



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2785

by Rep. David Reis

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/1204

from Ch. 73, par. 1065.904

Amends the Illinois Insurance Code. Removes provisions that specify what information property and casualty insurers must report to the Department of Insurance, except that property and casualty insurers must still report their direct writings in this State and companywide. Changes provisions requiring advisory groups on workers compensation to report their annual findings to the Director of Insurance (previously the Secretary of Financial and Professional Regulation). Makes other changes. Effective immediately.

LRB099 10358 MLM 30585 b

1 AN ACT concerning insurance.

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 Section 1204 as follows:

6 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

7 (Text of Section WITHOUT the changes made by P.A. 94-677,  
8 which has been held unconstitutional)

9 Sec. 1204. (A) The Director shall promulgate rules and  
10 regulations which shall require each insurer licensed to write  
11 property or casualty insurance in the State and each syndicate  
12 doing business on the Illinois Insurance Exchange to record and  
13 report its loss and expense experience and other data as may be  
14 necessary to assess the relationship of insurance premiums and  
15 related income as compared to insurance costs and expenses. The  
16 Director may designate one or more rate service organizations  
17 or advisory organizations to gather and compile such experience  
18 and data. The Director shall require each insurer licensed to  
19 write property or casualty insurance in this State and each  
20 syndicate doing business on the Illinois Insurance Exchange to  
21 submit a report, on a form furnished by the Director, showing  
22 its direct writings in this State and companywide.

23 ~~(B) Such report required by subsection (A) of this Section~~

1 ~~may include, but not be limited to, the following specific~~  
2 ~~types of insurance written by such insurer:~~

3 ~~(1) Political subdivision liability insurance reported~~  
4 ~~separately in the following categories:~~

5 ~~(a) municipalities;~~

6 ~~(b) school districts;~~

7 ~~(c) other political subdivisions;~~

8 ~~(2) Public official liability insurance;~~

9 ~~(3) Dram shop liability insurance;~~

10 ~~(4) Day care center liability insurance;~~

11 ~~(5) Labor, fraternal or religious organizations~~  
12 ~~liability insurance;~~

13 ~~(6) Errors and omissions liability insurance;~~

14 ~~(7) Officers and directors liability insurance~~  
15 ~~reported separately as follows:~~

16 ~~(a) non profit entities;~~

17 ~~(b) for profit entities;~~

18 ~~(8) Products liability insurance;~~

19 ~~(9) Medical malpractice insurance;~~

20 ~~(10) Attorney malpractice insurance;~~

21 ~~(11) Architects and engineers malpractice insurance;~~

22 ~~and~~

23 ~~(12) Motor vehicle insurance reported separately for~~  
24 ~~commercial and private passenger vehicles as follows:~~

25 ~~(a) motor vehicle physical damage insurance;~~

26 ~~(b) motor vehicle liability insurance.~~

1       ~~(C) Such report may include, but need not be limited to the~~  
2       ~~following data, both specific to this State and companywide, in~~  
3       ~~the aggregate or by type of insurance for the previous year on~~  
4       ~~a calendar year basis:~~

5               ~~(1) Direct premiums written;~~

6               ~~(2) Direct premiums earned;~~

7               ~~(3) Number of policies;~~

8               ~~(4) Net investment income, using appropriate estimates~~  
9       ~~where necessary;~~

10              ~~(5) Losses paid;~~

11              ~~(6) Losses incurred;~~

12              ~~(7) Loss reserves:~~

13                      ~~(a) Losses unpaid on reported claims;~~

14                      ~~(b) Losses unpaid on incurred but not reported~~  
15       ~~claims;~~

16              ~~(8) Number of claims:~~

17                      ~~(a) Paid claims;~~

18                      ~~(b) Arising claims;~~

19              ~~(9) Loss adjustment expenses:~~

20                      ~~(a) Allocated loss adjustment expenses;~~

21                      ~~(b) Unallocated loss adjustment expenses;~~

22              ~~(10) Net underwriting gain or loss;~~

23              ~~(11) Net operation gain or loss, including net~~  
24       ~~investment income;~~

25              ~~(12) Any other information requested by the Director.~~

26       (B)   ~~(C-3)~~   Additional information by an advisory

1 organization as defined in Section 463 of this Code, for  
2 workers' compensation insurance.

3 (1) An advisory organization as defined in Section 463  
4 of this Code shall report annually the following  
5 information in such format as may be prescribed by the  
6 Director of Insurance ~~Secretary~~:

7 (a) paid and incurred losses for each of the past  
8 10 years;

9 (b) medical payments and medical charges, if  
10 collected, for each of the past 10 years;

11 (c) the following indemnity payment information:  
12 cumulative payments by accident year by calendar year  
13 of development. This array will show payments made and  
14 frequency of claims in the following categories:  
15 medical only, permanent partial disability (PPD),  
16 permanent total disability (PTD), temporary total  
17 disability (TTD), and fatalities;

18 (d) injuries by frequency and severity;

19 (e) by class of employee.

20 (2) The report filed with the Director of Insurance  
21 ~~Secretary of Financial and Professional Regulation~~ under  
22 paragraph (1) of this subsection (B) ~~(C-3)~~ shall be made  
23 available, on an aggregate basis, to the General Assembly  
24 and to the general public. The identity of the petitioner,  
25 the respondent, the attorneys, and the insurers shall not  
26 be disclosed.

1           (3) Reports required under this subsection (B) ~~(C-3)~~  
2 shall be filed with the Director ~~Secretary no later than~~  
3 ~~September 1 in 2006 and~~ no later than September 1 of each  
4 year after the effective date of this amendatory Act of the  
5 99th General Assembly thereafter.

6 ~~(D) In addition to the information which may be requested~~  
7 ~~under subsection (C), the Director may also request on a~~  
8 ~~companywide, aggregate basis, Federal Income Tax recoverable,~~  
9 ~~net realized capital gain or loss, net unrealized capital gain~~  
10 ~~or loss, and all other expenses not requested in subsection (C)~~  
11 ~~above.~~

12       (C) ~~(E)~~ Violations - Suspensions - Revocations.

13           (1) Any company or person subject to this Article, who  
14 willfully or repeatedly fails to observe or who otherwise  
15 violates any of the provisions of this Article or any rule  
16 or regulation promulgated by the Director under authority  
17 of this Article or any final order of the Director entered  
18 under the authority of this Article shall by civil penalty  
19 forfeit to the State of Illinois a sum not to exceed  
20 \$2,000. Each day during which a violation occurs  
21 constitutes a separate offense.

22           (2) No forfeiture liability under paragraph (1) of this  
23 subsection may attach unless a written notice of apparent  
24 liability has been issued by the Director and received by  
25 the respondent, or the Director sends written notice of  
26 apparent liability by registered or certified mail, return

1 receipt requested, to the last known address of the  
2 respondent. Any respondent so notified must be granted an  
3 opportunity to request a hearing within 10 days from  
4 receipt of notice, or to show in writing, why he should not  
5 be held liable. A notice issued under this Section must set  
6 forth the date, facts and nature of the act or omission  
7 with which the respondent is charged and must specifically  
8 identify the particular provision of this Article, rule,  
9 regulation or order of which a violation is charged.

10 (3) No forfeiture liability under paragraph (1) of this  
11 subsection may attach for any violation occurring more than  
12 2 years prior to the date of issuance of the notice of  
13 apparent liability and in no event may the total civil  
14 penalty forfeiture imposed for the acts or omissions set  
15 forth in any one notice of apparent liability exceed  
16 \$100,000.

17 (4) All administrative hearings conducted pursuant to  
18 this Article are subject to 50 Ill. Adm. Code 2402 and all  
19 administrative hearings are subject to the Administrative  
20 Review Law.

21 (5) The civil penalty forfeitures provided for in this  
22 Section are payable to the General Revenue Fund of the  
23 State of Illinois, and may be recovered in a civil suit in  
24 the name of the State of Illinois brought in the Circuit  
25 Court in Sangamon County or in the Circuit Court of the  
26 county where the respondent is domiciled or has its

1 principal operating office.

2 (6) In any case where the Director issues a notice of  
3 apparent liability looking toward the imposition of a civil  
4 penalty forfeiture under this Section that fact may not be  
5 used in any other proceeding before the Director to the  
6 prejudice of the respondent to whom the notice was issued,  
7 unless (a) the civil penalty forfeiture has been paid, or  
8 (b) a court has ordered payment of the civil penalty  
9 forfeiture and that order has become final.

10 (7) When any person or company has a license or  
11 certificate of authority under this Code and knowingly  
12 fails or refuses to comply with a lawful order of the  
13 Director requiring compliance with this Article, entered  
14 after notice and hearing, within the period of time  
15 specified in the order, the Director may, in addition to  
16 any other penalty or authority provided, revoke or refuse  
17 to renew the license or certificate of authority of such  
18 person or company, or may suspend the license or  
19 certificate of authority of such person or company until  
20 compliance with such order has been obtained.

21 (8) When any person or company has a license or  
22 certificate of authority under this Code and knowingly  
23 fails or refuses to comply with any provisions of this  
24 Article, the Director may, after notice and hearing, in  
25 addition to any other penalty provided, revoke or refuse to  
26 renew the license or certificate of authority of such



1 person or company, or may suspend the license or  
2 certificate of authority of such person or company, until  
3 compliance with such provision of this Article has been  
4 obtained.

5 (9) No suspension or revocation under this Section may  
6 become effective until 5 days from the date that the notice  
7 of suspension or revocation has been personally delivered  
8 or delivered by registered or certified mail to the company  
9 or person. A suspension or revocation under this Section is  
10 stayed upon the filing, by the company or person, of a  
11 petition for judicial review under the Administrative  
12 Review Law.

13 (Source: P.A. 94-277, eff. 7-20-05; 95-331, eff. 8-21-07.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.