

SB3404



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3404

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

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code in relation to fraternal benefit societies. Adds the Fraternal Benefit Society Guaranty Association Law to the Code as a new Article to provide for the protection of members of fraternal benefit societies in the event of impairment or insolvency. Provides that a fraternal benefit society must be governed by a board of directors and managed by qualified officers. Sets the permissible number of directors and establishes certain qualifications. Authorizes the Director of Insurance to take action when a society is or may become insolvent. Creates the Illinois Fraternal Benefit Society Guaranty Association and requires participation by societies and others authorized to transact business in Illinois. Sets forth the powers and duties of the Association. Defines terms.

LRB098 19017 RPM 54167 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 Illinois Insurance Code is amended by
5 changing Sections 286.1, 294.1, 297.1, 300.1, 307.1, and 315.6
6 and by adding Section 295.2 and Article XVII 1/2 as follows:

7 (215 ILCS 5/286.1) (from Ch. 73, par. 898.1)

8 (Section scheduled to be repealed on January 1, 2017)

9 Sec. 286.1. Purposes and Powers.

10 (a) A society shall operate for the benefit of members and
11 their beneficiaries by:

12 (1) Providing benefits as specified in Section 297.1 of
13 this amendatory Act; and

14 (2) Operating for one or more social, intellectual,
15 educational, charitable, benevolent, moral, fraternal,
16 patriotic or religious purposes for the benefit of its
17 members, which may also be extended to others. Such
18 purposes may be carried out directly by the society or
19 indirectly through subsidiary corporations or affiliated
20 organizations.

21 (b) Every society shall have the power to adopt laws and
22 rules for the government of the society, the admission of its
23 members and the management of its affairs. It shall have the

1 power to change, alter, add to or amend such laws and rules and
2 shall have such other powers as are necessary and incidental to
3 carrying into effect the objects and purposes of the society.

4 (c) A society that provides any of the benefits specified
5 in Section 297.1 of this Code must be governed by a board of
6 directors and managed by qualified officers. The directors
7 shall have the powers and perform the duties ordinarily
8 possessed and exercised by a board of directors under this
9 Code. A board of directors shall be composed of not less than 3
10 nor more than 21 natural persons who are members of the society
11 holding covered benefit certificates and who are at least 18
12 years of age and at least 3 of whom are residents and citizens
13 of this State. After the effective date of this amendatory Act
14 of the 98th General Assembly, at least 20%, but not fewer than
15 one, of the directors shall be persons who are not officers or
16 employees of the society. A person convicted of a felony may
17 not be a director or an officer, and all directors and officers
18 shall be of good character and known professional,
19 administrative, or business ability. The known business
20 ability shall include a practical knowledge of insurance,
21 finance, or investment. The board of directors shall be elected
22 annually by the holders of covered benefit certificates.
23 Notwithstanding the foregoing, the Director may replace any
24 society director or officer if that individual does not meet
25 the standards and qualifications described in this subsection
26 (c) or it is deemed to be in the best interests of the

1 society's members.

2 (Source: P.A. 84-303.)

3 (215 ILCS 5/294.1) (from Ch. 73, par. 906.1)

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

5 Sec. 294.1. Reinsurance.

6 (a) A domestic society may enter into reinsurance
7 transactions only in accordance with Article XI of this Code.

8 (b) A domestic society may reinsure the risks of another
9 society in connection with a merger transaction with approval
10 by the Director.

11 (Source: P.A. 84-303.)

12 (215 ILCS 5/295.2 new)

13 Sec. 295.2. Maintenance of solvency. If a domestic society
14 has an authorized control level event described in Section
15 35A-25 of this Code under circumstances the Director determines
16 will not be promptly remedied, the Director may, in addition to
17 all other actions required or permitted by subsection (b) of
18 Section 35A-25 of this Code, issue an order declaring the
19 domestic society to be in hazardous condition and ordering that
20 all steps be taken to remedy the condition pursuant to this
21 Section. In such event:

22 (1) The domestic society may negotiate an agreement to
23 transfer all members, certificates, and other assets and
24 liabilities of the society to another organization through

1 merger, consolidation, assumption, or other means. The
2 transfer shall be concluded within the timeframe
3 established by the Director and subject to approval by the
4 Director. The transfer agreement shall be deemed fully
5 approved by the domestic society upon a majority vote of
6 its board of directors. The transfer shall be effective
7 notwithstanding the provisions of Section 295.1 of this
8 Code or any other law or rule, or laws of the domestic
9 society requiring another form of notice to or approval by
10 members, which shall be superseded by this Section.

11 (2) In the event of a transfer under this Section to an
12 organization without a certificate of authority in this
13 State, the Director may grant a limited certificate of
14 authority to the organization, upon request, if the
15 organization does not apply for and obtain a certificate of
16 authority to transact business in this State. The limited
17 certificate of authority shall grant the organization the
18 authority to service the certificates following the
19 transfer and fulfill all obligations owed to certificate
20 holders but not the authority to otherwise transact
21 insurance business in this State.

22 (3) The board of directors of a domestic society may
23 suspend or modify its qualifications for membership as
24 necessary or appropriate to facilitate a transfer under
25 this Section, notwithstanding the laws of the society or
26 any other law or rule to the contrary.

1 (215 ILCS 5/297.1) (from Ch. 73, par. 909.1)

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

3 Sec. 297.1. Benefits.

4 (a) A society may provide the following contractual
5 benefits in any form:

6 (1) Death benefits;

7 (2) Endowment benefits;

8 (3) Annuity benefits;

9 (4) Temporary or permanent disability benefits;

10 (5) Hospital, medical or nursing benefits;

11 (6) Monument or tombstone benefits to the memory of
12 deceased members; and

13 (7) Such other benefits as authorized for life insurers
14 and which are not inconsistent with this amendatory Act.

15 (b) A society shall specify in its rules those persons who
16 may be issued, or covered by, the contractual benefits in
17 subsection (a), consistent with providing benefits to members
18 and their dependents. A society may provide benefits on the
19 lives of children under the minimum age for adult membership
20 upon application of an adult person.

21 (c) A society must provide written notice to its members
22 and obtain a signed acknowledgement of receipt in connection
23 with the provision or issuance of any benefits not subject to
24 guaranty association coverage that such benefits do not qualify
25 for protection by a guaranty association. The form of such

1 notice is subject to the prior approval of the Director.

2 (Source: P.A. 84-303.)

3 (215 ILCS 5/300.1) (from Ch. 73, par. 912.1)

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

5 Sec. 300.1. The Benefit Contract.

6 (a) Every society authorized to do business in this State
7 shall issue to each owner of a benefit contract a certificate
8 specifying the amount of benefits provided thereby. The
9 certificate, together with any riders or endorsements attached
10 thereto, the laws of the society, the application for
11 membership, the application for insurance and declaration of
12 insurability, if any, signed by the applicant and all
13 amendments to each thereof shall constitute the benefit
14 contract, as of the date of issuance, between the society and
15 the owner, and the certificate shall so state. A copy of the
16 application for insurance and declaration of insurability, if
17 any, shall be endorsed upon or attached to the certificate. All
18 statements on the application shall be representations and not
19 warranties. Any waiver of this provision shall be void.

20 (b) Any changes, additions or amendments to the laws of the
21 society duly made or enacted subsequent to the issuance of the
22 certificate shall bind the owner and the beneficiaries and
23 shall govern and control the benefit contract in all respects
24 the same as though such changes, additions or amendments had
25 been made prior to and were in force at the time of the

1 application for insurance, except that no change, addition or
2 amendment shall destroy or diminish benefits which the society
3 contracted to give the owner as of the date of issuance.

4 (c) Any person upon whose life a benefit contract is issued
5 prior to attaining the age of majority shall be bound by the
6 terms of the application and certificate and by all the laws
7 and rules of the society to the same extent as though the age
8 of majority had been attained at the time of application.

9 (d) A society shall provide in its laws and its
10 certificates that, if its reserves as to all or any class of
11 certificates become impaired, its board of directors or
12 corresponding body may require that there shall be paid by the
13 owner to the society an assessment in the amount of the owner's
14 equitable proportion of such deficiency as ascertained by its
15 board, and that, if the payment is not made, either (1) it
16 shall stand as an indebtedness against the certificate and draw
17 interest not to exceed the rate specified for certificate loans
18 under the certificates; or (2) in lieu of or in combination
19 with (1), the owner may accept a proportionate reduction in
20 benefits under the certificate. In no event, however, may an
21 assessment obligation be forgiven by the society in lieu of
22 collection or reduction in benefits. The society may specify
23 the manner of the election and which alternative is to be
24 presumed if no election is made. No such assessment shall take
25 effect unless a 30-day notification has been provided to the
26 Director, who shall have the ability to disapprove the

1 assessment only if the Director finds that the assessment is
2 not in the best interests of the benefit members of the
3 domestic society. Disapproval by the Director shall be made
4 within 30 days after receipt of notice and shall be in writing
5 and mailed to the domestic society. If the Director disapproves
6 the assessment, the reasons therefore shall be stated in the
7 written notice.

8 (e) Copies of any of the documents mentioned in this
9 Section, certified by the secretary or corresponding officer of
10 the society, shall be received in evidence of the terms and
11 conditions thereof.

12 (f) No certificate shall be delivered or issued for
13 delivery in this State unless a copy of the form has been filed
14 with the Director in the manner provided for like policies
15 issued by life insurers in this State. Every life, accident,
16 health or disability insurance certificate and every annuity
17 certificate issued on or after one year from the effective date
18 of this amendatory Act shall meet the standard contract
19 provision requirements not inconsistent with this amendatory
20 Act for like policies issued by life insurers in this State
21 except that a society may provide for a grace period for
22 payment of premiums of one full month in its certificates. The
23 certificate shall also contain a provision stating the amount
24 of premiums which are payable under the certificate and a
25 provision reciting or setting forth the substance of any
26 sections of the society's laws or rules in force at the time of

1 issuance of the certificate which, if violated, will result in
2 the termination or reduction of benefits payable under the
3 certificate. If the laws of the society provide for expulsion
4 or suspension of a member, the certificate shall also contain a
5 provision that any member so expelled or suspended, except for
6 nonpayment of a premium or within the contestable period for
7 material misrepresentation in the application for membership
8 or insurance, shall have the privilege of maintaining the
9 certificate in force by continuing payment of the required
10 premium.

11 (g) Benefit contracts issued on the lives of persons below
12 the society's minimum age for adult membership may provide for
13 transfer of control or ownership to the insured at an age
14 specified in the certificate. A society may require approval of
15 an application for membership in order to effect this transfer
16 and may provide in all other respect for the regulation,
17 government and control of such certificates and all rights,
18 obligations and liabilities incident thereto and connected
19 therewith. Ownership rights prior to such transfer shall be
20 specified in the certificate.

21 (h) A society may specify the terms and conditions on which
22 benefit contracts may be assigned.

23 (Source: P.A. 84-303.)

24 (215 ILCS 5/307.1) (from Ch. 73, par. 919.1)

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

1 Sec. 307.1. Annual License. Societies which were
2 authorized to transact business in this State prior to the
3 effective date of this amendatory Act may continue such
4 business until the first day of July next succeeding the
5 effective date of this amendatory Act. The authority of such
6 societies and all societies hereafter issued certificates of
7 authority may thereafter be renewed annually, but in all cases
8 to terminate on the first day of the succeeding July. A
9 certified copy or duplicate of such certificate of authority
10 shall be prima facie evidence that the licensee is a fraternal
11 benefit society within the meaning of this amendatory Act. No
12 new certificates of authority to provide benefits specified in
13 Section 297.1 of this Code shall be issued after the effective
14 date of this amendatory Act of the 98th General Assembly.

15 (Source: P.A. 84-303.)

16 (215 ILCS 5/315.6) (from Ch. 73, par. 927.6)

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

18 Sec. 315.6. Application of other Code provisions. Unless
19 otherwise provided in this amendatory Act, every fraternal
20 benefit society shall be governed by this amendatory Act and
21 shall be exempt from all other provisions of the insurance laws
22 of this State not only in governmental relations with the State
23 but for every other purpose, except for those provisions
24 specified in this amendatory Act and except as follows:

25 (a) Sections 1, 2, 2.1, 3.1, 117, 118, 132, 132.1,

1 132.2, 132.3, 132.4, 132.5, 132.6, 132.7, 133, 134, 136,
2 138, 139, 140, 141, 141.01, 141.1, 141.2, 141.3, 143, 143c,
3 144.1, 147, 148, 149, 150, 151, 152, 153, 154.5, 154.6,
4 154.7, 154.8, 155, 155.04, 155.05, 155.06, 155.07, 155.08
5 and 408 of this Code; and

6 (b) Articles VIII 1/2, XII, XII 1/2, XIII, XIII 1/2,
7 XXIV, and XXVIII of this Code.

8 (Source: P.A. 88-364; 89-97, eff. 7-7-95.)

9 (215 ILCS 5/Art. XVII.5 heading new)

10 ARTICLE XVII 1/2. FRATERNAL BENEFIT SOCIETY GUARANTY
11 ASSOCIATION

12 (215 ILCS 5/315a.1 new)

13 Sec. 315a.1. Short title. This Article may be cited as the
14 Fraternal Benefit Society Guaranty Association Law.

15 (215 ILCS 5/315a.5 new)

16 Sec. 315a.5. Purpose. The purpose of this Article is to
17 protect members of fraternal benefit societies who reside in
18 this State and their beneficiaries, payees, and assignees,
19 subject to certain limitations, against failure in the
20 performance of contractual obligations due to the impairment or
21 insolvency of their society. Nonresident members of such
22 societies shall be protected by the Association established
23 under this Article if: (1) they reside in states that have an

1 association similar to the Association created by this Article;
2 (2) they are not eligible for coverage by such association; (3)
3 such society never held a license or certificate of authority
4 in such states; and (4) such society was domiciled in this
5 State. To provide this protection, (i) an association of
6 fraternal benefit societies is created to enable the guaranty
7 of payment of benefits and of continuation of coverages, (ii)
8 members of the Association are subject to assessment to provide
9 funds to carry out the purpose of this Article, and (iii) the
10 Association is authorized to assist the Director, in the
11 prescribed manner, in the detection and prevention of fraternal
12 benefit society impairments or insolvencies.

13 (215 ILCS 5/315a.10 new)

14 Sec. 315a.10. Scope. This Article applies to any benefits
15 issued under Article XVII of this Code.

16 (215 ILCS 5/315a.15 new)

17 Sec. 315a.15. Construction. This Article shall be
18 construed to effect the purpose set forth in Section 315a.5 of
19 this Code.

20 (215 ILCS 5/315a.20 new)

21 Sec. 315a.20. Definitions. As used in this Article:

22 "Association" means the Illinois Fraternal Benefit Society
23 Guaranty Association created under Section 315a.25 of this

1 Code.

2 "Director" means the Director of Insurance.

3 "Contractual obligation" means an obligation of the member
4 fraternal benefit society under benefit contracts issued under
5 Article XVII of this Code.

6 "Covered person" means a fraternal benefit society member
7 who is entitled to the protection of the Association as
8 described in Section 315a.5 of this Code.

9 "Covered benefit certificate" means any benefit
10 certificate, contract, or other evidence of coverage within the
11 scope of this Article under Section 315a.10 of this Code.

12 "Fund" means the fund created under Section 315a.25 of this
13 Code.

14 "Impaired organization" means a member organization deemed
15 by the Director after the effective date of this amendatory Act
16 of the 98th General Assembly to be potentially unable to
17 fulfill its contractual obligations, and not an insolvent
18 organization.

19 "Insolvent organization" means a member organization that
20 becomes insolvent and is placed under a final order of
21 liquidation or rehabilitation by a court of competent
22 jurisdiction.

23 "Member" means a person who is licensed or holds a
24 certificate of authority to transact in this State any kind of
25 business to which this Article applies under Section 315a.10 of
26 this Code. "Member" includes a person whose certificate of

1 authority may have been suspended pursuant to any provision of
2 this Code.

3 "Premiums" mean direct gross premiums received on covered
4 benefit contracts.

5 "Person" means an individual, corporation, partnership,
6 association, fraternal benefit society, or voluntary
7 organization.

8 "Resident" means a person who resides in this State at the
9 time the organization is issued a notice of impairment by the
10 Director or at the time a complaint for liquidation or
11 rehabilitation is filed and to whom contractual obligations are
12 owed. A person may be a resident of only one state which, in
13 the case of a person other than a natural person, shall be its
14 principal place of business.

15 (215 ILCS 5/315a.25 new)

16 Sec. 315a.25. Creation of the Association. There is created
17 a not-for-profit legal entity to be known as the Illinois
18 Fraternal Benefit Society Guaranty Association. All member
19 organizations are and must remain members of the Association as
20 a condition of their authority to transact business in this
21 State. The Association must perform its functions under the
22 plan of operation established and approved under Section
23 315a.45 of this Code and must exercise its powers through a
24 board of directors established under Section 315a.30 of this
25 Code. For purposes of administration and assessment, the

1 Association must maintain the Fraternal Benefit Society Fund.
2 The Association shall be supervised by the Director and is
3 subject to this Article and any other applicable provisions of
4 this Code.

5 (215 ILCS 5/315a.30 new)

6 Sec. 315a.30. Board of directors.

7 The board of directors of the Association shall consist of
8 not fewer than 7 nor more than 11 members serving terms as
9 established in the plan of operation. The Director shall name 2
10 members to the board and the member organizations, subject to
11 the approval of the Director, shall select the remaining
12 members of the board. Vacancies on the board must be filled for
13 the remaining period of the term in the manner described in the
14 plan of operation. To select the initial board of directors and
15 initially organize the Association, the Director must give
16 notice to all member organizations of the time and place of the
17 organizational meeting. In determining voting rights at the
18 organizational meeting, each member organization is entitled
19 to one vote in person or by proxy. If the board of directors is
20 not selected at the organizational meeting, then the Director
21 may appoint the initial members.

22 In approving selections or in appointing members to the
23 board, the Director must consider whether all member
24 organizations are fairly represented.

25 Members of the board may be reimbursed from the assets of

1 the Association for expenses incurred by them as members of the
2 board of directors, but members of the board may not otherwise
3 be compensated by the Association for their services.

4 (215 ILCS 5/315A.35 new)

5 Sec. 315A.35. Powers and duties of the Association.

6 (a) In addition to the powers and duties enumerated in
7 other Sections of this Article, the Association shall have the
8 powers set forth in this Section.

9 (b) If a domestic society is impaired, the Association may,
10 subject to any conditions imposed by the Association other than
11 those that impair the contractual obligations of the impaired
12 society:

13 (1) guarantee, assume, or reinsure or cause to be
14 guaranteed, assumed, or reinsured any or all of the
15 contractual obligations to covered persons of the impaired
16 organization;

17 (2) provide such moneys, pledges, notes, guarantees,
18 or other means as are proper to effectuate paragraph (1) of
19 this subsection (b) and ensure payment of the contractual
20 obligations of the impaired organization pending action
21 under paragraph (1) of this subsection (b); and

22 (3) loan money to the impaired organization.

23 (c) If a domestic, foreign, or alien organization is an
24 insolvent organization, then the Association shall, subject to
25 the approval of the Director:

1 (1) guarantee, assume, indemnify, or reinsure or cause
2 to be guaranteed, assumed, indemnified, or reinsured the
3 contractual obligations to covered persons of the
4 insolvent organization;

5 (2) ensure payment of the contractual obligations of
6 the insolvent organization to covered persons;

7 (3) provide such moneys, pledges, notes, guaranties,
8 or other means necessary to discharge such duties.

9 (d) There shall be no liability on the part of and no cause
10 of action shall arise against the Association or against any
11 transferee from the Association in connection with the transfer
12 by reinsurance or otherwise of all or any part of an impaired
13 or insolvent organization's business by reason of any action
14 taken or any failure to take any action by the impaired or
15 insolvent organization at any time.

16 (e) If the Association fails to act within a reasonable
17 period of time as provided in subsection (c) of this Section
18 with respect to an insolvent organization, then the Director
19 shall have the powers and duties of the Association under this
20 Article with regard to such insolvent organization.

21 (f) The Association or its designated representatives may
22 render assistance and advice to the Director upon his or her
23 request concerning rehabilitation, payment of claims,
24 continuations of coverage, or the performance of other
25 contractual obligations of any impaired or insolvent
26 organization.

1 (g) The Association has standing to appear before any court
2 concerning all matters germane to the powers and duties of the
3 Association, including, but not limited to, proposals for
4 reinsuring or guaranteeing the covered health care plan
5 certificates of the impaired or insolvent organization and the
6 determination of the covered health care plan certificates and
7 contractual obligations.

8 (h) Any person receiving benefits under this Article is
9 deemed to have assigned the rights under their covered benefit
10 certificates to the Association to the extent of the benefits
11 received because of this Article, whether the benefits are
12 payments of contractual obligations or continuation of
13 coverage. The Association may require an assignment to it of
14 such rights by any payee, covered person, or beneficiary as a
15 condition precedent to the receipt of any rights or benefits
16 conferred by this Article upon such person. The Association is
17 subrogated to these rights against the assets of any insolvent
18 organization and against any other party who may be liable to
19 such payee, covered person, or beneficiary.

20 The subrogation rights of the Association under this
21 subsection (h) have the same priority against the assets of the
22 insolvent organization as that possessed by the person entitled
23 to receive benefits under this Article.

24 (i) The contractual obligations of the insolvent
25 organization for which the Association becomes or may become
26 liable are as great as, but no greater than, the contractual

1 obligations of the insolvent organization would have been in
2 the absence of an insolvency unless those obligations are
3 reduced as permitted by subsection (d) of this Section, but the
4 aggregate liability of the Association shall not exceed
5 \$250,000 with respect to any one natural person.

6 (j) The Association may do all of the following:

7 (1) Enter into such contracts as are necessary or
8 proper to carry out the provisions and purposes of this
9 Article.

10 (2) Sue or be sued, including taking any legal actions
11 necessary or proper for recovery of any unpaid assessments
12 under Section 315a.40 of this Code. The Association shall
13 not be liable for punitive or exemplary damages.

14 (3) Borrow money to effect the purposes of this
15 Article. Any notes or other evidence of indebtedness of the
16 Association not in default are legal investments for
17 domestic organizations and may be carried as admitted
18 assets.

19 (4) Employ or retain such persons as are necessary to
20 handle the financial transactions of the Association and to
21 perform such other functions as become necessary or proper
22 under this Article.

23 (5) Negotiate and contract with any liquidator,
24 rehabilitator, conservator, or ancillary receiver to carry
25 out the powers and duties of the Association.

26 (6) Take such legal action as may be necessary to avoid

1 payment of improper claims.

2 (7) Exercise, for the purposes of this Article and to
3 the extent approved by the Director, the powers of a
4 domestic organization, but in no case may the Association
5 issue evidence of coverage other than that issued to
6 perform the contractual obligations of the impaired or
7 insolvent organization.

8 (8) Exercise all the rights of the Director under
9 subsection (4) Section 193 of this Code with respect to
10 covered benefit certificates after the association becomes
11 obligated by statute.

12 (9) Request information from a person seeking coverage
13 from the Association in order to aid the Association in
14 determining its obligations under this Article with
15 respect to the person, and the person shall promptly comply
16 with the request.

17 (10) Take other necessary or appropriate action to
18 discharge its duties and obligations under this Article or
19 to exercise its powers under this Article.

20 (k) The obligations of the Association under this Article
21 shall not relieve any reinsurer, insurer, or other person of
22 its obligations to the insolvent organization (or its
23 conservator, rehabilitator, liquidator, or similar official)
24 or its covered benefit certificate holder, including without
25 limitation any reinsurer, insurer, or other person liable to
26 the insolvent insurer (or its conservator, rehabilitator,

1 liquidator, or similar official).

2 (l) The Association shall be entitled to collect premiums
3 due under or with respect to covered benefit certificates for a
4 period from the date on which the domestic, foreign, or alien
5 organization became an insolvent organization until the
6 Association no longer has obligations under subsection (c) of
7 this Section with respect to such certificates. The
8 Association's obligations under subsection (c) of this Section
9 with respect to any covered benefit certificates shall
10 terminate in the event that all such premiums due under or with
11 respect to such covered benefit certificates are not paid to
12 the Association (1) within 30 days after the Association's
13 demand therefor or (2) in the event that such certificates
14 provide for a longer grace period for payment of premiums after
15 notice of non-payment or demand therefor, within the lesser of
16 (i) the period provided for in such certificates or (ii) 60
17 days.

18 (m) The board of directors of the Association shall have
19 discretion and may exercise reasonable business judgment to
20 determine the means by which the Association is to provide the
21 benefits of this Article in an economical and efficient manner.

22 (n) When the Association has arranged or offered to provide
23 the benefits of this Article to a covered person under a plan
24 or arrangement that fulfills the Association's obligations
25 under this Article, the person shall not be entitled to
26 benefits from the Association in addition to or other than

1 those provided under the plan or arrangement.

2 (o) Venue in a suit against the Association arising under
3 the Article shall be in Cook County, Illinois. The Association
4 shall not be required to give any appeal bond in an appeal that
5 relates to a cause of action arising under this Article.

6 (215 ILCS 5/315A.40 new)

7 Sec. 315A.40. Assessments.

8 (a) For the purpose of providing the funds necessary to
9 carry out the powers and duties of the Association, the board
10 of directors shall assess the members, at such times and for
11 such amounts as the board finds necessary. Assessments shall be
12 due no later than 30 days after written notice to the members
13 and shall accrue interest from the due date at such adjusted
14 rate as is established under Section 531.09 of this Code, and
15 such interest shall be compounded daily.

16 (b) There shall be 2 classes of assessments, as follows:

17 (1) Class A assessments shall be made for the purpose
18 of meeting administrative costs and other general expenses
19 and examinations conducted under the authority of the
20 Director.

21 (2) Class B assessments shall be made to the extent
22 necessary to carry out the powers and duties of the
23 Association under Section 315a.35 of this Code with regard
24 to an impaired or insolvent domestic organization or
25 insolvent foreign or alien organizations.

1 (c) The amount of any Class A assessment shall be
2 determined by the Board and may be made on a non-pro rata
3 basis.

4 Class B assessments against members shall be in the
5 proportion that the premiums received on covered benefit
6 certificates issued in this State by each assessed member on
7 covered benefit certificates for the calendar year preceding
8 the assessment bears to such premiums received on covered
9 benefit certificates issued in this State for the calendar year
10 preceding the assessment by all assessed members.

11 Assessments to meet the requirements of the Association
12 with respect to an impaired or insolvent organization shall not
13 be made until necessary to implement the purposes of this
14 Article. Classification of assessments under subsection (b) of
15 this Section and computations of assessments under this
16 subsection (c) shall be made with a reasonable degree of
17 accuracy, recognizing that exact determinations may not always
18 be possible.

19 (d) The Association may abate or defer, in whole or in
20 part, the assessment of a member if in the opinion of the board
21 payment of the assessment would endanger the ability of the
22 member to fulfill its contractual obligations.

23 The total of all assessments upon a member organization may
24 not in any one calendar year exceed 2% of the organization's
25 premiums in this State during the calendar year preceding the
26 assessment on the covered benefit certificates.

1 (e) If an assessment against a member organization is
2 abated or deferred, in whole or in part, because of the
3 limitations set forth in subsection (d) of this Section, the
4 amount by which such assessment is abated or deferred may be
5 assessed against the other member organizations in a manner
6 consistent with the basis for assessments set forth in this
7 Section. If the maximum assessment, together with the other
8 assets of the Association, does not provide in any one year an
9 amount sufficient to carry out the responsibilities of the
10 Association, then the necessary additional funds may be
11 assessed as soon thereafter as permitted by this Article.

12 (f) The board may, by an equitable method as established in
13 the plan of operation, refund to members in proportion to the
14 contribution of each organization, the amount by which the
15 assets of the fund exceed the amount the board finds is
16 necessary to carry out during the coming year the obligations
17 of the Association, including assets accruing from net realized
18 gains and income from investments. A reasonable amount may be
19 retained in the fund to provide moneys for the continuing
20 expenses of the Association and for future losses.

21 (g) An assessment is deemed to occur on the date upon which
22 the board votes the assessment. The board may defer calling the
23 payment of the assessment or may call for payment in one or
24 more installments.

25 (h) It is proper for a member, in determining its rates, to
26 consider the amount reasonably necessary to meet its assessment

1 obligations under this Article.

2 (i) The Association must issue to each organization paying
3 a Class B assessment under this Article a certificate of
4 contribution, in a form prescribed by the Director, for the
5 amount of the assessment so paid. All outstanding certificates
6 are of equal dignity and priority without reference to amounts
7 or dates of issue. A certificate of contribution may be shown
8 by the organization in its financial statement as an admitted
9 asset in such form and for such amount, if any, and period of
10 time as the Director may approve, provided the organization
11 shall in any event at its option have the right to show a
12 certificate of contribution as an asset at percentages of the
13 original face amount for calendar years as follows:

14 (1) 100% for the calendar year after the year of
15 issuance;

16 (2) 80% for the second calendar year after the year of
17 issuance;

18 (3) 60% for the third calendar year after the year of
19 issuance;

20 (4) 40% for the fourth calendar year after the year of
21 issuance;

22 (5) 20% for the fifth calendar year after the year of
23 issuance.

24 (j) The Association may request information of members in
25 order to aid in the exercise of its power under this Section,
26 and member organizations shall promptly comply with a request.

1 (215 ILCS 5/315A.45 new)

2 Sec. 315A.45. Plan of operation.

3 (a) The Association must submit to the Director a plan of
4 operation and any amendments thereto necessary or suitable to
5 ensure the fair, reasonable, and equitable administration of
6 the Association. The plan of operation and any amendments
7 thereto become effective upon approval in writing by the
8 Director.

9 (b) If the Association fails to submit a suitable plan of
10 operation within 120 days following the effective date of this
11 amendatory Act of the 98th General Assembly or if at any time
12 thereafter the Association fails to submit suitable amendments
13 to the plan, then the Director may, after notice and hearing,
14 adopt such reasonable rules as are necessary or advisable to
15 effectuate the provisions of this Article. The rules shall be
16 in force until modified by the Director or superseded by a plan
17 submitted by the Association and approved by the Director.

18 (c) All members must comply with the plan of operation. In
19 addition to requirements enumerated elsewhere in this Article
20 the plan of operation must:

21 (1) establish procedures for handling the assets of the
22 Association;

23 (2) establish the amount and method of reimbursing
24 members of the board of directors under Section 315a.30 of
25 this Code;

1 (3) establish regular places and times for meetings of
2 the board of directors;

3 (4) establish procedures for keeping records of all
4 financial transactions of the Association, its agents, and
5 the board of directors;

6 (5) establish the procedures whereby selections for
7 the board of directors shall be made and submitted to the
8 Director;

9 (6) establish any additional procedures for
10 assessments under Section 315a.40 of this Code; and

11 (7) contain additional provisions necessary or proper
12 for the execution of the powers and duties of the
13 Association.

14 (d) The plan of operation shall establish a procedure for
15 protest by any member of assessments made by the Association
16 pursuant to Section 315a.40 of this Code. Such procedures shall
17 require that:

18 (1) A member that wishes to protest all or part of an
19 assessment shall pay when due the full amount of the
20 assessment as set forth in the notice provided by the
21 Association. The payment shall be available to meet
22 Association obligations during the pendency of the protest
23 or any subsequent appeal. Payment shall be accompanied by a
24 statement in writing that the payment is made under protest
25 and setting forth a brief statement of the grounds for the
26 protest.

1 (2) Within 30 days following the payment of an
2 assessment under protest by any protesting member, the
3 Association must notify the member in writing of its
4 determination with respect to the protest unless the
5 Association notifies the member that additional time is
6 required to resolve the issues raised by the protest.

7 (3) In the event the Association determines that the
8 protesting member is entitled to a refund, the refund shall
9 be made within 30 days following the date upon which the
10 Association makes its determination.

11 (4) The decision of the Association with respect to a
12 protest may be appealed to the Director.

13 (5) In the alternative to rendering a decision with
14 respect to any protest based on a question regarding the
15 assessment base, the Association may refer the protests to
16 the Director for final decision with or without a
17 recommendation from the Association.

18 (6) Interest on any refund due a protesting member
19 shall be paid at the rate actually earned by the
20 Association.

21 (e) The plan of operation may provide that any or all
22 powers and duties of the Association, except those under
23 Section 315a.35 and Section 315a.40, may be delegated to a
24 corporation, association, or other organization that performs
25 or will perform functions similar to those of the Association
26 or its equivalent in 2 or more states. Such a corporation,

1 association, or organization shall be reimbursed for any
2 payments made on behalf of the Association and shall be paid
3 for its performance of any function of the Association. A
4 delegation under this subsection (e) shall take effect only
5 with the approval of both the board of directors and the
6 Director and may be made only to a corporation, association, or
7 organization that extends protection not substantially less
8 favorable and effective than that provided by this Article.

9 (215 ILCS 5/315A.50 new)

10 Sec. 315A.50. Voluntary dissolution. Upon application to
11 the Director, a domestic society may request that it be
12 dissolved and that its existence be terminated. The application
13 shall demonstrate that the applicant has satisfied its members'
14 certificate obligations or that it has transferred such
15 obligations to another organization, domestic or foreign, by
16 means of assumption or bulk reinsurance or otherwise, and that
17 the domestic society's supreme governing body has approved the
18 termination and dissolution. The application shall contain any
19 other information required by the Director. Any limitation
20 related to reinsurance by a domestic society shall not apply to
21 reinsurance entered into in conjunction with the transfer of
22 members' certificate obligations as a part of a voluntary
23 dissolution. Upon approval of the application by the Director,
24 the domestic society shall be deemed dissolved and its
25 existence terminated as of the date set forth in the

1 application.

2 (215 ILCS 5/310.1 rep.)

3 (215 ILCS 5/311.1 rep.)

4 Section 10. The Illinois Insurance Code is amended by

5 repealing Sections 310.1 and 311.1.

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3	215 ILCS 5/286.1	from Ch. 73, par. 898.1
4	215 ILCS 5/294.1	from Ch. 73, par. 906.1
5	215 ILCS 5/295.2 new	
6	215 ILCS 5/297.1	from Ch. 73, par. 909.1
7	215 ILCS 5/300.1	from Ch. 73, par. 912.1
8	215 ILCS 5/307.1	from Ch. 73, par. 919.1
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