

**SB3264**



**98TH GENERAL ASSEMBLY**

**State of Illinois**

**2013 and 2014**

**SB3264**

Introduced 2/14/2014, by Sen. William R. Haine

**SYNOPSIS AS INTRODUCED:**

805 ILCS 5/12.30	from Ch. 32, par. 12.30
805 ILCS 5/12.80	from Ch. 32, par. 12.80

Amends the Business Corporation Act of 1983. Provides that upon a corporate dissolution any policy of liability insurance covering acts and omissions of the dissolved corporation committed during the corporation's existence shall be held in trust for the benefit of any injured party. Provides that any policy shall be held in trust for as long as there is unexhausted coverage applicable to acts or omissions of the corporation. Modifies the time within which an action may be brought when unexhausted liability coverage is in effect. Effective immediately.

LRB098 17689 JLS 52803 b

**A BILL FOR**

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Business Corporation Act of 1983 is amended  
5 by changing Sections 12.30 and 12.80 as follows:

6 (805 ILCS 5/12.30) (from Ch. 32, par. 12.30)

7 Sec. 12.30. Effect of dissolution. (a) Dissolution of a  
8 corporation terminates its corporate existence and a dissolved  
9 corporation shall not thereafter carry on any business except  
10 that necessary to wind up and liquidate its business and  
11 affairs, including:

12 (1) Collecting its assets;

13 (2) Disposing of its assets that will not be distributed in  
14 kind to its shareholders;

15 (3) Giving notice in accordance with Section 12.75 and  
16 discharging or making provision for discharging its  
17 liabilities;

18 (4) Distributing its remaining assets among its  
19 shareholders according to their interests; and

20 (5) Doing such other acts as are necessary to wind up and  
21 liquidate its business and affairs.

22 (b) After dissolution, a corporation may transfer good and  
23 merchantable title to its assets as authorized by its board of

1 directors or in accordance with its by-laws.

2 (c) Dissolution of a corporation does not:

3 (1) Transfer title to the corporation's assets;

4 (2) Prevent transfer of its shares or securities, provided,  
5 however, the authorization to dissolve may provide for closing  
6 the corporation's share transfer books;

7 (3) Effect any change in the by-laws of the corporation or  
8 otherwise affect the regulation of the affairs of the  
9 corporation except that all action shall be directed to winding  
10 up the business and affairs of the corporation;

11 (4) Prevent suit by or against the corporation in its  
12 corporate name;

13 (5) Abate or suspend a criminal, civil or any other  
14 proceeding pending by or against the corporation on the  
15 effective date of dissolution.

16 (d) To the extent that there is a policy of liability  
17 insurance providing coverage for the acts or omissions of the  
18 dissolved corporation, committed during its existence, that is  
19 in effect at the time of dissolution:

20 (1) if ownership of the policy is transferred as an  
21 asset by any means, including as part of a sale of assets  
22 or as part of distribution, the transferee shall hold the  
23 policy as trustee for the benefit of any person injured by  
24 any covered act or omission;

25 (2) if no provision is made for the transfer of  
26 ownership of the policy, the corporation shall appoint a

1 trustee to hold the policy for the benefit of any person  
2 injured by any covered act or omission;

3 (3) if no provision is made for the transfer of  
4 ownership of policy and the corporation fails to appoint a  
5 trustee, any shareholder receiving a distribution of  
6 assets shall be deemed a de facto trustee to hold the  
7 policy for the benefit of any person injured by any covered  
8 act or omission;

9 (4) the policy shall be held in trust for as long as  
10 there is unexhausted coverage applicable to acts or  
11 omissions of the corporation during its existence,  
12 regardless of when any injury occurs or manifests.

13 (Source: P.A. 85-1344.)

14 (805 ILCS 5/12.80) (from Ch. 32, par. 12.80)

15 Sec. 12.80. Survival of remedy after dissolution.

16 (a) The dissolution of a corporation either (1) by filing  
17 articles of dissolution in accordance with Section 12.20 of  
18 this Act, (2) by the issuance of a certificate of dissolution  
19 in accordance with Section 12.40 of this Act, (3) by a judgment  
20 of dissolution by a circuit court of this State, or (4) by  
21 expiration of its period of duration, shall not take away nor  
22 impair any civil remedy available to or against such  
23 corporation, its directors, or shareholders, for any right or  
24 claim existing, or any liability incurred, prior to such  
25 dissolution if action or other proceeding thereon is commenced

1 within 5 ~~five~~ years after the date of such dissolution. Any  
2 such action or proceeding by or against the corporation may be  
3 prosecuted or defended by the corporation in its corporate  
4 name.

5 (b) Civil remedies for injuries caused by acts and  
6 omissions of a dissolved corporation that are the subject of  
7 unexhausted liability insurance coverage remaining in trust,  
8 as provided in Section 12.30, may be brought beyond the 5-year  
9 provided in this Section for as long as there remains  
10 unexhausted coverage.

11 (1) In any action for a civil remedy under this Section  
12 that is initiated beyond the 5-year limit, the claimant or  
13 injured party's remedy or recovery shall be limited to the  
14 policy proceeds. Nothing in this Section alters or amends  
15 the ability or inability of an injured party or claimant to  
16 obtain recovery from the officers, directors,  
17 shareholders, or successors of a dissolved corporation.

18 (2) Any action under this Section is subject to all  
19 generally applicable statutes of limitation and repose.  
20 Nothing contained in this Section intended to extend or  
21 excuse any period of limitation or repose other than the  
22 limited exception to the 5-year period for claims or  
23 against dissolved corporation specified in this Section.

24 (Source: P.A. 92-33, eff. 7-1-01.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.