILCS 5/35A-10)

16 Sec. 35A-10. RBC Reports.

17 (a) On or before each March 1 (the "filing date"), every  
18 domestic insurer shall prepare and submit to the Director a  
19 report of its RBC levels as of the end of the previous calendar  
20 year in the form and containing the information required by the  
21 RBC Instructions. Every domestic insurer shall also file its  
22 RBC Report with the NAIC in accordance with the RBC  
23 Instructions. In addition, if requested in writing by the chief  
24 insurance regulatory official of any state in which it is  
25 authorized to do business, every domestic insurer shall file

1 its RBC Report with that official no later than the later of 15  
2 days after the insurer receives the written request or the  
3 filing date.

4 (b) A life, health, or life and health insurer's or  
5 fraternal benefit society's RBC shall be determined under the  
6 formula set forth in the RBC Instructions. The formula shall  
7 take into account (and may adjust for the covariance between):

8 (1) the risk with respect to the insurer's assets;

9 (2) the risk of adverse insurance experience with  
10 respect to the insurer's liabilities and obligations;

11 (3) the interest rate risk with respect to the  
12 insurer's business; and

13 (4) all other business risks and other relevant risks  
14 set forth in the RBC Instructions.

15 These risks shall be determined in each case by applying the  
16 factors in the manner set forth in the RBC Instructions.

17 (c) A property and casualty insurer's RBC shall be  
18 determined in accordance with the formula set forth in the RBC  
19 Instructions. The formula shall take into account (and may  
20 adjust for the covariance between):

21 (1) asset risk;

22 (2) credit risk;

23 (3) underwriting risk; and

24 (4) all other business risks and other relevant risks  
25 set forth in the RBC Instructions.

26 These risks shall be determined in each case by applying the

1 factors in the manner set forth in the RBC Instructions.

2 (d) A health organization's RBC shall be determined in  
3 accordance with the formula set forth in the RBC Instructions.  
4 The formula shall take the following into account (and may  
5 adjust for the covariance between):

6 (1) asset risk;

7 (2) credit risk;

8 (3) underwriting risk; and

9 (4) all other business risks and other relevant risks  
10 set forth in the RBC Instructions.

11 These risks shall be determined in each case by applying the  
12 factors in the manner set forth in the RBC Instructions.

13 (e) An excess of capital over the amount produced by the  
14 risk-based capital requirements contained in this Code and the  
15 formulas, schedules, and instructions referenced in this Code  
16 is desirable in the business of insurance. Accordingly,  
17 insurers should seek to maintain capital above the RBC levels  
18 required by this Code. Additional capital is used and useful in  
19 the insurance business and helps to secure an insurer against  
20 various risks inherent in, or affecting, the business of  
21 insurance and not accounted for or only partially measured by  
22 the risk-based capital requirements contained in this Code.

23 (f) If a domestic insurer files an RBC Report that, in the  
24 judgment of the Director, is inaccurate, the Director shall  
25 adjust the RBC Report to correct the inaccuracy and shall  
26 notify the insurer of the adjustment. The notice shall contain

1 a statement of the reason for the adjustment.

2 (Source: P.A. 91-549, eff. 8-14-99.)

3 (215 ILCS 5/35A-15)

4 Sec. 35A-15. Company action level event.

5 (a) A company action level event means any of the following  
6 events:

7 (1) The filing of an RBC Report by an insurer that  
8 indicates that:

9 (A) the insurer's total adjusted capital is  
10 greater than or equal to its regulatory action level  
11 RBC, but less than its company action level RBC;

12 (B) the insurer, if a life, health, or life and  
13 health insurer or a fraternal benefit society, has  
14 total adjusted capital that is greater than or equal to  
15 its company action level RBC, but less than the product  
16 of its authorized control level RBC and 3.0 ~~2.5~~ and has  
17 a negative trend; or

18 (C) the insurer, if a property and casualty  
19 insurer, has total adjusted capital that is greater  
20 than or equal to its company action level RBC, but less  
21 than the product of its authorized control level RBC  
22 and 3.0 and triggers the trend test determined in  
23 accordance with the trend test calculation included in  
24 the property and casualty RBC Instructions.

25 (2) The notification by the Director to the insurer of

1 an Adjusted RBC Report that indicates an event described in  
2 paragraph (1), provided the insurer does not challenge the  
3 Adjusted RBC Report under Section 35A-35.

4 (3) The notification by the Director to the insurer  
5 that the Director has, after a hearing, rejected the  
6 insurer's challenge under Section 35A-35 to an Adjusted RBC  
7 Report that indicates the event described in paragraph (1).

8 (b) In the event of a company action level event, the  
9 insurer shall prepare and submit to the Director an RBC Plan  
10 that does all of the following:

11 (1) Identifies the conditions that contribute to the  
12 company action level event.

13 (2) Contains proposed corrective actions that the  
14 insurer intends to take and that are expected to result in  
15 the elimination of the company action level event. A health  
16 organization is not prohibited from proposing recognition  
17 of a parental guarantee or a letter of credit to eliminate  
18 the company action level event; however the Director shall,  
19 at his discretion, determine whether or the extent to which  
20 the proposed parental guarantee or letter of credit is an  
21 acceptable part of a satisfactory RBC Plan or Revised RBC  
22 Plan.

23 (3) Provides projections of the insurer's financial  
24 results in the current year and at least the 4 succeeding  
25 years, both in the absence of proposed corrective actions  
26 and giving effect to the proposed corrective actions,

1 including projections of statutory operating income, net  
2 income, capital, and surplus. The projections for both new  
3 and renewal business may include separate projections for  
4 each major line of business and separately identify each  
5 significant income, expense, and benefit component.

6 (4) Identifies the key assumptions affecting the  
7 insurer's projections and the sensitivity of the  
8 projections to the assumptions.

9 (5) Identifies the quality of, and problems associated  
10 with, the insurer's business including, but not limited to,  
11 its assets, anticipated business growth and associated  
12 surplus strain, extraordinary exposure to risk, mix of  
13 business, and use of reinsurance, if any, in each case.

14 (c) The insurer shall submit the RBC Plan to the Director  
15 within 45 days after the company action level event occurs or  
16 within 45 days after the Director notifies the insurer that the  
17 Director has, after a hearing, rejected its challenge under  
18 Section 35A-35 to an Adjusted RBC Report.

19 (d) Within 60 days after an insurer submits an RBC Plan to  
20 the Director, the Director shall notify the insurer whether the  
21 RBC Plan shall be implemented or is, in the judgment of the  
22 Director, unsatisfactory. If the Director determines the RBC  
23 Plan is unsatisfactory, the notification to the insurer shall  
24 set forth the reasons for the determination and may set forth  
25 proposed revisions that will render the RBC Plan satisfactory  
26 in the judgment of the Director. Upon notification from the

1 Director, the insurer shall prepare a Revised RBC Plan, which  
2 may incorporate by reference any revisions proposed by the  
3 Director. The insurer shall submit the Revised RBC Plan to the  
4 Director within 45 days after the Director notifies the insurer  
5 that the RBC Plan is unsatisfactory or within 45 days after the  
6 Director notifies the insurer that the Director has, after a  
7 hearing, rejected its challenge under Section 35A-35 to the  
8 determination that the RBC Plan is unsatisfactory.

9 (e) In the event the Director notifies an insurer that its  
10 RBC Plan or Revised RBC Plan is unsatisfactory, the Director  
11 may, at the Director's discretion and subject to the insurer's  
12 right to a hearing under Section 35A-35, specify in the  
13 notification that the notification constitutes a regulatory  
14 action level event.

15 (f) Every domestic insurer that files an RBC Plan or  
16 Revised RBC Plan with the Director shall file a copy of the RBC  
17 Plan or Revised RBC Plan with the chief insurance regulatory  
18 official in any state in which the insurer is authorized to do  
19 business if that state has a law substantially similar to the  
20 confidentiality provisions in subsection (a) of Section 35A-50  
21 and if that official requests in writing a copy of the plan.  
22 The insurer shall file a copy of the RBC Plan or Revised RBC  
23 Plan in that state no later than the later of 15 days after  
24 receiving the written request for the copy or the date on which  
25 the RBC Plan or Revised RBC Plan is filed under subsection (c)  
26 or (d) of this Section.

1 (Source: P.A. 97-955, eff. 8-14-12.)

2 (215 ILCS 5/35A-30)

3 Sec. 35A-30. Mandatory control level event.

4 (a) A mandatory control level event means any of the  
5 following events:

6 (1) The filing of an RBC Report that indicates that the  
7 insurer's total adjusted capital is less than its mandatory  
8 control level RBC.

9 (2) The notification by the Director to the insurer of  
10 an Adjusted RBC Report that indicates the event described  
11 in paragraph (1), provided the insurer does not challenge  
12 the Adjusted RBC Report under Section 35A-35.

13 (3) The notification by the Director to the insurer  
14 that the Director has, after a hearing, rejected the  
15 insurer's challenge under Section 35A-35 to the Adjusted  
16 RBC Report that indicates the event described in paragraph  
17 (1).

18 (b) In the event of a mandatory control level event with  
19 respect to a life, health, or life and health insurer or a  
20 fraternal benefit society, the Director shall take actions  
21 necessary to place the insurer in receivership under Article  
22 XIII. In that event, the mandatory control level event shall be  
23 deemed sufficient grounds for the Director to take action under  
24 Article XIII, and the Director shall have the rights, powers,  
25 and duties with respect to the insurer that are set forth in

1 Article XIII. If the Director takes action under this  
2 subsection regarding an Adjusted RBC Report, the insurer shall  
3 be entitled to the protections of Article XIII. If the Director  
4 finds that there is a reasonable expectation that the mandatory  
5 control level event may be eliminated within 90 days after it  
6 occurs, the Director may delay action for not more than 90 days  
7 after the mandatory control level event.

8 (c) In the case of a mandatory control level event with  
9 respect to a property and casualty insurer, the Director shall  
10 take the actions necessary to place the insurer in receivership  
11 under Article XIII or, in the case of an insurer that is  
12 writing no business and that is running-off its existing  
13 business, may allow the insurer to continue its run-off under  
14 the supervision of the Director. In either case, the mandatory  
15 control level event is deemed sufficient grounds for the  
16 Director to take action under Article XIII, and the Director  
17 has the rights, powers, and duties with respect to the insurer  
18 that are set forth in Article XIII. If the Director takes  
19 action regarding an Adjusted RBC Report, the insurer shall be  
20 entitled to the protections of Article XIII. If the Director  
21 finds that there is a reasonable expectation that the mandatory  
22 control level event may be eliminated within 90 days after it  
23 occurs, the Director may delay action for not more than 90 days  
24 after the mandatory control level event.

25 (d) In the case of a mandatory control level event with  
26 respect to a health organization, the Director shall take the

1 actions necessary to place the insurer in receivership under  
2 Article XIII or, in the case of an insurer that is writing no  
3 business and that is running-off its existing business, may  
4 allow the insurer to continue its run-off under the supervision  
5 of the Director. In either case, the mandatory control level  
6 event is deemed sufficient grounds for the Director to take  
7 action under Article XIII, and the Director has the rights,  
8 powers, and duties with respect to the insurer that are set  
9 forth in Article XIII. If the Director takes action regarding  
10 an Adjusted RBC Report, the insurer shall be entitled to the  
11 protections of Article XIII. If the Director finds that there  
12 is a reasonable expectation that the mandatory control level  
13 event may be eliminated within 90 days after it occurs, the  
14 Director may delay action for not more than 90 days after the  
15 mandatory control level event.

16 (Source: P.A. 91-549, eff. 8-14-99.)

17 (215 ILCS 5/35A-60)

18 Sec. 35A-60. Phase-in of Article.

19 (a) For RBC Reports filed with respect to the December 31,  
20 1993 annual statement, instead of the provisions of Sections  
21 35A-15, 35A-20, 35A-25, and 35A-30, the following provisions  
22 apply:

23 (1) In the event of a company action level event, the  
24 Director shall take no action under this Article.

25 (2) In the event of a regulatory action level event

1 under paragraph (1), (2), or (3) of subsection (a) of  
2 Section 35A-20, the Director shall take the actions  
3 required under Section 35A-15.

4 (3) In the event of a regulatory action level event  
5 under paragraph (4), (5), (6), (7), (8), or (9) of  
6 subsection (a) of Section 35A-20 or an authorized control  
7 level event, the Director shall take the actions required  
8 under Section 35A-20.

9 (4) In the event of a mandatory control level event,  
10 the Director shall take the actions required under Section  
11 35A-25.

12 (b) For RBC Reports required to be filed by property and  
13 casualty insurers with respect to the December 31, 1995 annual  
14 statement, instead of the provisions of Section 35A-15, 35A-20,  
15 35A-25, and 35A-30, the following provisions apply:

16 (1) In the event of a company action level event with  
17 respect to a domestic insurer, the Director shall take no  
18 regulatory action under this Article.

19 (2) In the event of a regulatory action level event  
20 under paragraph (1), (2) or (3) of subsection (a) of  
21 Section 35A-20, the Director shall take the actions  
22 required under Section 35A-15.

23 (3) In the event of a regulatory action level event  
24 under paragraph (4), (5), (6), (7), (8), or (9) of  
25 subsection (a) of Section 35A-20 or an authorized control  
26 level event, the Director shall take the actions required

1 under Section 35A-20.

2 (4) In the event of a mandatory control level event,  
3 the Director shall take the actions required under Section  
4 35A-25.

5 (c) For RBC Reports required to be filed by health  
6 organizations with respect to the December 31, 1999 annual  
7 statement and the December 31, 2000 annual statement, instead  
8 of the provisions of Sections 35A-15, 35A-20, 35A-25, and  
9 35A-30, the following provisions apply:

10 (1) In the event of a company action level event with  
11 respect to a domestic insurer, the Director shall take no  
12 regulatory action under this Article.

13 (2) In the event of a regulatory action level event  
14 under paragraph (1), (2), or (3) of subsection (a) of  
15 Section 35A-20, the Director shall take the actions  
16 required under Section 35A-15.

17 (3) In the event of a regulatory action level event  
18 under paragraph (4), (5), (6), (7), (8), or (9) of  
19 subsection (a) of Section 35A-20 or an authorized control  
20 level event, the Director shall take the actions required  
21 under Section 35A-20.

22 (4) In the event of a mandatory control level event,  
23 the Director shall take the actions required under Section  
24 35A-25.

25 This subsection does not apply to a health organization  
26 that provides or arranges for a health care plan under which

1 enrollees may access health care services from contracted  
2 providers without a referral from their primary care physician.

3 Nothing in this subsection shall preclude or limit other  
4 powers or duties of the Director under any other laws.

5 (d) For RBC Reports required to be filed by fraternal  
6 benefit societies with respect to the December 31, 2013 annual  
7 statement and the December 31, 2014 annual statement, instead  
8 of the provisions of Sections 35A-15, 35A-20, 35A-25, and  
9 35A-30, the following provisions apply:

10 (1) In the event of a company action level event with  
11 respect to a domestic insurer, the Director shall take no  
12 regulatory action under this Article.

13 (2) In the event of a regulatory action level event  
14 under paragraph (1), (2), or (3) of subsection (a) of  
15 Section 35A-20, the Director shall take the actions  
16 required under Section 35A-15.

17 (3) In the event of a regulatory action level event  
18 under paragraph (4), (5), (6), (7), (8), or (9) of  
19 subsection (a) of Section 35A-20 or an authorized control  
20 level event, the Director shall take the actions required  
21 under Section 35A-20.

22 (4) In the event of a mandatory control level event,  
23 the Director shall take the actions required under Section  
24 35A-25.

25 Nothing in this subsection shall preclude or limit other  
26 powers or duties of the Director under any other laws.

1 (Source: P.A. 91-549, eff. 8-14-99.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.