



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3322

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

SYNOPSIS AS INTRODUCED:

See Index

Amends the Intergovernmental Cooperation Act. Makes changes in the provision concerning joint self-insurance. Provides that any statement of actuarial opinion, as defined in the Code of Professional Conduct of the American Academy of Actuaries (the Academy), must be prepared by an actuary who satisfies the qualification standards set forth by the Academy to issue the opinion in the particular area of actuarial practice. Amends the Illinois Insurance Code. In provisions concerning deposits of securities, deletes certain references to provisions of the Code concerning rated credit instruments. Makes changes in the provisions concerning the kinds of reinsurance agreements that shall not be entered into by any domestic company unless such agreements are approved in writing by the Director of Insurance and the assignability of life insurance. Repeals the Insurance Exchange, Assessment Legal Reserve Life Companies, Mutual Benefit Associations, and Small Employer Group Health Insurance Law Articles of the Code. Repeals provisions concerning the committee to create a uniform small employer group-health status questionnaire and individual health statement and accident and health expense reporting.

LRB098 18517 RPM 53654 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Intergovernmental Cooperation Act is
5 amended by changing Section 6 as follows:

6 (5 ILCS 220/6) (from Ch. 127, par. 746)

7 Sec. 6. Joint self-insurance. An intergovernmental
8 contract may, among other undertakings, authorize public
9 agencies to jointly self-insure and authorize each public
10 agency member of the contract to utilize its funds to pay to a
11 joint insurance pool its costs and reserves to protect, wholly
12 or partially, itself or any public agency member of the
13 contract against liability or loss in the designated insurable
14 area.

15 A joint insurance pool shall have an annual audit performed
16 by an independent certified public accountant and shall file an
17 annual audited financial report with the Director of Insurance
18 no later than 150 days after the end of the pool's immediately
19 preceding fiscal year. The Director of Insurance shall issue
20 rules necessary to implement this audit and report requirement.
21 The rule shall establish the due date for filing the initial
22 annual audited financial report. Within 30 days after January
23 1, 1991, and within 30 days after each January 1 thereafter,

1 public agencies that are jointly self-insured to protect
2 against liability under the Workers' Compensation Act and the
3 Workers' Occupational Diseases Act shall file with the Illinois
4 Workers' Compensation Commission a report indicating an
5 election to self-insure.

6 The joint insurance pool shall also annually file with the
7 Director a statement of actuarial opinion by an independent
8 actuary who is an associate or fellow of the in-a casualty
9 actuarial society or of the Society of Actuaries. The opinion
10 shall include a statement that the pool's reserves are
11 calculated in accordance with sound loss-reserving standards
12 and adequate for the payment of claims. This opinion shall be
13 filed no later than 150 days after the end of each fiscal year.
14 The joint insurance pool shall be exempt from filing a
15 statement of actuarial opinion by an independent actuary who is
16 an associate or fellow in a casualty actuarial society that the
17 joint insurance pool's reserves are in accordance with sound
18 loss-reserving standards and payment of claims for the primary
19 level of coverage if the joint insurance pool files with the
20 Director, by the reporting deadline, a statement of actuarial
21 opinion from the provider of the joint pool's aggregate
22 coverage, reinsurance, or other similar excess insurance
23 coverage. Any statement of actuarial opinion, as defined in the
24 Code of Professional Conduct of the American Academy of
25 Actuaries (the Academy), must be prepared by an actuary who
26 satisfies the qualification standards set forth by the Academy

1 to issue the opinion in the particular area of actuarial
2 practice.

3 The Director may assess penalties against a joint insurance
4 pool that fails to comply with the auditing, statement of
5 actuarial opinion, and examination requirements of this
6 Section in an amount equal to \$500 per day for each violation,
7 up to a maximum of \$10,000 for each violation. The Director (or
8 his or her staff) or a Director-selected independent auditor
9 (or actuarial firm) that is not owned or affiliated with an
10 insurance brokerage firm, insurance company, or other
11 insurance industry affiliated entity may examine, as often as
12 the Director deems advisable, the affairs, transactions,
13 accounts, records, and assets and liabilities of each joint
14 insurance pool that fails to comply with this Section. The
15 joint insurance pool shall cooperate fully with the Director's
16 representatives in all evaluations and audits of the joint
17 insurance pool and resolve issues raised in those evaluations
18 and audits. The failure to resolve those issues may constitute
19 a violation of this Section, and may, after notice and an
20 opportunity to be heard, result in the imposition of penalties
21 pursuant to this Section. No sanctions under this Section may
22 become effective until 30 days after the date that a notice of
23 sanctions is delivered by registered or certified mail to the
24 joint insurance pool. The Director shall have the authority to
25 extend the time for filing any statement by any joint insurance
26 pool for reasons that he or she considers good and sufficient.

1 If a joint insurance pool requires a member to submit
2 written notice in order for the member to withdraw from a
3 qualified pool, then the period in which the member must
4 provide the written notice cannot be greater than 120 days,
5 except that this requirement applies only to joint insurance
6 pool agreements entered into, modified, or renewed on or after
7 the effective date of this amendatory Act of the 98th General
8 Assembly.

9 For purposes of this Section, "public agency member" means
10 any public agency defined or created under this Act, any local
11 public entity as defined in Section 1-206 of the Local
12 Governmental and Governmental Employees Tort Immunity Act, and
13 any public agency, authority, instrumentality, council, board,
14 service region, district, unit, bureau, or, commission, or any
15 municipal corporation, college, or university, whether
16 corporate or otherwise, and any other local governmental body
17 or similar entity that is presently existing or created after
18 the effective date of this amendatory Act of the 92nd General
19 Assembly, whether or not specified in this Section. Only public
20 agency members with tax receipts, tax revenues, taxing
21 authority, or other resources sufficient to pay costs and to
22 service debt related to intergovernmental activities described
23 in this Section, or public agency members created by or as part
24 of a public agency with these powers, may enter into contracts
25 or otherwise associate among themselves as permitted in this
26 Section.

1 No joint insurance pool or other intergovernmental
2 cooperative offering health insurance shall interfere with the
3 statutory obligation of any public agency member to bargain
4 over or to reach agreement with a labor organization over a
5 mandatory subject of collective bargaining as those terms are
6 used in the Illinois Public Labor Relations Act. No
7 intergovernmental contract of insurance offering health
8 insurance shall limit the rights or obligations of public
9 agency members to engage in collective bargaining, and it shall
10 be unlawful for a joint insurance pool or other
11 intergovernmental cooperative offering health insurance to
12 discriminate against public agency members or otherwise
13 retaliate against such members for limiting their
14 participation in a joint insurance pool as a result of a
15 collective bargaining agreement.

16 It shall not be considered a violation of this Section for
17 an intergovernmental contract of insurance relating to health
18 insurance coverage, life insurance coverage, or both to permit
19 the pool or cooperative, if a member withdraws employees or
20 officers into a union-sponsored program, to re-price the costs
21 of benefits provided to the continuing employees or officers
22 based upon the same underwriting criteria used by that pool or
23 cooperative in the normal course of its business, but no member
24 shall be expelled from a pool or cooperative if the continuing
25 employees or officers meet the general criteria required of
26 other members.

1 (Source: P.A. 98-504, eff. 1-1-14.)

2 Section 10. The Illinois Insurance Code is amended by
3 changing Sections 26, 53, 174, and 245.1 as follows:

4 (215 ILCS 5/26) (from Ch. 73, par. 638)

5 (Section scheduled to be repealed on January 1, 2017)

6 Sec. 26. Deposit.

7 (a) A company subject to the provisions of this Article
8 shall make and maintain with the Director for the protection of
9 all creditors, policyholders and policy obligations of the
10 company, a deposit of securities ~~which are authorized~~
11 ~~investments under Section 126.11A(1), 126.11A(2), 126.24A(1),~~
12 ~~or 126.24A(2)~~ having a fair market value equal to the minimum
13 capital and surplus required to be maintained under Section 13.
14 The Director may release the required deposit of securities
15 upon receipt of an order of a court having proper jurisdiction
16 or upon: (i) certification by the company that it has no
17 outstanding creditors, policyholders, or policy obligations in
18 effect and no plans to engage in the business of insurance;
19 (ii) receipt of a lawful resolution of the company's board of
20 directors effecting the surrender of its articles of
21 incorporation for administrative dissolution by the Director;
22 and (iii) receipt of the name and forwarding address for each
23 of the final officers and directors of the company, together
24 with a plan of dissolution approved by the Director.

1 (b) All deposits by insurers subject to this Article must
2 be limited to the following types:

3 (1) United States government bonds, notes, and bills
4 for which the full faith and credit of the government of
5 the United States is pledged for the payment of principal
6 and interest.

7 (2) United States public bonds and notes of any state
8 or of the District of Columbia, or Canadian public bonds
9 and notes of any province thereof, for which the full faith
10 and credit of the issuer has been pledged for the payment
11 of principal and interest.

12 (3) United States and Canadian county, provincial,
13 municipal, and district bonds and notes for which the
14 issuer has lawful authority to levy taxes or make
15 assessments for the payment of principal and interest.

16 (4) Bonds and notes of any federal agency that are
17 guaranteed as to payment of principal and interest by the
18 United States.

19 (5) International development bank bonds, bonds issued
20 by the State of Israel and sold through the Development
21 Corporation for Israel or its successor entities, and notes
22 issued, assumed, and guaranteed by the International Bank
23 for Reconstruction and Development, the Inter-American
24 Development Bank, the Asian Development Bank, the African
25 Development Bank, or the International Finance
26 Corporation.

1 (6) Corporate bonds and notes of any private
2 corporations that are not affiliates or subsidiaries of the
3 insurer, which corporations are organized under the laws of
4 the United States, Canada, any state, the District of
5 Columbia, any territory or possession of the United States,
6 or any province of Canada.

7 (7) Certificates of deposit.

8 (c) To be eligible for deposit under subsection (b), any
9 bond or note must have the following characteristics:

10 (1) The bond or note must be interest-bearing or
11 interest-accruing, and the insurer must be the exclusive
12 owner of the interest accruing thereon and entitled to
13 receive the interest for its account.

14 (2) The issuer must be in a solvent financial condition
15 and the bond or note must not be in default.

16 (3) The bond, note, or debt of the issuing country must
17 be rated in one of the 4 highest classifications by an
18 established, nationally recognized investment rating
19 service or must have been given a rating of 1 by the
20 Securities Valuation Office of the National Association of
21 Insurance Commissioners.

22 (4) The market value of the bond or note must be
23 readily ascertainable or the value of the bond or note must
24 be obtainable by the insurer or its custodian from the
25 issuer's fiscal agent.

26 (5) The bond or note must be the direct obligation of

1 the issuer.

2 (6) The bond or note must be stated in United States
3 dollar denominations.

4 (7) The bond or note must be eligible for book-entry
5 form on the books of the Federal Reserve's book-entry
6 system or in a depository trust clearing system or on the
7 books of the issuer's transfer agent or evidenced by a
8 certificate delivered to the insurer or its custodian.

9 (d) To be eligible for deposit under item (7) of subsection
10 (b), a certificate of deposit must have the following
11 characteristics:

12 (1) The certificate of deposit must be issued by a
13 bank, savings bank, or savings association that is
14 organized under the laws of the United States, of this
15 State, or of any other state and that has a principal
16 office or branch office in this State that is authorized to
17 receive deposits in this State.

18 (2) The certificate of deposit must be
19 interest-bearing and may not be issued in discounted form.

20 (3) The certificate of deposit must be issued for a
21 period of not less than one year.

22 (4) The issuing bank, savings bank, or savings
23 association must agree to the terms and conditions of the
24 Director regarding the rights to the certificate of deposit
25 and must have executed a written certificate of deposit
26 agreement with the Director. The terms and conditions of

1 the agreement shall include, but need not be limited to:

2 (A) Exclusive authorized signature authority for
3 the chief financial officer.

4 (B) An agreement to pay, without protest, the
5 proceeds of its certificate of deposit to the Director
6 within 30 business days after presentation.

7 (C) A prohibition against levies, setoffs,
8 survivorship, or other conditions that might hinder
9 the Director's ability to recover the full face value
10 of a certificate of deposit.

11 (D) Instructions regarding interest payments,
12 renewals, taxpayer identification, and early
13 withdrawal penalties.

14 (E) An agreement to be subject to the jurisdiction
15 of the courts of this State, or those of the United
16 States that are located in this State, for the purposes
17 of any litigation arising out of this Section.

18 (F) Such other conditions as the Director
19 requires.

20 (e) The Director may refuse to accept certain securities or
21 refuse to accept the reported market value of certain
22 securities offered pursuant to this Section in order to ensure
23 that sufficient cash and securities are on hand to meet the
24 purposes of the deposit. In making a refusal under this
25 subsection (e), the guidelines for use of the Director may
26 include, but need not be limited to, whether the market value

1 of the securities cannot be readily ascertained and the lack of
2 liquidity of the securities. Securities refused under this
3 subsection (e) are not acceptable as deposits.

4 (f) All deposits required of a domestic insurer pursuant to
5 the laws of another state, province, or country must be
6 comprised of securities of the kinds required under subsection
7 (b), having the characteristics required under subsections (c)
8 and (d), and permitted by the laws of the other state,
9 province, or country, except common stocks, mortgages or loans
10 of any kind, real estate investment trust funds or programs,
11 commercial paper, and letters of credit.

12 (Source: P.A. 98-110, eff. 1-1-14.)

13 (215 ILCS 5/53) (from Ch. 73, par. 665)

14 (Section scheduled to be repealed on January 1, 2017)

15 Sec. 53. Deposit.

16 (a) A company subject to the provisions of this Article
17 shall make and maintain with the Director for the protection of
18 all creditors, policyholders and policy obligations of the
19 company, a deposit of securities ~~which are authorized~~
20 ~~investments under Section 126.11A(1), 126.11A(2), 126.24A(1),~~
21 ~~or 126.24A(2)~~ having a fair market value equal to the minimum
22 surplus required to be maintained under Section 43. The
23 Director may release the required deposit of securities upon
24 receipt of an order of a court having proper jurisdiction or
25 upon: (i) certification by the company that it has no

1 outstanding creditors, policyholders, or policy obligations in
2 effect and no plans to engage in the business of insurance;
3 (ii) receipt of a lawful resolution of the company's board of
4 directors effecting the surrender of its articles of
5 incorporation for administrative dissolution by the Director;
6 and (iii) receipt of the name and forwarding address for each
7 of the final officers and directors of the company, together
8 with a plan of dissolution approved by the Director.

9 (b) All deposits by insurers subject to this Article must
10 be limited to the following types:

11 (1) United States government bonds, notes, and bills
12 for which the full faith and credit of the government of
13 the United States is pledged for the payment of principal
14 and interest.

15 (2) United States public bonds and notes of any state
16 or of the District of Columbia, or Canadian public bonds
17 and notes of any province thereof, for which the full faith
18 and credit of the issuer has been pledged for the payment
19 of principal and interest.

20 (3) United States and Canadian county, provincial,
21 municipal, and district bonds and notes for which the
22 issuer has lawful authority to levy taxes or make
23 assessments for the payment of principal and interest.

24 (4) Bonds and notes of any federal agency that are
25 guaranteed as to payment of principal and interest by the
26 United States.

1 (5) International development bank bonds, bonds issued
2 by the State of Israel and sold through the Development
3 Corporation for Israel or its successor entities, and notes
4 issued, assumed, and guaranteed by the International Bank
5 for Reconstruction and Development, the Inter-American
6 Development Bank, the Asian Development Bank, the African
7 Development Bank, or the International Finance
8 Corporation.

9 (6) Corporate bonds and notes of any private
10 corporations that are not affiliates or subsidiaries of the
11 insurer, which corporations are organized under the laws of
12 the United States, Canada, any state, the District of
13 Columbia, any territory or possession of the United States,
14 or any province of Canada.

15 (7) Certificates of deposit.

16 (c) To be eligible for deposit under subsection (b), any
17 bond or note must have the following characteristics:

18 (1) The bond or note must be interest-bearing or
19 interest-accruing, and the insurer must be the exclusive
20 owner of the interest accruing thereon and entitled to
21 receive the interest for its account.

22 (2) The issuer must be in a solvent financial condition
23 and the bond or note must not be in default.

24 (3) The bond, note, or debt of the issuing country must
25 be rated in one of the 4 highest classifications by an
26 established, nationally recognized investment rating

1 service or must have been given a rating of 1 by the
2 Securities Valuation Office of the National Association of
3 Insurance Commissioners.

4 (4) The market value of the bond or note must be
5 readily ascertainable or the value of the bond or note must
6 be obtainable by the insurer or its custodian from the
7 issuer's fiscal agent.

8 (5) The bond or note must be the direct obligation of
9 the issuer.

10 (6) The bond or note must be stated in United States
11 dollar denominations.

12 (7) The bond or note must be eligible for book-entry
13 form on the books of the Federal Reserve's book-entry
14 system or in a depository trust clearing system or on the
15 books of the issuer's transfer agent or evidenced by a
16 certificate delivered to the insurer or its custodian.

17 (d) To be eligible for deposit under item (7) of subsection
18 (b), a certificate of deposit must have the following
19 characteristics:

20 (1) The certificate of deposit must be issued by a
21 bank, savings bank, or savings association that is
22 organized under the laws of the United States, of this
23 State, or of any other state and that has a principal
24 office or branch office in this State that is authorized to
25 receive deposits in this State.

26 (2) The certificate of deposit must be

1 interest-bearing and may not be issued in discounted form.

2 (3) The certificate of deposit must be issued for a
3 period of not less than one year.

4 (4) The issuing bank, savings bank, or savings
5 association must agree to the terms and conditions of the
6 Director regarding the rights to the certificate of deposit
7 and must have executed a written certificate of deposit
8 agreement with the Director. The terms and conditions of
9 the agreement shall include, but need not be limited to:

10 (A) Exclusive authorized signature authority for
11 the chief financial officer.

12 (B) An agreement to pay, without protest, the
13 proceeds of its certificate of deposit to the Director
14 within 30 business days after presentation.

15 (C) A prohibition against levies, setoffs,
16 survivorship, or other conditions that might hinder
17 the Director's ability to recover the full face value
18 of a certificate of deposit.

19 (D) Instructions regarding interest payments,
20 renewals, taxpayer identification, and early
21 withdrawal penalties.

22 (E) An agreement to be subject to the jurisdiction
23 of the courts of this State, or those of the United
24 States that are located in this State, for the purposes
25 of any litigation arising out of this Section.

26 (F) Such other conditions as the Director

1 requires.

2 (e) The Director may refuse to accept certain securities or
3 refuse to accept the reported market value of certain
4 securities offered pursuant to this Section in order to ensure
5 that sufficient cash and securities are on hand to meet the
6 purposes of the deposit. In making a refusal under this
7 subsection (e), the guidelines for use of the Director may
8 include, but need not be limited to, whether the market value
9 of the securities cannot be readily ascertained and the lack of
10 liquidity of the securities. Securities refused under this
11 subsection (e) are not acceptable as deposits.

12 (f) All deposits required of a domestic insurer pursuant to
13 the laws of another state, province, or country must be
14 comprised of securities of the kinds required under subsection
15 (b), having the characteristics required under subsections (c)
16 and (d), and permitted by the laws of the other state,
17 province, or country, except common stocks, mortgages or loans
18 of any kind, real estate investment trust funds or programs,
19 commercial paper, and letters of credit.

20 (Source: P.A. 98-110, eff. 1-1-14.)

21 (215 ILCS 5/174) (from Ch. 73, par. 786)

22 Sec. 174. Kinds of agreements requiring approval.

23 (1) The following kinds of reinsurance agreements shall not
24 be entered into by any domestic company unless such agreements
25 are approved in writing by the Director:

1 (a) Agreements of reinsurance of any such company
2 transacting the kind or kinds of business enumerated in Class 1
3 of Section 4, or as a Fraternal Benefit Society under Article
4 XVII, a Mutual Benefit Association under Article XVIII, a
5 Burial Society under Article XIX or an Assessment Accident and
6 Assessment Accident and Health Company under Article XXI, cedes
7 previously issued and outstanding risks to any company, or
8 cedes any risks to a company not authorized to transact
9 business in this State, or assumes any outstanding risks on
10 which the aggregate reserves and claim liabilities exceed 20
11 percent of the aggregate reserves and claim liabilities of the
12 assuming company, as reported in the preceding annual
13 statement, for the business of either life or accident and
14 health insurance.

15 (b) Any agreement or agreements of reinsurance whereby any
16 company transacting the kind or kinds of business enumerated in
17 either Class 2 or Class 3 of Section 4 cedes to any company or
18 companies at one time, or during a period of six consecutive
19 months more than twenty per centum of the total amount of its
20 previously retained unearned premium reserve liability.

21 (c) (Blank). ~~Any agreement or agreements of reinsurance~~
22 ~~whereby any company transacting the kind or kinds of business~~
23 ~~enumerated in either Class 2 or 3 of section 4 except Class~~
24 ~~2(a) cedes any outstanding risks to a stock company with less~~
25 ~~than \$2,000,000 in capital and surplus or to a mutual or~~
26 ~~reciprocal company with less than \$2,000,000 in surplus.~~

1 (2) An agreement which is not disapproved by the Director
2 within thirty days after its submission shall be deemed
3 approved.

4 (Source: P.A. 82-626.)

5 (215 ILCS 5/245.1) (from Ch. 73, par. 857.1)

6 Sec. 245.1. Assignability of Life Insurance.

7 No provision of the Illinois Insurance Code, or any other
8 law prohibits an insured under any policy of life insurance, or
9 any other person who may be the owner of any rights under such
10 policy, from making an assignment of all or any part of his
11 rights and privileges under the policy including but not
12 limited to the right to designate a beneficiary thereunder and
13 to have an individual policy issued in accordance with
14 paragraphs (G), (H), and (K) of Section 231.1 ~~(d) and (g) of~~
15 ~~Section 231~~ of the Illinois Insurance Code. Subject to the
16 terms of the policy or any contract relating thereto, an
17 assignment by an insured or by any other owner of rights under
18 the policy, made before or after the effective date of this
19 amendatory Act of 1969 is valid for the purpose of vesting in
20 the assignee, in accordance with any provisions included
21 therein as to the time at which it is effective, all rights and
22 privileges so assigned. However, such assignment is without
23 prejudice to the company on account of any payment it makes or
24 individual policy it issues in accordance with paragraphs (d)
25 and (g) of Section 231 before receipt of notice of the

1 assignment. This amendatory Act of 1969 acknowledges, declares
2 and codifies the existing right of assignment of interests
3 under life insurance policies.

4 (Source: P.A. 76-1443.)

5 (215 ILCS 5/Art. V.5 rep.)

6 (215 ILCS 5/Art. XVI rep.)

7 (215 ILCS 5/Art. XVIII rep.)

8 (215 ILCS 5/Art. XIXB rep.)

9 (215 ILCS 5/155.39 rep.)

10 (215 ILCS 5/178 rep.)

11 (215 ILCS 5/359b rep.)

12 (215 ILCS 5/359c rep.)

13 Section 15. The Illinois Insurance Code is amended by
14 repealing Articles V 1/2, XVI, XVIII, and XIXB and Sections
15 155.39, 178, 359b, and 359c.

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