



Sen. William R. Haine

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LRB099 03204 EGJ 48704 a

1 AMENDMENT TO SENATE BILL 465

2 AMENDMENT NO. _____. Amend Senate Bill 465 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 121-2.08, 123C-1, 123C-2, 123C-3, 123C-4,
6 123C-5, 123C-6, 123C-7, 123C-8, 123C-9, 123C-10, 123C-11,
7 123C-12, 123C-13, 123C-14, 123C-15, 123C-16, 123C-17, 123C-18,
8 123C-19, 123C-20, 123C-21, and 123C-22 and by adding Sections
9 123C-23, 123C-24, 123C-25, 123C-26, 123C-27, 123C-28, 123C-29,
10 123C-30, 123C-31, 123C-32, 123C-33, 123C-34, and 123C-35 as
11 follows:

12 (215 ILCS 5/121-2.08) (from Ch. 73, par. 733-2.08)

13 Sec. 121-2.08. Transactions in this State involving
14 contracts of insurance independently procured directly from an
15 unauthorized insurer by industrial insureds.

16 (a) As used in this Section:

1 "Exempt commercial purchaser" means exempt commercial
2 purchaser as the term is defined in subsection (1) of Section
3 445 of this Code.

4 "Home state" means home state as the term is defined in
5 subsection (1) of Section 445 of this Code.

6 "Industrial insured" means an insured:

7 (i) that procures the insurance of any risk or risks of
8 the kinds specified in Classes 2 and 3 of Section 4 of this
9 Code by use of the services of a full-time employee who is
10 a qualified risk manager or the services of a regularly and
11 continuously retained consultant who is a qualified risk
12 manager;

13 (ii) that procures the insurance directly from an
14 unauthorized insurer without the services of an
15 intermediary insurance producer; and

16 (iii) that is an exempt commercial purchaser whose home
17 state is Illinois.

18 "Insurance producer" means insurance producer as the term
19 is defined in Section 500-10 of this Code.

20 "Qualified risk manager" means qualified risk manager as
21 the term is defined in subsection (1) of Section 445 of this
22 Code.

23 "Unauthorized insurer" means unauthorized insurer as the
24 term is defined in subsection (1) of Section 445 of this Code.

25 (b) For contracts of insurance effective January 1, 2015 or
26 later, within 90 days after the effective date of each contract

1 of insurance issued under this Section, the insured shall file
2 a report with the Director by submitting the report to the
3 Surplus Line Association of Illinois in writing or in a
4 computer readable format and provide information as designated
5 by the Surplus Line Association of Illinois. The information in
6 the report shall be substantially similar to that required for
7 surplus line submissions as described in subsection (5) of
8 Section 445 of this Code. Where applicable, the report shall
9 satisfy, with respect to the subject insurance, the reporting
10 requirement of Section 12 of the Fire Investigation Act.

11 (c) For contracts of insurance effective January 1, 2015 or
12 later, within 30 days after filing the report, the insured
13 shall pay to the Director for the use and benefit of the State
14 a sum equal to the gross premium of the contract of insurance
15 multiplied by the surplus line tax rate, as described in
16 paragraph (3) of subsection (a) of Section 445 of this Code,
17 and shall pay the fire marshal tax that would otherwise be due
18 annually in March for insurance subject to tax under Section 12
19 of the Fire Investigation Act. For contracts of insurance
20 effective January 1, 2015 or later, within 30 days after filing
21 the report, the insured shall pay to the Surplus Line
22 Association of Illinois a countersigning fee that shall be
23 assessed at the same rate charged to members pursuant to
24 subsection (4) of Section 445.1 of this Code.

25 (d) For contracts of insurance effective January 1, 2015 or
26 later, the insured shall withhold the amount of the taxes and

1 countersignature fee from the amount of premium charged by and
2 otherwise payable to the insurer for the insurance. If the
3 insured fails to withhold the tax and countersignature fee from
4 the premium, then the insured shall be liable for the amounts
5 thereof and shall pay the amounts as prescribed in subsection
6 (c) of this Section.

7 (e) Contracts of insurance with an industrial insured that
8 qualifies as a Safety-Net Hospital shall not be subject to
9 subsections (b) through (d) of this Section.

10 (Source: P.A. 98-978, eff. 1-1-15.)

11 (215 ILCS 5/123C-1) (from Ch. 73, par. 735C-1)

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

13 Sec. 123C-1. Definitions. As used in this Article, unless
14 the context requires otherwise:

15 "Affiliated company" means any company in the same
16 corporate system as a parent, an industrial insured, or a
17 member organization by virtue of common ownership, control,
18 operation, or management.

19 "Alien captive insurance company" means any insurance
20 company formed to write insurance business for its parents and
21 affiliates and licensed under the laws of an alien jurisdiction
22 that imposes statutory or regulatory standards in a form
23 acceptable to the Director on companies transacting in the
24 business of insurance in such jurisdiction.

25 "Association" means any legal association of individuals,

1 corporations, limited liability companies, partnerships,
2 associations, or other entities, the member organizations of
3 which or which does itself, whether or not in conjunction with
4 some or all of the member organizations:

5 (1) own, control, or hold with power to vote all of the
6 outstanding voting securities of an association captive
7 insurance company incorporated as a stock insurer;

8 (2) have complete voting control over an association
9 captive insurance company incorporated as a mutual
10 insurer;

11 (3) constitute all of the subscribers of an association
12 captive insurance company formed as a reciprocal insurer;
13 or

14 (4) have complete voting control over an association
15 captive insurance company formed as a limited liability
16 company.

17 "Association captive insurance company" means any company
18 that insures risks of the member organizations of the
19 association, and that also may insure the risks of affiliated
20 companies of the member organizations and the risks of the
21 association itself.

22 "Branch business" means any insurance business transacted
23 by a branch captive insurance company in this State.

24 "Branch captive insurance company" means any alien captive
25 insurance company licensed by the Director to transact the
26 business of insurance in this State through a business unit

1 with a principal place of business in this State.

2 "Branch operations" means any business operations of a
3 branch captive insurance company in this State.

4 "Captive insurance company" means any pure captive
5 insurance company, association captive insurance company,
6 sponsored captive insurance company, industrial insured
7 captive insurance company, or risk retention group, formed or
8 licensed under the provisions of this Article. For purposes of
9 this Article, a branch captive insurance company shall be a
10 pure captive insurance company with respect to operations in
11 this State, unless otherwise permitted by the Director.

12 "Controlled unaffiliated business" means any person:

13 (1) that is not in the corporate system of a parent and
14 its affiliated companies in the case of a pure captive
15 insurance company or that is not in the corporate system of
16 an industrial insured and its affiliated companies in the
17 case of an industrial insured captive insurance company;

18 (2) that has an existing contractual relationship with
19 a parent or one of its affiliated companies in the case of
20 a pure captive insurance company or with an industrial
21 insured or one of its affiliated companies in the case of
22 an industrial insured captive insurance company; and

23 (3) whose risks are managed by a pure captive insurance
24 company or an industrial insured captive insurance
25 company, as applicable, in accordance with Section
26 123C-18.

1 "Director" means the Director of Insurance.

2 "Excess workers' compensation insurance" means, in the
3 case of an employer that has insured or self-insured its
4 workers' compensation risks in accordance with applicable
5 State or federal law, insurance in excess of a specified
6 per-incident or aggregate limit established by the Director.

7 "Industrial insured" means an insured:

8 (1) who procures the insurance of any risk or risks by
9 use of the services of a full-time employee acting as an
10 insurance manager or buyer;

11 (2) whose aggregate annual premiums for insurance on
12 all risks total at least \$25,000; and

13 (3) who has at least 25 full-time employees.

14 "Industrial insured captive insurance company" means any
15 company that insures risks of the industrial insureds that
16 comprise the industrial insured group and that may insure the
17 risks of the affiliated companies of the industrial insureds
18 and the risks of the controlled unaffiliated business of an
19 industrial insured or its affiliated companies.

20 "Industrial insured group" means any group of industrial
21 insureds that collectively:

22 (1) own, control, or hold with power to vote all of the
23 outstanding voting securities of an industrial insured
24 captive insurance company incorporated as a stock insurer;

25 (2) have complete voting control over an industrial
26 insured captive insurance company incorporated as a mutual

1 insurer;

2 (3) constitute all of the subscribers of an industrial
3 insured captive insurance company formed as a reciprocal
4 insurer; or

5 (4) have complete voting control over an industrial
6 insured captive insurance company formed as a limited
7 liability company.

8 "Member organization" means any individual, corporation,
9 limited liability company, partnership, association, or other
10 entity that belongs to an association.

11 "Mutual corporation" means a corporation organized without
12 stockholders and includes a nonprofit corporation with
13 members.

14 "Parent" means a corporation, limited liability company,
15 partnership, other entity, or individual, that directly or
16 indirectly owns, controls, or holds with power to vote more
17 than 50% of the outstanding voting:

18 (1) securities of a pure captive insurance company
19 organized as a stock corporation;

20 (2) membership interests of a pure captive insurance
21 company organized as a nonprofit corporation; or

22 (3) membership interests of a pure captive insurance
23 company organized as a limited liability company.

24 "Pure captive insurance company" means any company that
25 insures risks of its parent and affiliated companies or
26 controlled unaffiliated business.

1 "Risk retention group" means a captive insurance company
2 organized under the laws of this State pursuant to the
3 Liability Risk Retention Act of 1986, 15 U.S.C. 3901 et seq.,
4 as amended, as a stock or mutual corporation, a reciprocal, or
5 other limited liability entity.

6 "Safety-Net Hospital" means an Illinois hospital that
7 qualifies as a Safety-Net Hospital as the term is defined in
8 Section 5-5e.1 of the Public Aid Code. As used in this Article:

9 ~~A. "Affiliate" or "Affiliated company" shall have the~~
10 ~~meaning set forth in subsection (a) of Section 131.1 (and, for~~
11 ~~purposes of such definition, the definitions of "control" and~~
12 ~~"person", as set forth in subsections (b) and (c) of Section~~
13 ~~131.1, respectively, shall be applicable).~~

14 ~~B. "Association" means any entity meeting the requirements~~
15 ~~set forth in either of the following paragraphs (1), (2) or~~
16 ~~(3):~~

17 ~~(1) any organized association of individuals, legal~~
18 ~~representatives, corporations (whether for profit or not~~
19 ~~for profit), partnerships, trusts, associations, units of~~
20 ~~government or other organizations, or any combination of~~
21 ~~the foregoing, that has been in continuous existence for at~~
22 ~~least one year, the member organizations of which~~
23 ~~collectively:~~

24 ~~(a) own, control, or hold with power to vote~~
25 ~~(directly or indirectly) all of the outstanding voting~~
26 ~~securities of an association captive insurance company~~

1 ~~incorporated as a stock insurer; or~~

2 ~~(b) have complete voting control (directly or~~
3 ~~indirectly) over an association captive insurance~~
4 ~~company organized as a mutual insurer;~~

5 ~~(2) any organized association of individuals, legal~~
6 ~~representatives, corporations (whether for profit or not~~
7 ~~for profit), partnerships, trusts, associations, units of~~
8 ~~government or other organizations, or any combination of~~
9 ~~the foregoing:~~

10 ~~(a) whose member organizations are engaged in~~
11 ~~businesses or activities similar or related with~~
12 ~~respect to the liability of which such members are~~
13 ~~exposed by virtue of any related, similar, or common~~
14 ~~business, trade, product, services, premises, or~~
15 ~~operations; and~~

16 ~~(b) whose member organizations:~~

17 ~~(i) directly or indirectly own or control, and~~
18 ~~hold with power to vote, at least 80% of all of the~~
19 ~~outstanding voting securities of an association~~
20 ~~captive insurance company incorporated as a stock~~
21 ~~insurer; or~~

22 ~~(ii) directly or indirectly have at least 80%~~
23 ~~of the voting control over an association captive~~
24 ~~insurance company organized as a mutual insurer;~~
25 ~~or~~

26 ~~(3) any risk retention group, as defined in subsection~~

1 ~~(11) of Section 123B-2, domiciled in this State and~~
2 ~~organized under this Article; however, beginning 6 months~~
3 ~~after the effective date of this amendatory Act of 1995, a~~
4 ~~risk retention group shall no longer qualify as an~~
5 ~~association under this Article.~~

6 ~~Provided, however, that with respect to each of the~~
7 ~~associations described in paragraphs (1), (2) and (3) above, no~~
8 ~~member organization may (i) own, control, or hold with power to~~
9 ~~vote in excess of 25% of the voting securities of an~~
10 ~~association captive insurance company incorporated as a stock~~
11 ~~insurer, or (ii) have more than 25% of the voting control of an~~
12 ~~association captive insurance company organized as a mutual~~
13 ~~insurer.~~

14 ~~C. "Association captive insurance company" means any~~
15 ~~company that insures risks of (i) the member organizations of~~
16 ~~an association, and (ii) their affiliated companies.~~

17 ~~D. "Captive insurance company" means any pure captive~~
18 ~~insurance company, association captive insurance company or~~
19 ~~industrial insured captive insurance company organized under~~
20 ~~the provisions of this Article.~~

21 ~~E. "Director" means the Director of the Department of~~
22 ~~Insurance.~~

23 ~~F. "Industrial insured" means an insured which (together~~
24 ~~with its affiliates) at the time of its initial procurement of~~
25 ~~insurance from an industrial insured captive insurance~~
26 ~~company.~~

1 ~~(1) has available to it advice with respect to the~~
2 ~~purchase of insurance through the use of the services of a~~
3 ~~full-time employee acting as an insurance manager or buyer~~
4 ~~or the services of a regularly and continuously retained~~
5 ~~qualified insurance consultant; and~~

6 ~~(2) pays aggregate annual premiums in excess of~~
7 ~~\$100,000 for insurance on all risks except for life,~~
8 ~~accident and health; and~~

9 ~~(3) either (i) has at least 25 full-time employees, or~~
10 ~~(ii) has gross assets in excess of \$3,000,000, or (iii) has~~
11 ~~annual gross revenues in excess of \$5,000,000.~~

12 ~~G. "Industrial insured captive insurance company" means~~
13 ~~any company that insures risks of industrial insureds that are~~
14 ~~members of the industrial insured group, and their affiliated~~
15 ~~companies.~~

16 ~~H. "Industrial insured group" means any group of industrial~~
17 ~~insureds that collectively:~~

18 ~~(1) directly or indirectly (including ownership or~~
19 ~~control through a company which is wholly owned by such~~
20 ~~group of industrial insureds) own or control, and hold with~~
21 ~~power to vote, all of the outstanding voting securities of~~
22 ~~an industrial insured captive insurance company~~
23 ~~incorporated as a stock insurer; or~~

24 ~~(2) directly or indirectly (including control through~~
25 ~~a company which is wholly owned by such group of industrial~~
26 ~~insureds) have complete voting control over an industrial~~

1 ~~insured captive insurance company organized as a mutual~~
2 ~~insurer; provided, however, that no member organization~~
3 ~~may (i) own, control, or hold with power to vote in excess~~
4 ~~of 25% of the voting securities of an industrial insured~~
5 ~~captive insurance company incorporated as a stock insurer,~~
6 ~~or (ii) have more than 25% of the voting control of an~~
7 ~~industrial insured captive insurance company organized as~~
8 ~~a mutual insurer.~~

9 ~~I. "Member organization" means any individual, legal~~
10 ~~representative, corporation (whether for profit or not for~~
11 ~~profit), partnership, association, unit of government, trust~~
12 ~~or other organization that belongs to an association or an~~
13 ~~industrial insured group.~~

14 ~~J. "Parent" means a corporation, partnership, individual~~
15 ~~or other legal entity that directly or indirectly owns,~~
16 ~~controls, or holds with power to vote more than 50% of the~~
17 ~~outstanding voting securities of a company.~~

18 ~~K. "Personal risk liability" means liability to other~~
19 ~~persons for (i) damage because of injury to any person, (ii)~~
20 ~~damage to property, or (iii) other loss or damage, in each case~~
21 ~~resulting from any personal, familial, or household~~
22 ~~responsibilities or activities, but does not include legal~~
23 ~~liability for damages (including costs of defense, legal costs~~
24 ~~and fees, and other claims expenses) because of injuries to~~
25 ~~other persons, damage to their property, or other damage or~~
26 ~~loss to such other persons resulting from or arising out of:~~

1 ~~(i) any business (whether for profit or not for~~
2 ~~profit), trade, product, services (including professional~~
3 ~~services), premises, or operations; or~~

4 ~~(ii) any activity of any state or local government, or~~
5 ~~any agency or political subdivision thereof.~~

6 ~~L. "Pure captive insurance company" means any company that~~
7 ~~insures only risks of its parent or affiliated companies or~~
8 ~~both.~~

9 ~~M. "Unit of government" includes any state, regional or~~
10 ~~local government, or any agency or political subdivision~~
11 ~~thereof, or any district, authority, public educational~~
12 ~~institution or school district, public corporation or other~~
13 ~~unit of government in this State or any similar unit of~~
14 ~~government in any other state.~~

15 (Source: P.A. 89-97, eff. 7-7-95; 90-794, eff. 8-14-98.)

16 (215 ILCS 5/123C-2) (from Ch. 73, par. 735C-2)

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

18 Sec. 123C-2. Licensing; authority. ~~Authority of captives;~~
19 ~~restrictions.~~

20 (a) Any captive insurance company, when permitted by its
21 articles of association, charter, or other organizational
22 document, may apply to the Director for a license to do any and
23 all insurance and may grant annuity contracts; provided,
24 however, that:

25 (1) no pure captive insurance company may insure any

1 risks other than those of its parent and affiliated
2 companies or controlled unaffiliated business unless those
3 risks are reinsured;

4 (2) no association captive insurance company may
5 insure any risks other than those of its association, those
6 of the member organizations of its association, and those
7 of a member organization's affiliated companies;

8 (3) no industrial insured captive insurance company
9 may insure any risks other than those of the industrial
10 insureds that comprise the industrial insured group, those
11 of their affiliated companies, and those of the controlled
12 unaffiliated business of an industrial insured or its
13 affiliated companies;

14 (4) no risk retention group may insure any risks other
15 than those of its members and owners;

16 (5) no captive insurance company may provide personal
17 motor vehicle or homeowner's insurance coverage or any
18 component thereof;

19 (6) no captive insurance company may accept or cede
20 reinsurance except as provided in Section 123C-11 of this
21 Article;

22 (7) any captive insurance company may provide excess
23 workers' compensation insurance to its parent and
24 affiliated companies, unless prohibited by the federal law
25 or laws of the state having jurisdiction over the
26 transaction. Any captive insurance company, unless

1 prohibited by federal law, may reinsure workers'
2 compensation of a qualified self-insured plan of its parent
3 and affiliated companies; and

4 (8) any captive insurance company which insures risks
5 shall comply with all applicable State and federal laws.

6 (b) No captive insurance company shall do any insurance
7 business in this State unless:

8 (1) it first obtains from the Director a license
9 authorizing it to do insurance business in this State;

10 (2) its board of directors or committee of managers or,
11 in the case of a reciprocal insurer, its subscribers'
12 advisory committee holds at least one meeting each year in
13 this State;

14 (3) it maintains its principal place of business in
15 this State; and

16 (4) it appoints a registered agent to accept service of
17 process and to otherwise act on its behalf in this State;
18 provided that whenever such registered agent cannot with
19 reasonable diligence be found at the registered office of
20 the captive insurance company, the Secretary of State shall
21 be an agent of such captive insurance company upon whom any
22 process, notice, or demand may be served.

23 (c) Before receiving a license, a captive insurance company
24 shall:

25 (1) file with the Director a certified copy of its
26 organizational documents, a statement under oath of its

1 president and secretary showing its financial condition,
2 and any other statements or documents required by the
3 Director; and

4 (2) submit to the Director for approval a description
5 of the coverages, deductibles, coverage limits, and rates,
6 together with such additional information as the Director
7 may reasonably require. In the event of any subsequent
8 material change in any item in such description, the
9 captive insurance company shall submit to the Director for
10 approval an appropriate revision and shall not offer any
11 additional kinds of insurance directly related to the item
12 under review until a revision of such description is
13 approved by the Director. The captive insurance company
14 shall inform the Director of any material change in rates
15 within 30 days after the adoption of such change.

16 (d) Each applicant captive insurance company shall also
17 file with the Director evidence of the following:

18 (1) the amount and liquidity of its assets relative to
19 the risks to be assumed;

20 (2) the adequacy of the expertise, experience, and
21 character of the person or persons who will manage it;

22 (3) the overall soundness of its plan of operation;

23 (4) the adequacy of the loss prevention programs of its
24 insureds; and

25 (5) other factors deemed relevant by the Director in
26 ascertaining whether the proposed captive insurance

1 company will be able to meet its policy obligations.

2 (e) Information submitted pursuant to this Section shall be
3 and remain confidential and may not be made public by the
4 Director or an employee or agent of the Director without the
5 written consent of the company, except that:

6 (1) the information may be discoverable by a party in a
7 civil action or contested case to which the captive
8 insurance company that submitted the information is a
9 party, upon a showing by the party seeking to discover such
10 information that:

11 (A) the information sought is relevant to and
12 necessary for the furtherance of the action or case;

13 (B) the information sought is unavailable from
14 other nonconfidential sources; and

15 (C) a subpoena issued by a judicial or
16 administrative officer of competent jurisdiction has
17 been submitted to the Director; provided, however,
18 that it shall not apply to any risk retention group.

19 (f) The Director may, in the Director's discretion,
20 disclose information to a public officer having jurisdiction
21 over the regulation of insurance in another state, provided
22 that:

23 (1) the public official shall agree in writing to
24 maintain the confidentiality of the information; and

25 (2) the laws of the state in which the public official
26 serves require the information to be and to remain

1 confidential.

2 (g) Each captive insurance company shall pay to the
3 Director a nonrefundable fee of \$500.00 for examining,
4 investigating, and processing its application for license and
5 for issuing same. The Director is authorized to retain legal,
6 financial, and examination services from outside the
7 Department, the reasonable cost of which may be charged against
8 the applicant. In addition, each captive insurance company
9 shall pay a license renewal fee for each year thereafter of
10 \$500.

11 (h) If the Director is satisfied that the documents and
12 statements that a captive insurance company has filed comply
13 with the provisions of this Article, the Director may grant a
14 license authorizing it to do insurance business in this State
15 until April 1 thereafter, which license may be renewed.

16 (i) In the case of an application to establish a captive
17 insurance company in order to redomesticate an alien captive
18 insurance company in this State, the Director may grant a
19 license authorizing the captive insurance company to do
20 insurance business in this State following satisfactory review
21 of the existing business plan filled by the alien captive
22 insurance company in its jurisdiction. A. Any captive insurancee
23 company, when permitted by its articles of association or
24 charter, may apply to the Director for a certificate of
25 authority to transact any and all insurance in classes 2 and 3
26 of Section 4 of this Code, except that:

1 ~~(1) no pure captive insurance company may insure any~~
2 ~~risks other than those of its parent and affiliated~~
3 ~~companies;~~

4 ~~(2) no association captive insurance company may~~
5 ~~insure any risks other than those of the member~~
6 ~~organizations of its association, and their affiliated~~
7 ~~companies;~~

8 ~~(3) no industrial insured captive insurance company~~
9 ~~may insure any risks other than those of the members of the~~
10 ~~industrial insured group, and their affiliated companies;~~
11 ~~and~~

12 ~~(4) no captive insurance company may provide:~~

13 ~~(i) personal motor vehicle coverage or homeowner's~~
14 ~~insurance coverage or any component thereof, or~~

15 ~~(ii) personal coverage for personal risk~~
16 ~~liability, or~~

17 ~~(iii) coverage for an employer's liability to its~~
18 ~~employees other than legal liability under the federal~~
19 ~~Employers' Liability Act (45 U.S.C. 51 et seq.),~~
20 ~~provided, however, this exclusion does not preclude~~
21 ~~reinsurance of such employer's liability, or~~

22 ~~(iv) accident and health insurance as provided in~~
23 ~~clause (a) of Class 2 of Section 4, provided, however,~~
24 ~~this exclusion does not preclude stop-loss insurance~~
25 ~~or reinsurance of a single employer self funded~~
26 ~~employee disability benefit plan or an employee~~

1 ~~welfare plan as described in 29 U.S.C. 1001 et seq.~~

2 ~~B. No captive insurance company shall do any insurance~~
3 ~~business in this State unless:~~

4 ~~(1) it first obtains from the Director a certificate of~~
5 ~~authority authorizing it to do such insurance business in~~
6 ~~this State; and~~

7 ~~(2) it appoints a resident registered agent to accept~~
8 ~~service of process and to otherwise act on its behalf in~~
9 ~~this State.~~

10 ~~C. No captive insurance company shall adopt a name that is~~
11 ~~the same as, deceptively similar to, or likely to be confused~~
12 ~~with or mistaken for, any other existing business name~~
13 ~~registered in this State.~~

14 ~~D. Each captive insurance company, or the organizations~~
15 ~~providing the principal administrative or management services~~
16 ~~to such captive insurance company, shall maintain a place of~~
17 ~~business in this State.~~

18 (Source: P.A. 91-357, eff. 7-29-99.)

19 (215 ILCS 5/123C-3) (from Ch. 73, par. 735C-3)

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

21 Sec. 123C-3. Names of companies ~~Minimum Capital.~~ No captive
22 insurance company shall adopt a name that is the same,
23 deceptively similar, or likely to be confused with or mistaken
24 for any other existing business name registered in the State of
25 Illinois.

1 ~~A. No pure captive insurance company, association captive~~
2 ~~insurance company incorporated as a stock insurer, or~~
3 ~~industrial insured captive insurance company incorporated as a~~
4 ~~stock insurer shall be issued a certificate of authority unless~~
5 ~~it shall possess and thereafter maintain unimpaired paid in~~
6 ~~capital of not less than the minimum capital requirement~~
7 ~~applicable to the class or classes and clause or clauses of~~
8 ~~Section 4 describing the kind or kinds of insurance which such~~
9 ~~captive insurance company is authorized to write, as set forth~~
10 ~~in subsection (1) of Section 13.~~

11 ~~B. Such capital may be in the form of (1) all cash or cash~~
12 ~~equivalents; or (2) cash or cash equivalents representing at~~
13 ~~least 20% of the requisite capital, together with an~~
14 ~~irrevocable letter of credit for the remainder of the requisite~~
15 ~~capital, which letter of credit must (a) be approved by the~~
16 ~~Director, (b) be issued or unconditionally confirmed by (i) a~~
17 ~~bank chartered by this State, (ii) a member bank of the Federal~~
18 ~~Reserve System or (iii) a United States office of a foreign~~
19 ~~banking corporation that is: (A) licensed under the laws of the~~
20 ~~United States or any state thereof, (B) regulated, supervised~~
21 ~~and examined by United States federal or state authorities~~
22 ~~having regulatory authority over banks and trust companies, and~~
23 ~~(C) designated by the Securities Valuation Office of the~~
24 ~~National Association of Insurance Commissioners as meeting its~~
25 ~~credit standards for issuing or confirming letters of credit~~
26 ~~or, in the event that the Director elects to establish credit~~

1 ~~standards by rule, in compliance with rules promulgated by the~~
2 ~~Director establishing reasonable standards of safety and~~
3 ~~soundness substantially equivalent to those of the Securities~~
4 ~~Valuation Office of the National Association of Insurance~~
5 ~~Commissioners, and (c) satisfy the requirements of Section~~
6 ~~123C 19; or (3) cash or cash equivalents representing at least~~
7 ~~33% of the requisite capital, together with irrevocable~~
8 ~~contractual obligations of the member organizations of the~~
9 ~~captive insurance company for the payment of the remainder of~~
10 ~~the requisite capital in no more than 3 equal installments in~~
11 ~~each of the 3 calendar years following the date of the grant of~~
12 ~~the certificate of authority to the captive insurance company,~~
13 ~~which irrevocable contractual obligations shall by contract be~~
14 ~~subject to acceleration (in a manner acceptable to the~~
15 ~~Director) by the Company at the direction of the Director and~~
16 ~~shall be secured by a letter of credit or other form of~~
17 ~~guarantee or security acceptable to the Director.~~

18 (Source: P.A. 86-632.)

19 (215 ILCS 5/123C-4) (from Ch. 73, par. 735C-4)

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

21 Sec. 123C-4. Minimum capital and surplus; letter of credit.

22 Minimum Surplus.

23 (a) No captive insurance company shall be issued a license
24 unless it shall possess and thereafter maintain unimpaired
25 paid-in capital and surplus of:

1 (1) for a pure captive insurance company, not less than
2 \$250,000;

3 (2) for an association captive insurance company, not
4 less than \$500,000;

5 (3) for an industrial insured captive insurance
6 company, not less than \$500,000;

7 (4) for a risk retention group, not less than
8 \$1,000,000; and

9 (5) for a sponsored captive insurance company, not less
10 than \$250,000.

11 (b) The Director may prescribe additional capital and
12 surplus based upon the type, volume, and nature of insurance
13 business transacted.

14 (c) Capital and surplus may be in the form of cash,
15 marketable securities, a trust approved by the Director and of
16 which the Director is the sole beneficiary, or an irrevocable
17 letter of credit issued by a bank approved by the Director. A.
18 ~~No captive insurance company shall be issued a certificate of~~
19 ~~authority unless it shall possess paid in surplus of not less~~
20 ~~than the minimum paid in surplus requirement applicable to the~~
21 ~~class or classes and clause or clauses of Section 4 describing~~
22 ~~the kind or kinds of insurance which such captive insurance~~
23 ~~company is authorized to write, as set forth in subsection (2)~~
24 ~~of Section 13 or subsection (1) of Section 43, as applicable.~~

25 ~~B. Each captive insurance company shall, in addition to the~~
26 ~~minimum capital required by Section 123C 3, at all times~~

1 ~~maintain free surplus of not less than the minimum surplus~~
2 ~~requirement applicable to the class or classes and clause or~~
3 ~~clauses of Section 4 describing the kind or kinds of insurance~~
4 ~~which such captive insurance company is authorized to write, as~~
5 ~~set forth in subsection (3) of Section 13 or subsection (6) of~~
6 ~~Section 43, as applicable.~~

7 ~~C. The surplus referred to in subsections A or B may be in~~
8 ~~the form of (1) all cash or cash equivalents; or (2) cash or~~
9 ~~cash equivalents representing at least 20% of the requisite~~
10 ~~surplus, together with an irrevocable letter of credit for the~~
11 ~~remainder of the requisite surplus, which letter of credit must~~
12 ~~(a) be approved by the Director, (b) be issued or~~
13 ~~unconditionally confirmed by (i) a bank chartered by this~~
14 ~~State, (ii) a member bank of the Federal Reserve System or~~
15 ~~(iii) a United States office of a foreign banking corporation~~
16 ~~that is: (A) licensed under the laws of the United States or~~
17 ~~any state thereof, (B) regulated, supervised and examined by~~
18 ~~United States federal or state authorities having regulatory~~
19 ~~authority over banks and trust companies, and (C) designated by~~
20 ~~the Securities Valuation Office of the National Association of~~
21 ~~Insurance Commissioners as meeting its credit standards for~~
22 ~~issuing or confirming letters of credit or, in the event that~~
23 ~~the Director elects to establish credit standards by rule, in~~
24 ~~compliance with rules promulgated by the Director establishing~~
25 ~~reasonable standards of safety and soundness substantially~~
26 ~~equivalent to those of the Securities Valuation Office of the~~

1 ~~National Association of Insurance Commissioners, and (c)~~
2 ~~satisfy the requirements of Section 123C-19; or (3) cash or~~
3 ~~cash equivalents representing at least 33% of the requisite~~
4 ~~surplus, together with irrevocable contractual obligations of~~
5 ~~the member organizations of the captive insurance company for~~
6 ~~the payment of the remainder of the requisite surplus in no~~
7 ~~more than 3 equal installments in each of the 3 calendar years~~
8 ~~following the date of grant of the certificate of authority to~~
9 ~~the captive insurance company, which irrevocable contractual~~
10 ~~obligations shall by contract be subject to acceleration (in a~~
11 ~~manner acceptable to the Director) by the Company at the~~
12 ~~direction of the Director and shall be secured by a letter of~~
13 ~~credit or other form of guarantee or security acceptable to the~~
14 ~~Director.~~

15 ~~D. Notwithstanding any other provision of this Section and~~
16 ~~Section 123C-3, each captive insurance company shall at all~~
17 ~~times maintain at least \$300,000 of capital and surplus in the~~
18 ~~form of cash or securities permitted by Article VIII.~~

19 (Source: P.A. 86-632.)

20 (215 ILCS 5/123C-5) (from Ch. 73, par. 735C-5)

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

22 Sec. 123C-5. Dividends ~~Formation of Captive Insurance~~
23 ~~Companies in this State; Certificate of Authority.~~ No captive
24 insurance company may pay a dividend out of, or other
25 distribution with respect to, capital or surplus without the

1 prior approval of the Director. Approval of an ongoing plan for
2 the payment of dividends or other distributions shall be
3 conditioned upon the retention, at the time of each payment, of
4 capital or surplus in excess of amounts specified by, or
5 determined in accordance with formulas approved by, the
6 Director. A captive insurance company may make such
7 distributions as are in conformity with its purposes and
8 approved by the Director.

9 ~~A. A pure captive insurance company shall be incorporated~~
10 ~~as a stock insurer with its capital divided into shares and~~
11 ~~held by the stockholders.~~

12 ~~B. An association captive insurance company or an~~
13 ~~industrial insured captive insurance company may be~~
14 ~~incorporated:~~

15 ~~(1) as a stock insurer with its capital divided into~~
16 ~~shares and held by the stockholders, or~~

17 ~~(2) as a mutual insurer without capital stock, the~~
18 ~~governing body of which is elected by the member~~
19 ~~organizations of its association.~~

20 ~~C. No stock captive insurance company shall issue any~~
21 ~~shares of stock having a par value of less than \$1 per share.~~
22 ~~The capital stock of a captive insurance company incorporated~~
23 ~~as a stock insurer shall be issued at not less than par value.~~

24 ~~D. The provisions of subsection (1) of Section 10,~~
25 ~~subsection (1) of Section 12, Sections 14, 14.1, 15 (excluding~~
26 ~~subsections (d) and (e) thereof), 18, 19, 20 and 21,~~

1 ~~subsections (3) and (4) of Section 23, and Section 25 shall~~
2 ~~apply to the organization of a stock captive insurance company.~~

3 ~~E. The provisions of subsection (1) of Section 40,~~
4 ~~subsections (1) and (2) of Section 42, Section 44, subsection~~
5 ~~(a) and (b) of Section 45, and Sections 48, 49, 50 and 52 shall~~
6 ~~apply to the organization of a mutual captive insurance~~
7 ~~company.~~

8 ~~F. (1) In order to receive a certificate of authority, at~~
9 ~~the same time as the documents referred to in subsections (a),~~
10 ~~(b) and (c) of Section 15 (in the case of a stock captive~~
11 ~~insurance company) or subsections (a) and (b) of Section 45 (in~~
12 ~~the case of a mutual captive insurance company) are delivered~~
13 ~~to the Director, the incorporators shall file with the Director~~
14 ~~any statements or documents required by the Director, including~~
15 ~~evidence of the following:~~

16 ~~(a) the amount and liquidity of its assets relative to~~
17 ~~the risks to be assumed;~~

18 ~~(b) the expertise, experience, character, financial~~
19 ~~responsibility, reputation and business qualifications of~~
20 ~~the officers, directors and persons who will manage it;~~

21 ~~(c) the overall soundness of its plan of operation~~
22 ~~(which shall include (i) the lines of business to be~~
23 ~~written by the captive insurance company, (ii) the~~
24 ~~geographic areas in which the captive insurance company is~~
25 ~~to operate, (iii) the type of policy (occurrence or~~
26 ~~claims made) to be offered by the captive insurance~~

1 ~~company, (iv) the net retention limits and reinsurance~~
2 ~~program, including whether the captive insurance company~~
3 ~~intends to assume reinsurance, and (v) in the case of an~~
4 ~~industrial insured captive insurance company, an~~
5 ~~investment policy specifying the type of investments to be~~
6 ~~made by such company and the diversity of such~~
7 ~~investments);~~

8 ~~(d) whether major operations functions, such as~~
9 ~~underwriting, rating, claims administration, loss~~
10 ~~prevention programs, accounting and investment of funds,~~
11 ~~will be handled by the captive insurance company's~~
12 ~~employees or through contractual arrangements with other~~
13 ~~parties;~~

14 ~~(e) the scope of the loss prevention programs of its~~
15 ~~parent, member organizations, or industrial insureds, as~~
16 ~~applicable; and~~

17 ~~(f) such other factors deemed relevant by the Director~~
18 ~~in ascertaining whether the proposed captive insurance~~
19 ~~company will be able to meet its policy obligations.~~

20 ~~The Director may deny the incorporators' application for a~~
21 ~~certificate of authority if he determines, in the exercise of~~
22 ~~his discretion, either that the foregoing standards have not~~
23 ~~been satisfied or that the proposed captive insurance company~~
24 ~~is being organized for purposes inimical to the interests of~~
25 ~~policyholders.~~

26 ~~(2) If the Director is satisfied, on the basis of the~~

1 ~~documents and statements referred to in paragraph (1) of~~
2 ~~subsection F, that the captive insurance company meets the~~
3 ~~criteria set forth in paragraph (1) of subsection F, and that~~
4 ~~the captive insurance company meets all other requirements~~
5 ~~imposed by this Article (other than those set forth in Sections~~
6 ~~123C 3 and 123C 4), he shall, at the same time as he effects~~
7 ~~the filing referred to in Section 18 (or, in the case of a~~
8 ~~mutual insurance company, Section 48) and issues the permit~~
9 ~~referred to in Section 20 (or, in the case of a mutual~~
10 ~~insurance company, Section 50), notify the captive insurance~~
11 ~~company in writing of his determination, which notification~~
12 ~~shall state that the Director will issue a certificate of~~
13 ~~authority upon receipt of evidence satisfactory to the Director~~
14 ~~that the company has fully collected the capital and surplus~~
15 ~~required by Sections 123C 3 and 123C 4. Upon receipt of~~
16 ~~evidence satisfactory to the Director that the required capital~~
17 ~~and surplus have been fully collected by the company, the~~
18 ~~Director shall grant a certificate of authority authorizing the~~
19 ~~captive insurance company to transact the kind or kinds of~~
20 ~~business specified therein.~~

21 (Source: P.A. 86-632.)

22 (215 ILCS 5/123C-6) (from Ch. 73, par. 735C-6)

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

24 Sec. 123C-6. Formation of captive insurance companies.

25 ~~Change in Plan of Operation; Violations.~~

1 (a) A pure captive insurance company may be incorporated as
2 a stock insurer with its capital divided into shares and held
3 by the stockholders, as a nonprofit corporation with one or
4 more members, or as a manager-managed limited liability
5 company.

6 (b) An association captive insurance company, an
7 industrial insured captive insurance company, or a risk
8 retention group may be:

9 (1) incorporated as a stock insurer with its capital
10 divided into shares and held by the stockholders;

11 (2) incorporated as a mutual corporation;

12 (3) organized as a reciprocal insurer; or

13 (4) organized as a manager-managed limited liability
14 company.

15 (c) A captive insurance company incorporated or organized
16 in this State shall have one or more incorporators or one or
17 more organizers.

18 (d) A captive insurance company formed:

19 (1) as a corporation, before the articles of
20 incorporation are transmitted to the Secretary of State,
21 the incorporators shall petition the Director to issue a
22 certificate setting forth the Director's finding that the
23 establishment and maintenance of the proposed corporation
24 will promote the general good of the State. In arriving at
25 such a finding, the Director shall consider:

26 (A) the character, reputation, financial standing,

1 and purposes of the incorporators;

2 (B) the character, reputation, financial
3 responsibility, insurance experience, and business
4 qualifications of the officers and directors; and

5 (C) such other aspects as the Director shall deem
6 advisable. The articles of incorporation, such
7 certificate, and the organization fee shall be
8 transmitted to the Secretary of State, who shall
9 thereupon record both the articles of incorporation
10 and the certificate.

11 (2) as a reciprocal insurer, the organizers shall
12 petition the Director to issue a certificate setting forth
13 the Director's finding that the establishment and
14 maintenance of the proposed association will promote the
15 general good of the State. In arriving at such a finding,
16 the Director shall consider the items set forth in
17 subparagraphs (A) through (C) of paragraph (1) of this
18 subsection (d).

19 (3) as a limited liability company, before the articles
20 of organization are transmitted to the Secretary of State,
21 the organizers shall petition the Director to issue a
22 certificate setting forth the Director's finding that the
23 establishment and maintenance of the proposed company will
24 promote the general good of the State. In arriving at such
25 a finding, the Director shall consider the items set forth
26 in subparagraphs (A) through (C) of paragraph (1) of this

1 subsection (d).

2 (e) The capital stock of a captive insurance company
3 incorporated as a stock insurer may be authorized with no par
4 value.

5 (f) Other than captive insurance companies formed as
6 limited liability companies or as nonprofit corporations,
7 captive insurance companies formed as corporations shall have
8 the privileges and be subject to the provisions of this Article
9 as well as the applicable provisions contained in this Article.
10 In the event of conflict between the provisions of said general
11 corporation law and the provisions of this Article, the latter
12 shall control.

13 (g) Captive insurance companies formed under the
14 provisions of this Article:

15 (1) As limited liability companies shall have the
16 privileges and be subject to applicable provisions
17 contained in this Article.

18 (2) As nonprofit corporations shall have the
19 privileges and be subject to the applicable provisions
20 contained in this Article.

21 (h) The provisions pertaining to mergers, consolidations,
22 conversions, mutualizations, redomestications, and mutual
23 holding companies, shall apply in determining the procedures to
24 be followed by captive insurance companies in carrying out any
25 of the transactions described therein, except that:

26 (1) The Director may, upon request of an insurer party

1 to a merger waive the requirement contained in this
2 Article.

3 (2) The Director may waive the requirements for public
4 notice and hearing or, in accordance with rules which the
5 Director may adopt addressing categories of transactions,
6 modify the requirements for public notice and hearing. If a
7 notice of public hearing is required, but no one requests a
8 hearing 10 days before the day set for the hearing, then
9 the Director may cancel the hearing.

10 (3) The Director may waive or modify any requirement
11 with respect to market value of a converted company as
12 necessary or desirable to reflect applicable restrictions
13 on ownership of companies formed under this Article.

14 (4) An alien insurer may be a party to a merger
15 provided that the requirements for a merger between a
16 captive insurance company and a foreign insurer shall apply
17 to a merger between a captive insurance company and an
18 alien insurer. Such alien insurer shall be treated as a
19 foreign insurer and such other jurisdictions shall be the
20 equivalent of a state.

21 (5) The Director may issue a certificate of general
22 good to permit the formation of a captive insurance company
23 that is established for the purpose of consolidating or
24 merging with or assuming existing insurance or reinsurance
25 business from an existing licensed captive insurance
26 company. The Director may, upon request of such newly

1 formed captive insurance company, waive or modify the
2 requirements of subparagraph (b) of paragraph (1) and
3 paragraph (2) of subsection (c) of Section 123C-2.

4 (i) Captive insurance companies formed as reciprocal
5 insurers under the provisions of this Article shall have the
6 privileges and be subject to the applicable provisions of this
7 Article. However, in approving assessments levied upon
8 subscribers of a captive insurance company formed as a
9 reciprocal insurer, the Director may exempt the company from
10 any provision of this Article. To the extent a reciprocal
11 insurer is made subject to other provisions of this Article,
12 such provisions shall not be applicable to a reciprocal insurer
13 formed under this Article unless such provisions are expressly
14 made applicable to captive insurance companies under this
15 Article.

16 (j) The articles of incorporation or bylaws of a captive
17 insurance company formed as a corporation may authorize a
18 quorum of its board of directors to consist of no fewer than
19 one-third of the fixed or prescribed number of directors.

20 (k) The subscribers' agreement or other organizing
21 document of a captive insurance company formed as a reciprocal
22 insurer may authorize a quorum of its subscribers' advisory
23 committee to consist of no fewer than one-third of the number
24 of its members.

25 (l) With the Director's approval, a captive insurance
26 company organized as a stock insurer may convert to a nonprofit

1 corporation with one or more members by filing with the
2 Secretary of State an irrevocable election for such conversion,
3 provided that:

4 (1) the irrevocable election shall certify that, at the
5 time of the company's original organization and at all
6 times thereafter, the company conducted its business in a
7 manner not inconsistent with a nonprofit purpose;

8 (2) at the time of the filing of its irrevocable
9 election, the company shall file with both the Director and
10 the Secretary of State amended and restated articles of
11 incorporation, duly authorized by the corporation; and

12 (3) in the case of any merger in which a captive
13 insurance company merges with and into a captive insurance
14 company organized as a nonprofit corporation where the
15 latter is the surviving corporation, shall not apply to
16 captive insurance companies which are nonprofit
17 corporations.

18 (m) In the case of a captive insurance company formed as a
19 limited liability company, a reciprocal insurance company or
20 mutual insurance company, any proxy executed by the members,
21 subscribers, and policyholders of each shall be valid if
22 executed and transmitted in compliance with this Article.

23 (n) With the Director's prior written approval, a captive
24 insurance company may establish one or more separate accounts
25 and may allocate to them amounts to provide for the insurance
26 of risks of certain of its parents, affiliates, or members, as

1 the case may be, subject to the following:

2 (1) The income, gains, and losses, realized or
3 unrealized, from assets allocated to a separate account
4 shall be credited to or charged against the account,
5 without regard to other income, gains, or losses of the
6 captive insurance company.

7 (2) Amounts allocated to a separate account in the
8 exercise of the power granted by this subsection are owned
9 by the captive insurer, and the captive insurer may not be
10 nor hold itself out to be a trustee with respect to such
11 amounts.

12 (3) Unless otherwise approved by the Director, assets
13 allocated to a separate account shall be valued in
14 accordance with the rules otherwise applicable to the
15 captive insurer's assets.

16 (4) If and to the extent so provided under the
17 applicable contracts, that portion of the assets of any
18 such separate account equal to the reserves and other
19 contract liabilities with respect to such account shall not
20 be chargeable with liabilities arising out of any other
21 business the captive insurer may conduct.

22 (5) No sale, exchange, or other transfer of assets may
23 be made by such captive insurer between any of its separate
24 accounts or between any other investment account and one or
25 more of its separate accounts unless, in the case of a
26 transfer into a separate account, that transfer is made

1 solely to establish the account or to support the operation
2 of the contracts with respect to the separate account to
3 which the transfer is made and unless that transfer,
4 whether into or from a separate account is made by a
5 transfer of cash or by a transfer of securities having a
6 readily determinable market value, provided that the
7 transfer of securities is approved by the Director. The
8 Director may approve other transfers among those accounts
9 if, in his or her opinion, those transfers would be
10 equitable.

11 (6) To the extent the captive insurer deems it
12 necessary to comply with any applicable federal or State
13 laws, the captive insurer, with respect to any separate
14 account, including any separate account which is a
15 management investment company or a unit investment trust,
16 may provide for persons having an interest therein
17 appropriate voting and other rights and special procedures
18 for the conduct of the business of such account, including
19 special rights and procedures relating to investment
20 policy, investment advisory services, selection of
21 independent public accountants, and the selection of a
22 committee, the members of which need not be otherwise
23 affiliated with the company, to manage the business of the
24 account. ~~Any material change in items (i) through (v) of~~
25 ~~the captive insurance company's plan of operations~~
26 ~~described in subparagraph (c) of paragraph (1) of~~

1 ~~subsection F of Section 123C-5 requires prior approval of~~
2 ~~the Director. Any material change which is not disapproved~~
3 ~~by the Director within 30 days after its submission shall~~
4 ~~be deemed approved. The provisions of Sections 401.1 and~~
5 ~~403A shall apply to a captive insurance company's material~~
6 ~~failure to adhere to items (i) through (v) of its plan of~~
7 ~~operations described in subparagraph (c) of paragraph (1)~~
8 ~~of subsection F of Section 123C-5 (to the same extent and~~
9 ~~in the same manner as if such failure were a violation of~~
10 ~~this Code).~~

11 (Source: P.A. 85-131.)

12 (215 ILCS 5/123C-7) (from Ch. 73, par. 735C-7)

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

14 Sec. 123C-7. Reports and statements. ~~Directors — Conflicts~~
15 ~~of Interest.~~

16 (a) Captive insurance companies shall not be required to
17 make any annual report except as provided in this Article.

18 (b) Prior to March 1 of each year, and prior to March 15 of
19 each year in the case of pure captive insurance companies or
20 industrial insured captive insurance companies, each captive
21 insurance company shall submit to the Director a report of its
22 financial condition, verified by oath of 2 of its executive
23 officers. Each captive insurance company shall report using
24 generally accepted accounting principles, unless the Director
25 requires, approves, or accepts the use of statutory accounting

1 principles or other comprehensive basis of accounting, in each
2 case with any appropriate or necessary modifications or
3 adaptations thereof required or approved or accepted by the
4 Director for the type of insurance and kinds of insurers to be
5 reported upon, and as supplemented by additional information
6 required by the Director. Except as otherwise provided, each
7 risk retention group shall file its report in the form required
8 by the Department, and each risk retention group shall comply
9 with the requirements set forth. The Director shall by rule
10 propose the forms in which pure captive insurance companies,
11 association captive insurance companies, and industrial
12 insured captive insurance companies shall report. Subsection
13 (e) of Section 123C-2 shall apply to each report filed pursuant
14 to this Section, except that such subsection shall not apply to
15 reports filed by risk retention groups.

16 (c) Any pure captive insurance company or an industrial
17 insured captive insurance company may make written application
18 for filing the required report on a fiscal year-end. If an
19 alternative reporting date is granted:

20 (1) the annual report is due 75 days after the fiscal
21 year-end; and

22 (2) in order to provide sufficient detail to support
23 the premium tax return, the pure captive insurance company
24 or industrial insured captive insurance company shall file
25 prior to March 15 of each year for each calendar year-end,
26 pages 1, 2, 3, and 5 of the "Captive Annual Statement; Pure

1 or Industrial Insured," verified by oath of 2 of its
2 executive officers. ~~A. The provisions of Section 10 shall~~
3 ~~apply to stock captive insurance companies and all those~~
4 ~~having dealings therewith and the provisions of Section 40~~
5 ~~shall apply to mutual captive insurance companies and all~~
6 ~~those having dealings therewith; provided that no~~
7 ~~residents or citizens of this State need be directors. No~~
8 ~~director may serve who has been convicted of fraud~~
9 ~~involving any financial institution or of a felony. The~~
10 ~~Director may waive the prohibition regarding a felony if he~~
11 ~~determines that the particular felony does not jeopardize~~
12 ~~the person's ability to act as a director.~~

13 ~~B. Every captive insurance company shall report to the~~
14 ~~Director within 30 days after any change in its executive~~
15 ~~officers or directors, including in its report a statement of~~
16 ~~the business and professional affiliations of any new executive~~
17 ~~officer or director. For purposes of this subsection B, the~~
18 ~~term "executive officer" includes only the following: chairman~~
19 ~~of the board of directors; president; executive or senior~~
20 ~~vice president; secretary; and treasurer.~~

21 ~~C. No director, officer, or employee having any authority~~
22 ~~in the investment or disposition of the funds of a captive~~
23 ~~insurance company shall accept, except on behalf of the~~
24 ~~company, or be the beneficiary of, any fee, brokerage, gift, or~~
25 ~~other emolument because of any investment, loan, deposit,~~
26 ~~purchase, sale, payment, or exchange made by or for the~~

1 ~~company; but a director who is not otherwise an officer or~~
2 ~~employee of the company may receive reasonable compensation for~~
3 ~~services performed for sales or purchases made to or for the~~
4 ~~company in the ordinary course of its business and in the usual~~
5 ~~private professional or business capacity of such director.~~

6 ~~D. Any profit or gain received by or on behalf of any~~
7 ~~person in violation of subsection C of this Section shall inure~~
8 ~~to and be recoverable by the company. A suit to recover such~~
9 ~~profit may be instituted in any court of competent jurisdiction~~
10 ~~by the company, or by any stockholder of the company in its~~
11 ~~name and on its behalf if the company fails or refuses to bring~~
12 ~~such suit within 60 days after request in writing or if the~~
13 ~~company fails diligently to prosecute the same thereafter. No~~
14 ~~such suit shall be brought more than 2 years after the date~~
15 ~~such profit or gain was discovered.~~

16 (Source: P.A. 85-131.)

17 (215 ILCS 5/123C-8) (from Ch. 73, par. 735C-8)

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

19 Sec. 123C-8. Examinations and investigations. ~~Merger,~~
20 ~~Consolidation, Plans of Exchange and Reorganization.~~

21 (a) At least once in 3 years, and whenever the Director
22 determines it to be prudent, the Director shall personally, or
23 by some competent person appointed by the Director, visit each
24 captive insurance company and thoroughly inspect and examine
25 its affairs to ascertain its financial condition, its ability

1 to fulfill its obligations, and whether it has complied with
2 the provisions of this Article. The Director may extend that 3
3 year period to 5 years, provided the captive insurance company
4 is subject to a comprehensive annual audit during such period
5 of a scope satisfactory to the Director by independent auditors
6 approved by the Director. The expenses and charges of the
7 examination shall be paid to the State by the company or
8 companies.

9 (b) All examination reports, preliminary examination
10 reports or results, working papers, recorded information,
11 documents and copies thereof produced by, obtained by, or
12 disclosed to the Director or any other person in the course of
13 an examination made under this Section are confidential and are
14 not subject to subpoena and may not be made public by the
15 Director or an employee or agent of the Director without the
16 written consent of the company, except to the extent provided
17 in this subsection. Nothing in this subsection shall prevent
18 the Director from using the information in furtherance of the
19 Director's regulatory authority under this Code. The Director
20 may, in the Director's discretion, grant access to the
21 information to public officers having jurisdiction over the
22 regulation of insurance in any other state or country, or to
23 law enforcement officers of this State or any other state or
24 agency of the federal government at any time, so long as such
25 officers receiving the information agree in writing to hold it
26 in a manner consistent with this Section. A. ~~The provisions of~~

1 ~~Article X shall apply to captive insurance companies; provided,~~
2 ~~however, that:~~

3 ~~(1) if the surviving or new company is to be a domestic~~
4 ~~captive insurance company,~~

5 ~~(a) the Director shall, in determining whether~~
6 ~~such company meets the requirements set forth in~~
7 ~~paragraph (b) of subsection (2) of Section 162, refer~~
8 ~~only to the provisions of this Article VIIC and the~~
9 ~~other provisions of Article X;~~

10 ~~(b) the Director shall, in determining whether~~
11 ~~such company meets the requirements of Sections 123C-3~~
12 ~~and 123C-4, take into account the capital and surplus~~
13 ~~of the company to be merged into the domestic captive~~
14 ~~insurance company or the companies to be consolidated~~
15 ~~into the domestic captive insurance company (but any~~
16 ~~approval by the Director of such merger or~~
17 ~~consolidation shall be contingent upon the receipt of~~
18 ~~such capital and surplus by the domestic captive~~
19 ~~insurance company and satisfactory evidence thereof~~
20 ~~being presented to the Director);~~

21 ~~(c) notwithstanding the provisions of paragraph~~
22 ~~(c) of subsection (1) of Section 166, such surviving or~~
23 ~~new company shall have all of the rights, privileges,~~
24 ~~immunities and powers and shall be subject to all of~~
25 ~~the duties and liabilities granted or imposed by this~~
26 ~~Article VIIC (and not by the entire Code); and~~

1 ~~(2) in the event that such merger or consolidation is~~
2 ~~to be effected in conjunction with the formation and~~
3 ~~licensing of a new domestic captive insurance company in~~
4 ~~this State, the Director shall follow procedures for the~~
5 ~~contemporaneous and expeditious review of the materials~~
6 ~~presented to the Director for his approval of such~~
7 ~~formation, licensing and merger or consolidation.~~

8 ~~B. (1) Any domestic, foreign or alien stock company, mutual~~
9 ~~company, or reciprocal company, authorized or which may be~~
10 ~~authorized to do business in this State, may reorganize as a~~
11 ~~domestic captive insurance company under the laws of this~~
12 ~~State, by complying with the provisions of Article XII.~~
13 ~~Domestic companies are hereby authorized to reorganize as~~
14 ~~domestic captive insurance companies.~~

15 ~~(2) In the event that such reorganization is to be~~
16 ~~effected in conjunction with the formation and licensing of~~
17 ~~a new captive insurance company in this State, the Director~~
18 ~~shall follow procedures for the contemporaneous and~~
19 ~~expeditious review of the materials presented to the~~
20 ~~Director for his approval of such formation, licensing and~~
21 ~~reorganization.~~

22 (Source: P.A. 85-131.)

23 (215 ILCS 5/123C-9) (from Ch. 73, par. 735C-9)

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

25 Sec. 123C-9. Grounds and procedures for suspension or

1 revocation of license. ~~Reports, Statements and Mandatory~~
2 ~~Reserves.~~

3 (a) The license of a captive insurance company may be
4 suspended or revoked by the Director for any of the following
5 reasons:

6 (1) insolvency or impairment of capital or surplus;

7 (2) failure to meet the requirements of Section 123C-4;

8 (3) refusal or failure to submit an annual report, as
9 required by this Article, or any other report or statement
10 required by law or by lawful order of the Director;

11 (4) failure to comply with the provisions of its own
12 charter, bylaws, or other organizational document;

13 (5) failure to submit to or pay the cost of examination
14 or any legal obligation relative thereto, as required by
15 this Article;

16 (6) use of methods that, although not otherwise
17 specifically prohibited by law, nevertheless render its
18 operation detrimental or its condition unsound with
19 respect to the public or to its policyholders; or

20 (7) failure otherwise to comply with the laws of this
21 State.

22 (b) If the Director finds, upon examination, hearing, or
23 other evidence, that any captive insurance company has violated
24 any provision of subsection (a) of this Section, the Director
25 may suspend or revoke such company's license if the Director
26 deems it in the best interest of the public and the

1 policyholders of the captive insurance company,
2 notwithstanding any other provision of this Code. A. Captive
3 insurance companies shall not be required to make any annual
4 report except as provided in this Article.

5 ~~B. (1) Prior to March 1 of each year, each captive~~
6 ~~insurance company shall submit to the Director a report of its~~
7 ~~financial condition, verified by oath of 2 of its executive~~
8 ~~officers and including (i) a balance sheet reporting assets,~~
9 ~~liabilities, capital and surplus, (ii) a statement of gain or~~
10 ~~loss from operations, (iii) a statement of changes in financial~~
11 ~~position, (iv) a statement of changes in capital and surplus,~~
12 ~~and (v) in the case of industrial insured captive insurance~~
13 ~~companies, an analysis of loss reserve development,~~
14 ~~information on risks ceded and assumed under reinsurance~~
15 ~~agreements, on forms prescribed by the Director, and a schedule~~
16 ~~of its invested assets on forms prescribed by the Director.~~

17 ~~(2) In addition, prior to March 1 of each year, each~~
18 ~~association captive insurance company shall submit to the~~
19 ~~Director such additional data or information, which the~~
20 ~~Director may from time to time require, on a form specified~~
21 ~~by the Director.~~

22 ~~(3) Prior to June 1 of each year, each association and~~
23 ~~industrial insured captive insurance company shall submit~~
24 ~~to the Director a report of its financial condition,~~
25 ~~certified by a recognized firm of independent public~~
26 ~~accountants acceptable to the Director and including the~~

1 ~~items referred to in items (i), (ii), (iii) and (iv) of~~
2 ~~paragraph (1) of this subsection B.~~

3 ~~(4) Unless the Director permits otherwise, the reports~~
4 ~~of financial condition referred to in paragraphs (1) and~~
5 ~~(3) of this subsection B are to be prepared in accordance~~
6 ~~with the Accounting Practices and Procedures Manual~~
7 ~~adopted by the National Association of Insurance~~
8 ~~Commissioners. The Director shall have authority to extend~~
9 ~~the time for filing any report or statement by any company~~
10 ~~for reasons which he considers good and sufficient.~~

11 ~~C. In addition, any captive insurance company may be~~
12 ~~required by the Director, when he considers such action to be~~
13 ~~necessary and appropriate for the protection of policyholders,~~
14 ~~creditors, shareholders or claimants, to file, within 60 days~~
15 ~~after mailing to the company of a notice that such is required,~~
16 ~~a supplemental summary statement as of the last day of any~~
17 ~~calendar month occurring during the 100 days next preceding the~~
18 ~~mailing of such notice designated by him on forms prescribed~~
19 ~~and furnished by the Director. No company shall be required to~~
20 ~~file more than 4 supplemental summary statements during any~~
21 ~~consecutive 12 month period.~~

22 ~~D. Every captive insurance company shall, at all times,~~
23 ~~maintain reserves in an amount estimated in the aggregate to~~
24 ~~provide for the payment of all losses and claims incurred,~~
25 ~~whether reported or unreported, which are unpaid and for which~~
26 ~~such company may be liable, and to provide for the expenses of~~

1 ~~adjustment or settlement of such losses and claims. The~~
2 ~~aggregate reserves shall be reduced by reinsurance ceded which~~
3 ~~meets the requirements of Section 123C-13. For the purpose of~~
4 ~~such reserves, the company shall keep a complete and itemized~~
5 ~~record showing all losses and claims on which it has received~~
6 ~~notice, including all notices received by it of the occurrence~~
7 ~~of any event which may result in a loss. Such record shall be~~
8 ~~opened in chronological receipt order, with each notice of loss~~
9 ~~or claim identified by appropriate number or coding.~~

10 ~~E. Every captive insurance company shall maintain an~~
11 ~~unearned premium reserve on all policies in force which reserve~~
12 ~~shall be charged as a liability. The portions of the gross~~
13 ~~premiums in force, after deducting reinsurance qualifying~~
14 ~~under Section 123C-13, which shall be held as a premium~~
15 ~~reserve, shall never be less in the aggregate than the~~
16 ~~company's actual liability to all its insureds for the return~~
17 ~~of gross unearned premiums. In the calculation of the company's~~
18 ~~actual liability to all its insureds, the reserve shall be~~
19 ~~computed pursuant to the method commonly referred to as the~~
20 ~~monthly pro rata method; provided, however, that the Director~~
21 ~~may require that such reserve shall be equal to the unearned~~
22 ~~portions of the gross premiums in force, after deducting~~
23 ~~reinsurance qualifying under Section 123C-13, in which case the~~
24 ~~reserve shall be computed on each respective risk from the date~~
25 ~~of the issuance of the policy.~~

26 ~~F. The reports required by this Section shall be prepared~~

1 ~~and filed on a calendar year basis.~~

2 ~~G. Notwithstanding the requirements of this Section, a~~
3 ~~captive insurance company may prepare and issue financial~~
4 ~~statements prepared in accordance with generally accepted~~
5 ~~accounting principles.~~

6 (Source: P.A. 85-131; 86-1155; 86-1156.)

7 (215 ILCS 5/123C-10) (from Ch. 73, par. 735C-10)

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

9 Sec. 123C-10. Legal investments. ~~Examinations and~~
10 ~~investigations; fees.~~

11 (a) Except as may be otherwise authorized by the Director,
12 association captive insurance companies and risk retention
13 groups shall comply with the investment requirements of this
14 Article, as applicable. This Article shall apply to association
15 captive insurance companies and risk retention groups except to
16 the extent it is inconsistent with approved accounting
17 standards in use by the company. Notwithstanding any other
18 provision of this Code, the Director may approve the use of
19 alternative reliable methods of valuation and rating.

20 (b) No pure captive insurance company or industrial insured
21 captive insurance company shall be subject to any restrictions
22 on allowable investments; provided, however, that the Director
23 may prohibit or limit any investment that threatens the
24 solvency or liquidity of any such company.

25 (c) No pure captive insurance company may make a loan to or

1 an investment in its parent company or affiliates without prior
2 written approval of the Director, and any loan or investment
3 must be evidenced by documentation approved by the Director.
4 Loans of minimum capital and surplus funds required by Section
5 123C-4 are prohibited. A. The provisions of Sections 132
6 through 132.7 shall apply to captive insurance companies. The
7 expenses and charges of any examination conducted pursuant to
8 those Sections shall be paid by the company examined.

9 ~~B. When necessary to supplement its evaluation or~~
10 ~~examination procedures, the Department may retain independent~~
11 ~~actuaries deemed competent by the Director, qualified loss~~
12 ~~reserve consultants, independent risk managers, independent~~
13 ~~certified public accountants, or qualified examiners of~~
14 ~~insurance companies deemed competent by the Director, or any~~
15 ~~combination of the foregoing. The Director may also accept as a~~
16 ~~part of the Department's examination of any company or person~~
17 ~~(a) a report by an independent actuary deemed competent by the~~
18 ~~Director or (b) a report of an audit made by an independent~~
19 ~~certified public accountant. Neither those persons so~~
20 ~~designated nor any members of their immediate families shall be~~
21 ~~officers of, connected with, or financially interested in any~~
22 ~~company other than as policyholders, nor shall they be~~
23 ~~financially interested in any other corporation or person~~
24 ~~affected by the examination, investigation or hearing. The~~
25 ~~reasonable expenses and charges of persons so retained or~~
26 ~~designated shall be paid directly by the company.~~

1 (Source: P.A. 89-97, eff. 7-7-95.)

2 (215 ILCS 5/123C-11) (from Ch. 73, par. 735C-11)

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

4 Sec. 123C-11. Reinsurance. ~~Grounds and Procedures for~~
5 ~~Suspension or Revocation of Certificate of Authority.~~

6 (a) Any captive insurance company may provide reinsurance
7 on risks ceded by any other insurer and may provide reinsurance
8 of annuity contracts that are granted by any other insurer.

9 (b) Any captive insurance company may take credit for the
10 reinsurance of risks or portions of risks ceded to reinsurers
11 complying with the provisions of this Article. Prior approval
12 of the Director shall be required for ceding or taking credit
13 for the reinsurance of risks or portions of risks ceded to
14 reinsurers, except for business written by an alien captive
15 insurance company outside the United States.

16 (c) In addition to reinsurers, a captive insurance company
17 may take credit for the reinsurance of risks or portions of
18 risks ceded to a pool, exchange, or association acting as a
19 reinsurer which has been authorized by the Director. The
20 Director may require any other documents, financial
21 information, or other evidence that such a pool, exchange, or
22 association will be able to provide adequate security for its
23 financial obligations. The Director may deny authorization or
24 impose any limitations on the activities of a reinsurance pool,
25 exchange, or association that, in the Director's judgment, are

1 necessary and proper to provide adequate security for the
2 ceding captive insurance company and for the protection and
3 consequent benefit of the public at large.

4 (d) For all purposes of this Article, insurance by a
5 captive insurance company of any workers' compensation
6 qualified self-insured plan of its parent and affiliates shall
7 be deemed to be reinsurance. A. The certificate of authority of
8 a captive insurance company to do an insurance business in this
9 State may be suspended or revoked by the Director for any of
10 the following reasons:

11 ~~(1) Insolvency or impairment of capital or surplus;~~

12 ~~(2) Failure to meet the requirements of Sections 123C-3~~
13 ~~or 123C-4;~~

14 ~~(3) Refusal or failure to submit an annual report, as~~
15 ~~required by Section 123C-9, or any other report or~~
16 ~~statement required by law or by lawful order of the~~
17 ~~Director;~~

18 ~~(4) Failure to comply with the provisions of its own~~
19 ~~charter or bylaws (or, in the case of an industrial insured~~
20 ~~captive, with the provisions of the investment policy set~~
21 ~~forth in its plan of operation as approved from time to~~
22 ~~time by the Director);~~

23 ~~(5) Failure to submit to examination or any legal~~
24 ~~obligation relative thereto, as required by Section~~
25 ~~123C-10;~~

26 ~~(6) Refusal or failure to pay expenses and charges as~~

1 ~~required by Sections 408, 123C-10 and 123C-17;~~

2 ~~(7) Use of methods that, although not otherwise~~
3 ~~specifically prohibited by law, nevertheless render its~~
4 ~~operation detrimental or its condition unsound with~~
5 ~~respect to the public or to its policyholders; or~~

6 ~~(8) Failure otherwise to comply with the laws of this~~
7 ~~State.~~

8 ~~B. If the Director finds, upon examination, hearing, or~~
9 ~~other evidence, that any captive insurance company has~~
10 ~~committed any of the acts specified in subsection A, he may~~
11 ~~suspend or revoke such certificate of authority if he deems it~~
12 ~~in the best interest of the public and the policyholders of~~
13 ~~such captive insurance company, notwithstanding any other~~
14 ~~provision of this Article.~~

15 ~~C. The provisions of Articles XIII and XIII 1/2 shall apply~~
16 ~~to and govern the conservation, rehabilitation, liquidation~~
17 ~~and dissolution of captive insurance companies.~~

18 (Source: P.A. 85-131.)

19 (215 ILCS 5/123C-12) (from Ch. 73, par. 735C-12)

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

21 Sec. 123C-12. Rating organizations; memberships. Legal
22 Investments. No captive insurance company shall be required to
23 join a rating organization.

24 ~~A. The provisions of Article VIII and of Sections 131.2 and~~
25 ~~131.3 shall apply to association captive insurance companies.~~

1 ~~B. No pure captive insurance company or industrial insured~~
2 ~~captive insurance company shall be subject to any restrictions~~
3 ~~on allowable investments whatever, including those limitations~~
4 ~~contained in Articles VIII and VIII 1/2; provided, however,~~
5 ~~that the Director may prohibit or limit any investment or type~~
6 ~~of investment that threatens the solvency or liquidity of any~~
7 ~~such company; and provided further that an industrial insured~~
8 ~~captive insurance company must adhere to the investment policy~~
9 ~~set forth in its plan of operation as approved from time to~~
10 ~~time by the Director.~~

11 (Source: P.A. 85-131.)

12 (215 ILCS 5/123C-13) (from Ch. 73, par. 735C-13)

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

14 Sec. 123C-13. Exemption from compulsory associations
15 Reinsurance. No captive insurance company shall be permitted to
16 join or contribute financially to any plan, pool, association,
17 or guaranty or insolvency fund in this State, nor shall any
18 such captive insurance company, or any insured or affiliate
19 thereof, receive any benefit from any such plan, pool,
20 association, or guaranty or insolvency fund for claims arising
21 out of the operations of a captive insurance company.

22 ~~A. Any captive insurance company may provide reinsurance on~~
23 ~~risks ceded by any other insurer; provided, however, that the~~
24 ~~risks so assumed are the same as the captive insurance company~~
25 ~~could legally insure on a direct basis. The provisions of~~

1 ~~Section 174.1 shall not apply to any captive insurance company~~
2 ~~providing reinsurance.~~

3 ~~B. Subject to the provisions of Article XI, any captive~~
4 ~~insurance company may cede, and may take credit for in the~~
5 ~~establishment of reserves, all or any part of its risks.~~
6 ~~Furthermore, in addition to Section 173.1, any pure or~~
7 ~~industrial insured captive insurance company may take credit,~~
8 ~~as either an asset or a deduction from liability, for~~
9 ~~reinsurance so ceded to the extent:~~

10 ~~(1) The reinsurer satisfies all of the following (a)~~
11 ~~through (g):~~

12 ~~(a) the principal business of the reinsurer (other~~
13 ~~than investments in subsidiaries and other investment~~
14 ~~activities) is to accept reinsurance from captive~~
15 ~~insurance companies organized under Article VIIC, of~~
16 ~~which the company accepting the reinsurance directly~~
17 ~~or indirectly owns, controls, or holds with power to~~
18 ~~vote more than 80% of the outstanding voting securities~~
19 ~~if organized as a stock company or more than 80% of the~~
20 ~~voting control if organized as a mutual company and to~~
21 ~~provide insurance related services;~~

22 ~~(b) is licensed to transact insurance or~~
23 ~~reinsurance in its jurisdiction of domicile;~~

24 ~~(c) submits to this State's authority to examine~~
25 ~~its books and records and agrees to pay the cost~~
26 ~~thereof;~~

1 ~~(d) files annually with the Director a copy of its~~
2 ~~most recent audited financial statements;~~

3 ~~(e) maintains a surplus as regards policyholders~~
4 ~~in an amount that is not less than \$20,000,000;~~

5 ~~(f) files with the Department the following:~~

6 ~~(i) evidence of its submission to the~~
7 ~~jurisdiction of any court of competent~~
8 ~~jurisdiction in any state of the United States and~~
9 ~~its agreement to comply with all requirements~~
10 ~~necessary to give the court jurisdiction and to~~
11 ~~abide by the final decision of the court or of any~~
12 ~~appellate court in the event of an appeal; and~~

13 ~~(ii) an instrument designating the Director or~~
14 ~~a designated attorney as its true and lawful~~
15 ~~attorney upon whom may be served any lawful process~~
16 ~~in any action, suit, or proceeding instituted by or~~
17 ~~on behalf of the ceding company;~~

18 ~~(g) has not been the subject of an order of the~~
19 ~~Director entered after notice and hearing prohibiting~~
20 ~~the reinsurer from utilizing this paragraph (1); or~~
21 ~~(2) the taking of credit by the captive insurancee~~
22 ~~company has otherwise received the prior approval of the~~
23 ~~Director.~~

24 (Source: P.A. 87-108.)

25 (215 ILCS 5/123C-14) (from Ch. 73, par. 735C-14)

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

2 Sec. 123C-14. Tax on premiums collected. Rating
3 Organizations; Memberships; Rate or Policy Filing.

4 (a) Each captive insurance company shall pay to the
5 Director, in the month of February of each year, a tax at the
6 rate of 38/100 of 1% on the first \$20,000,000 and 285/1000 of
7 1% on the next \$20,000,000 and 19/100 of 1% on the next
8 \$20,000,000 and 72/1000 of 1% on each dollar thereafter on the
9 direct premiums collected or contracted for on policies or
10 contracts of insurance written by the captive insurance company
11 during the year ending December 31 next preceding, after
12 deducting from the direct premiums subject to the tax the
13 amounts paid to policyholders as return premiums which shall
14 include dividends on unabsorbed premiums or premium deposits
15 returned or credited to policyholders; provided, however, that
16 no tax shall be due or payable as to considerations received
17 for annuity contracts.

18 (b) Each captive insurance company shall pay to the
19 Director, in the month of February of each year a tax at the
20 rate of 214/1000 of 1% on the first \$20,000,000 of assumed
21 reinsurance premium, and 143/1000 of 1% on the next \$20,000,000
22 and 48/1000 of 1% on the next \$20,000,000 and 24/1000 of 1% of
23 each dollar thereafter. However, no reinsurance tax applies to
24 premiums for risks or portions of risks which are subject to
25 taxation on a direct basis pursuant to subsection (a) of this
26 Section. No reinsurance premium tax shall be payable in

1 connection with the receipt of assets in exchange for the
2 assumption of loss reserves and other liabilities of another
3 insurer under common ownership and control if such transaction
4 is part of a plan to discontinue the operations of such other
5 insurer, and if the intent of the parties to such transaction
6 is to renew or maintain such business with the captive
7 insurance company.

8 (c) The annual minimum aggregate tax to be paid by a
9 captive insurance company calculated under subsections (a) and
10 (b) of this Section shall be \$7,500. The annual maximum
11 aggregate tax to be paid by a captive insurance company
12 calculated under subsections (a) and (b) of this Section shall
13 be \$200,000. The annual minimum aggregate tax to be paid by a
14 sponsored captive insurance company shall be \$7,500 and shall
15 apply to the sponsored captive insurance company as a whole and
16 not to each protected cell; such cells shall not be subject to
17 the minimum tax. The annual maximum tax to be paid by a
18 protected cell shall be as calculated under this subsection
19 (c). The annual maximum tax to be remitted by a sponsored
20 captive insurance company shall be the aggregate of the tax
21 liabilities of each protected cell.

22 (d) A captive insurance company failing to make returns or
23 failing to pay within the time required all taxes assessed by
24 this Section, shall be subject to the provisions of this
25 Article.

26 (e) Subject to the provisions of subsection (c) of this

1 Section, 2 or more captive insurance companies under common
2 ownership and control shall be taxed as though they were a
3 single captive insurance company.

4 (f) As used in this Section:

5 "Common ownership and control" means ownership and control
6 of 2 or more captive insurance companies by the same person or
7 group of persons.

8 "Ownership and control means:

9 (1) in the case of a stock corporation, the direct or
10 indirect ownership of 80% or more of the outstanding voting
11 stock of the corporation.

12 (2) in the case of a mutual or nonprofit corporation,
13 the direct or indirect ownership of 80% or more of the
14 surplus and the voting power of such corporation.

15 (3) in the case of a limited liability company, the
16 direct or indirect ownership of 80% or more of the
17 membership interests in the limited liability company.

18 (4) in the case of a sponsored captive insurance
19 company, for purposes of this Section, a protected cell
20 shall be treated as a separate captive insurance company
21 owned and controlled by the protected cell's participant,
22 but only if:

23 (A) the participant is the only participant with
24 respect to such protected cell; and

25 (B) the participant is the sponsor or is affiliated
26 with the sponsor of the sponsored captive insurance

1 company through common ownership and control.

2 (g) The tax provided for in this Section shall constitute
3 all taxes collectible under the laws of this State from any
4 captive insurance company, and no other occupation tax or other
5 taxes shall be levied or collected from any captive insurance
6 company by the State or any county, city, or municipality
7 within this State, except meals and rooms taxes, sales and use
8 taxes, and ad valorem taxes on real and personal property used
9 in the production of income.

10 (h) Annually, 11% of the premium tax revenues collected
11 pursuant to this Section shall be transferred to the Department
12 for the regulation of captive insurance companies under this
13 Article.

14 (i) The tax provided for in this Section shall be
15 calculated on an annual basis, notwithstanding policies or
16 contracts of insurance or contracts of reinsurance issued on a
17 multiyear basis. In the case of multiyear policies or
18 contracts, the premium shall be prorated for purposes of
19 determining the tax under this Section.

20 (j) A captive insurance company first licensed under this
21 Article on or after January 1, 2016 shall receive a
22 nonrefundable credit of \$7,500 applied against the aggregate
23 taxes owed for the first taxable year for which the company has
24 liability under this Section.

25 (k) This Section does not apply to safety-net hospitals. ~~No~~
26 ~~captive insurance company shall be required to join a rating~~

1 ~~organization. No captive insurance company shall be required to~~
2 ~~file its premium rates or policy forms with, or to seek~~
3 ~~approval of such rates or forms from, the Director or any other~~
4 ~~authority of this State.~~

5 (Source: P.A. 85-131.)

6 (215 ILCS 5/123C-15) (from Ch. 73, par. 735C-15)

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

8 Sec. 123C-15. Rules and regulations ~~Exemption from~~
9 ~~Compulsory Associations. The Director may adopt and from time~~
10 ~~to time amend such rules relating to captive insurance~~
11 ~~companies as are necessary to enable the Director to carry out~~
12 ~~the provisions of this Article. No captive insurance company~~
13 ~~shall be permitted or required to join or contribute~~
14 ~~financially to any plan, pool, association, or guaranty or~~
15 ~~insolvency fund in this State, nor shall any captive insurance~~
16 ~~company, nor its insureds nor any claimants against the~~
17 ~~insureds, nor its parent nor any affiliated company, nor any~~
18 ~~member organization of its association, receive any benefit~~
19 ~~from any such plan, pool, association, or guaranty or~~
20 ~~insolvency fund for claims arising out of the operations of~~
21 ~~such captive insurance company. Each association captive~~
22 ~~insurance company and each industrial insured captive~~
23 ~~insurance company shall inform each insured, in both the~~
24 ~~application for insurance and in the policy issued to such~~
25 ~~insured, that (i) the captive insurance company is not subject~~

1 ~~to all of the insurance laws and regulations of this State, and~~
2 ~~(ii) state insurance insolvency guaranty funds are not~~
3 ~~available to such insured for claims arising out of the~~
4 ~~operations of such captive insurance company.~~

5 (Source: P.A. 85-131.)

6 (215 ILCS 5/123C-16) (from Ch. 73, par. 735C-16)

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

8 Sec. 123C-16. ~~Laws applicable Tax.~~ ~~No provisions of this~~
9 ~~Code, other than those contained in this Article or contained~~
10 ~~in specific references contained in this Article, shall apply~~
11 ~~to captive insurance companies. Risk retention groups shall~~
12 ~~have the privileges and be subject to the applicable provisions~~
13 ~~of this Article.~~

14 ~~A. Every captive insurance company organized under the~~
15 ~~provisions of this Article and doing business in this State~~
16 ~~shall, for the privilege of doing business in this State, pay~~
17 ~~to the Director for the State treasury the State tax imposed~~
18 ~~under Section 409 to the same extent and in the same manner as~~
19 ~~a domestic insurance company.~~

20 ~~B. Domestic captive insurance companies shall be insurance~~
21 ~~companies subject to the rules now provided for such companies~~
22 ~~under the Illinois Income Tax Act.~~

23 ~~C. A domestic captive insurance company that has engaged~~
24 ~~one or more administrative or management service organizations~~
25 ~~in order to comply with subsection D of Section 123C-2 shall be~~

1 ~~deemed to meet the requirements of Section 409(4) (a) through~~
2 ~~(d) provided that the company and such organizations when~~
3 ~~viewed collectively as a group:~~

4 ~~(a) maintain a place of business in this State; and~~

5 ~~(b) maintain in this State personnel knowledgeable of~~
6 ~~and responsible for the company's operations, books,~~
7 ~~records, administration and annual statement; and~~

8 ~~(c) conduct in this State substantially all of the~~
9 ~~company's underwriting, policy issuing and servicing~~
10 ~~operations relating to the company's policyholders and~~
11 ~~certificate holders; and~~

12 ~~(d) comply with the provisions of Section 133(2) with~~
13 ~~respect to such domestic captive insurance company's~~
14 ~~books, records, documents, accounts, vouchers and~~
15 ~~securities.~~

16 (Source: P.A. 86-632; 86-634.)

17 (215 ILCS 5/123C-17) (from Ch. 73, par. 735C-17)

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

19 Sec. 123C-17. Captive Insurance Regulatory and Supervision
20 Dedicated Fund Fees.

21 (a) There is hereby created a fund to be known as the
22 Captive Insurance Regulatory and Supervision Dedicated Fund
23 for the purpose of providing the financial means for the
24 Director to administer this Section and for reasonable expenses
25 incurred in promoting the captive insurance industry in

1 Illinois. The transfer of 10% of the premium tax under
2 subsection (h) of Section 123C-14, and all fees and assessments
3 received by the Department pursuant to the administration of
4 these chapters shall be credited to this Fund. Of this amount,
5 not more than 3% of the premium tax under Section 123C-14 may
6 be expended by the Department for promotional expenses. All
7 fees received by the Department from reinsurers who assume risk
8 solely from captive insurance companies shall be deposited into
9 the Captive Insurance Regulatory and Supervision Dedicated
10 Fund. All fines and administrative penalties, however, shall be
11 deposited directly into the General Fund.

12 (b) All payments from the Captive Insurance Regulatory and
13 Supervision Fund for the maintenance of staff and associated
14 expenses, including contractual services as necessary, shall
15 be disbursed from the State Treasury only upon warrants issued
16 by the Director after receipt of proper documentation regarding
17 services rendered and expenses incurred.

18 (c) At the end of each fiscal year, the balance in the
19 Captive Insurance Regulatory and Supervision Dedicated Fund
20 shall be transferred to the General Fund.

21 (d) The Director may anticipate receipts to the Captive
22 Insurance Regulatory and Supervision Fund and issue warrants
23 based thereon.

24 ~~A. The Director shall charge, collect, and give proper~~
25 ~~acquittances for the payment of the following fees and charges~~
26 ~~with respect to a captive insurance company:~~

1 ~~1. For filing all documents submitted for the~~
2 ~~incorporation or organization or certification of a~~
3 ~~captive insurance company, \$7,000.~~

4 ~~2. For filing requests for approval of changes in the~~
5 ~~elements of a plan of operations, \$200.~~

6 ~~B. Except as otherwise provided in subsection A of this~~
7 ~~Section and in Section 123C 10, the provisions of Section 408~~
8 ~~shall apply to captive insurance companies.~~

9 ~~C. Any funds collected from captive insurance companies~~
10 ~~pursuant to this Section shall be treated in the manner~~
11 ~~provided in subsection (11) of Section 408.~~

12 (Source: P.A. 93-32, eff. 7-1-03.)

13 (215 ILCS 5/123C-18) (from Ch. 73, par. 735C-18)

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

15 Sec. 123C-18. Rules for controlled unaffiliated business.
16 ~~Additional powers, rights, and obligations. The Director may~~
17 adopt rules establishing standards to ensure that a parent or
18 its affiliated company, or an industrial insured or its
19 affiliated company, is able to exercise control of the risk
20 management function of any controlled unaffiliated business to
21 be insured by a pure captive insurance company or an industrial
22 insured captive insurance company, respectively; provided,
23 however, that, until such time as rules under this Section are
24 adopted, the Director may approve the coverage of such risks by
25 a pure captive insurance company or an industrial insured

1 captive insurance company. ~~In addition to the powers and duties~~
2 ~~set forth in the other provisions of this Article VIIC and to~~
3 ~~the extent not inconsistent with the provisions of this Article~~
4 ~~VIIC:~~

5 ~~A. The provisions of Article XXVI, subsection E of~~
6 ~~Section 123B 3, subsection A of Section 123B 4, subsection~~
7 ~~A of Section 123B 8, and Sections 2.1, 131.4 through~~
8 ~~131.12, 131.20, 131.20a(2), except as otherwise provided~~
9 ~~by Section 123C 12B, 131.22, 133, 141.1, 141.2, 144.1,~~
10 ~~144.2, 147, 148, 149, 154.5, 154.6, 154.7, 154.8, 155,~~
11 ~~186.1, 186.2, 401, 401.1, 402, 403, 403A, 407, 407.1,~~
12 ~~407.2, 412, 415 and subsections (1) and (3) of Section 441~~
13 ~~shall apply to captive insurance companies and all those~~
14 ~~having dealings therewith.~~

15 ~~B. The provisions of subsection (2) of Section 9,~~
16 ~~Section 11, subsection (2) of Section 12, and Sections~~
17 ~~27.1, 28, 28.2, 28.2a, 29, 30, 31, 32, 33, 34 and 35 shall~~
18 ~~apply to stock captive insurance companies and all those~~
19 ~~having dealings therewith.~~

20 ~~C. The provisions of subsection (2) of Section 39,~~
21 ~~Section 41, subsections (1) and (2) of Section 42, and~~
22 ~~Sections 54, 55, 56, 57, 58, 59 and 60 shall apply to~~
23 ~~mutual captive insurance companies and all those having~~
24 ~~dealings therewith.~~

25 ~~D. The Director and each captive insurance company and~~
26 ~~all those having dealings therewith shall have the~~

1 ~~authorities, powers, rights, duties and obligations set~~
2 ~~forth in Section 144 (excluding paragraph (f) of subsection~~
3 ~~(4) of Section 144); provided, however, that:~~

4 ~~(i) subsection (1) of Section 144 shall not apply~~
5 ~~to pure captive insurance companies; and~~

6 ~~(ii) the Director may exempt any association~~
7 ~~captive insurance company and any industrial insured~~
8 ~~captive insurance company from the requirements of~~
9 ~~subsection (1) of Section 144, on terms and conditions~~
10 ~~established by the Director, upon a showing by any such~~
11 ~~captive insurance company and a determination by the~~
12 ~~Director that the limitations of subsection (1) of~~
13 ~~Section 144 are not necessary to protect the interests~~
14 ~~of policyholders in light of such captive insurance~~
15 ~~company's financial condition and the nature of the~~
16 ~~risks insured by such company.~~

17 ~~E. Nothing in this Article or Code shall be deemed to~~
18 ~~prohibit the by laws of a captive insurance company from~~
19 ~~providing for the allocation of underwriting or investment~~
20 ~~income or loss to the respective accounts of its members,~~
21 ~~or to prohibit a captive insurance company, if its by laws~~
22 ~~so provide and the requirements of this Article are~~
23 ~~otherwise met, from distributing to a withdrawing member,~~
24 ~~whether by way of ordinary or liquidating distributions and~~
25 ~~whether the withdrawal of such member is voluntary or~~
26 ~~otherwise, on terms and conditions set forth in the~~

1 ~~by laws, that member's share of the company's surplus, as~~
2 ~~well as that portion of the underwriting and investment~~
3 ~~income allocated to such withdrawing member for the period~~
4 ~~that such withdrawing member was a member of the mutual~~
5 ~~company; provided that (i) no such distribution may be made~~
6 ~~except out of earned, as distinguished from contributed,~~
7 ~~surplus, (ii) no such distribution shall be made if the~~
8 ~~surplus of the captive insurance company is less than the~~
9 ~~original surplus required for the kind or kinds of business~~
10 ~~authorized to be transacted by such company, or if the~~
11 ~~payment of such distribution would reduce its surplus to~~
12 ~~less than the minimum, and (iii) no such distribution shall~~
13 ~~be made without the approval of the Director if such~~
14 ~~distribution, together with other such distributions made~~
15 ~~within the period of 12 consecutive months ending on the~~
16 ~~date on which the proposed distribution is scheduled for~~
17 ~~payment or distribution, exceeds the greater of: (i) 10% of~~
18 ~~the company's surplus as regards policyholders as of the~~
19 ~~31st day of December next preceding, or (ii) the net income~~
20 ~~of the company for the 12 month period ending the 31st day~~
21 ~~of December next preceding. For the purposes of this~~
22 ~~subsection, net income includes net realized capital gains~~
23 ~~in an amount not to exceed 20% of net unrealized capital~~
24 ~~gains. The right of a member of a captive insurance company~~
25 ~~to receive distributions under this Section shall be~~
26 ~~included within the provisions of paragraph (i) of~~

1 ~~subsection (1) of Section 205 in the event of liquidation~~
2 ~~or dissolution of such captive insurance company.~~

3 (Source: P.A. 88-297; 89-206, eff. 7-21-95.)

4 (215 ILCS 5/123C-19) (from Ch. 73, par. 735C-19)

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

6 Sec. 123C-19. Conversion to or merger with reciprocal
7 insurer. Letters of credit.

8 (a) An association captive insurance company, risk
9 retention group, industrial insured captive insurance company
10 formed as a stock or mutual corporation, or other insurer
11 approved by the Director may be converted to or merged with and
12 into a reciprocal insurer in accordance with a plan therefore
13 and the provisions of this Section.

14 (b) Any plan for such conversion or merger shall provide a
15 fair and equitable plan for purchasing, retiring, or otherwise
16 extinguishing the interests of the stockholders and
17 policyholders of a stock insurer, and the members and
18 policyholders of a mutual insurer, including a fair and
19 equitable provision for the rights and remedies of dissenting
20 stockholders, members, or policyholders.

21 (c) In the case of a conversion authorized under subsection
22 (a) of this Section:

23 (1) such conversion shall be accomplished under such
24 reasonable plan and procedure as may be approved by the
25 Director; provided, however, that the Director shall not

1 approve any such plan of conversion unless such plan:

2 (A) provides for a hearing, of which notice is
3 given or to be given to the captive insurance company,
4 its directors, officers, and policyholders, and, in
5 the case of a stock insurer, its stockholders, and in
6 the case of a mutual insurer, its members, all of which
7 persons shall be entitled to attend and appear at such
8 hearing; provided, however, that if notice of a hearing
9 is given and no director, officer, policyholder,
10 member, or stockholder requests a hearing, the
11 Director may cancel such hearing;

12 (B) provides a fair and equitable plan for the
13 conversion of stockholder, member, or policyholder
14 interests into subscriber interests in the resulting
15 reciprocal insurer, substantially proportionate to the
16 corresponding interests in the stock or mutual
17 insurer; provided, however, that this requirement
18 shall not preclude the resulting reciprocal insurer
19 from applying underwriting criteria that could affect
20 ongoing ownership interests; and

21 (C) is approved:

22 (i) in the case of a stock insurer, by a
23 majority of the shares entitled to vote
24 represented in person or by proxy at a duly called
25 regular or special meeting at which a quorum is
26 present; and

1 (ii) in the case of a mutual insurer, by a
2 majority of the voting interests of policyholders
3 represented in person or by proxy at a duly called
4 regular or special meeting thereof at which a
5 quorum is present;

6 (2) the Director shall approve such plan of conversion
7 if the Director finds that the conversion will promote the
8 general good of the State in conformity with those
9 standards set forth in paragraph (2) of subsection (D) of
10 Section 123C-6;

11 (3) if the Director approves the plan, the Director
12 shall amend the converting insurer's certificate of
13 authority to reflect conversion to a reciprocal insurer and
14 issue such amended certificate of authority to the
15 company's attorney-in-fact;

16 (4) upon the issuance of an amended certificate of
17 authority of a reciprocal insurer by the Director, the
18 conversion shall be effective; and

19 (5) upon the effectiveness of such conversion the
20 corporate existence of the converting insurer shall cease
21 and the resulting reciprocal insurer shall notify the
22 Secretary of State of such conversion.

23 (d) A merger shall be accomplished substantially in
24 accordance with procedure set forth in this Article, except
25 that, solely for purposes of such merger:

26 (1) the subscribers' advisory committee of a

1 reciprocal insurer shall be equivalent to the board of
2 directors of a stock or mutual insurance company;

3 (2) the subscribers of a reciprocal insurer shall be
4 the equivalent of the policyholders of a mutual insurance
5 company;

6 (3) if a subscribers' advisory committee does not have
7 a president or secretary, the officers of such committee
8 having substantially equivalent duties shall be deemed the
9 president or secretary of such committee;

10 (4) the Director may, upon request of an insurer party
11 to a merger, waive the requirements;

12 (5) the Director shall approve the articles of merger
13 if the Director finds that the merger will promote the
14 general good of the State in conformity with those
15 standards set forth in paragraph (1) of subsection (d) of
16 Section 123C-6. If the Director approves the articles of
17 merger, the Director shall endorse the Director's approval
18 thereon and the surviving insurer shall present the same to
19 the Secretary of State at the Secretary of State's office;

20 (6) notwithstanding Section 123C-4, the Director may
21 permit the formation, without surplus, of a captive
22 insurance company organized as a reciprocal insurer, into
23 which an existing captive insurance company may be merged
24 for the purpose of facilitating a transaction under this
25 Section; provided, however, that there shall be no more
26 than one authorized insurance company surviving such

1 merger; and

2 (7) an alien insurer may be a party to a merger;
3 provided, that the requirements for a merger between a
4 domestic and a foreign insurer shall apply to a merger
5 between a domestic and an alien insurer under this
6 subsection. Such alien insurer shall be treated as a
7 foreign insurer and such other jurisdictions shall be the
8 equivalent of a state.

9 (e) A conversion or merger under this Section shall have
10 all of the effects to the extent such effects are not
11 inconsistent with the provisions of this Article. A. Any letter
12 of credit used to meet the requirements set forth in Sections
13 123C-3 and 123C-4:

14 ~~(1) may not be used to provide more than 80% of the~~
15 ~~amount required in Section 123C-3 and may not be used to~~
16 ~~provide more than 80% of the amount required in Section~~
17 ~~123C-4;~~

18 ~~(2) may not be allowed to expire without the prior~~
19 ~~written approval of the Director and shall provide for 30~~
20 ~~days' advance written notice to the Director of the~~
21 ~~proposed expiration of the letter of credit; and~~

22 ~~(3) must be provided pursuant to arrangements,~~
23 ~~acceptable to the Director, wherein all funds obtained by~~
24 ~~the company under the letter of credit are free of claims~~
25 ~~of any party which may arise on account of the company's~~
26 ~~resort to the letter of credit.~~

1 ~~B. If letters of credit are used to provide surplus in~~
2 ~~excess of the amounts required in Section 123C-4:~~

3 ~~(1) the aggregate amount of all such letters of credit~~
4 ~~shall not exceed the policyholder surplus of the company;~~

5 ~~(2) without the prior written approval of the Director,~~
6 ~~no such letter of credit may be allowed to expire, in any~~
7 ~~period of 12 consecutive months ending on the date of such~~
8 ~~expiration, in an amount greater than the greater of (a)~~
9 ~~10% of the company's surplus as regards policyholders as of~~
10 ~~the 31st day of December next preceding, or (b) the net~~
11 ~~income of the company for the 12 month period ending the~~
12 ~~31st day of December next preceding. For purposes of this~~
13 ~~Section, net income includes net realized capital gains in~~
14 ~~an amount not to exceed 20% of net unrealized capital~~
15 ~~gains; and~~

16 ~~(3) each such letter of credit shall provide for 30~~
17 ~~days' advance written notice to the Director of the~~
18 ~~proposed expiration of the letter of credit.~~

19 ~~C. The Director may require any company to draw upon its~~
20 ~~letters of credit, in amounts determined by the Director, if~~
21 ~~the Director determines that such action is necessary for the~~
22 ~~protection of the interests of policyholders.~~

23 ~~D. Any company including amounts supported by letters of~~
24 ~~credit in its capital or surplus shall, prior to the time any~~
25 ~~person becomes a policyholder, notify such person of the~~
26 ~~amounts supported by letters of credit and included in the~~

1 ~~company's capital or surplus.~~

2 (Source: P.A. 85-131.)

3 (215 ILCS 5/123C-20) (from Ch. 73, par. 735C-20)

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

5 Sec. 123C-20. Dormant captive insurance companies. ~~Law~~
6 ~~Applicable.~~

7 (a) As used in this Section, unless the context requires
8 otherwise, "dormant captive insurance company" means a pure
9 captive insurance company which has:

10 (1) at no time, insured controlled unaffiliated
11 business;

12 (2) ceased transacting the business of insurance,
13 including the issuance of insurance policies; and

14 (3) no remaining liabilities associated with insurance
15 business transactions, or insurance policies issued prior
16 to the filing of its application for a certificate of
17 dormancy under this Section.

18 (b) A pure captive insurance company domiciled in Illinois
19 which meets the criteria of subsection (a) of this Section may
20 apply to the Director for a certificate of dormancy. The
21 certificate of dormancy shall be subject to renewal every 5
22 years and shall be forfeited if not renewed within such time.

23 (c) A dormant captive insurance company which has been
24 issued a certificate of dormancy shall:

25 (1) possess and thereafter maintain unimpaired,

1 paid-in capital and surplus of not less than \$25,000;

2 (2) prior to March 15 of each year, submit to the
3 Director a report of its financial condition, verified by
4 oath of 2 of its executive officers, in a form as may be
5 prescribed by the Director; and

6 (3) pay a license renewal fee as provided in subsection
7 (g) of Section 123C-2.

8 (d) A dormant captive insurance company shall not be
9 subject to or liable for the payment of any tax under Section
10 123C-14.

11 (e) A dormant captive insurance company shall apply to the
12 Director for approval to surrender its certificate of dormancy
13 and resume conducting the business of insurance prior to
14 issuing any insurance policies.

15 (f) A certificate of dormancy shall be revoked if a dormant
16 captive insurance company no longer meets the criteria of
17 subsection (a) of this Section.

18 (g) The Director may establish guidelines and procedures as
19 necessary to carry out the provisions of this Section. ~~No~~
20 provisions of this Code, other than those contained in this
21 Article or contained in specific references contained in this
22 Article, shall apply to domestic captive insurance companies.

23 (Source: P.A. 85-131.)

24 (215 ILCS 5/123C-21) (from Ch. 73, par. 735C-21)

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

1 Sec. 123C-21. Establishing a branch captive. ~~Severability.~~

2 (a) A branch captive may be established in this State to
3 write insurance, including insurance or reinsurance of the
4 employee benefit business of its parent and affiliated
5 companies which is subject to the provisions of the federal
6 Employee Retirement Income Security Act of 1974, as amended.

7 (b) No branch captive insurance company shall do any
8 insurance business in this State unless it maintains the
9 principal place of business for its branch operations in this
10 State. ~~If any clause, sentence, paragraph, Section or part of~~
11 ~~this Article or the application thereof to any person or~~
12 ~~circumstances, shall, for any reason, be adjudged by any court~~
13 ~~of competent jurisdiction to be invalid, such judgment shall~~
14 ~~not affect, impair or invalidate the remainder of this Article,~~
15 ~~and the application thereof to other persons or circumstances,~~
16 ~~but shall be confined in its operation to the clause, sentence,~~
17 ~~paragraph, Section or part thereof directly involved in the~~
18 ~~controversy in which such judgment shall have been rendered and~~
19 ~~to the person or circumstances involved.~~

20 (Source: P.A. 85-131.)

21 (215 ILCS 5/123C-22) (from Ch. 73, par. 735C-22)

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

23 Sec. 123C-22. Trust fund required for branch captive
24 insurance company. ~~Subordinated Indebtedness.~~

25 (a) In the case of a branch captive insurance company, as

1 security for the payment of liabilities attributable to the
2 branch operations, the Director shall require that a trust
3 fund, funded by an irrevocable letter of credit or other
4 acceptable asset, be established and maintained in the United
5 States for the benefit of United States policyholders and
6 United States ceding insurers under insurance policies issued
7 or reinsurance contracts issued or assumed by the branch
8 captive insurance company through its branch operations.

9 (b) The amount of such security shall be no less than the
10 amount set forth by the Director and the reserves on such
11 insurance policies or such reinsurance contracts, including
12 reserves for losses, allocated loss adjustment expenses,
13 incurred but not reported losses, and unearned premiums with
14 regard to business written through the branch operations;
15 provided, however, the Director may permit a branch captive
16 insurance company that is required to post security for loss
17 reserves on branch business by its reinsurer to reduce the
18 funds in the trust account required by this Section by the same
19 amount so long as the security remains posted with the
20 reinsurer.

21 (c) If the form of security selected is a letter of credit,
22 the letter of credit shall be established by or issued or
23 confirmed by a bank chartered in this State or a member bank of
24 the Federal Reserve System. A captive insurance company
25 organized under this Article may borrow or assume a liability
26 for the repayment of a sum of money upon a written agreement

1 ~~for the loan or advance, with interest at a rate not exceeding~~
2 ~~the corporate base rate as reported by the largest bank~~
3 ~~(measured by assets) with its head office located in Chicago,~~
4 ~~Illinois, as in effect on the first business day of the month,~~
5 ~~plus 3 percent per annum. Such rate shall be fixed on the~~
6 ~~execution of the loan and apply for the term of the loan. Such~~
7 ~~loan and interest thereon shall be repaid only out of surplus~~
8 ~~of the company in excess of such minimum surplus as is~~
9 ~~stipulated in and by the agreement. The agreement shall first~~
10 ~~be submitted to and approved by (A) not less than a majority of~~
11 ~~the Board of Directors of a stock company or a mutual company,~~
12 ~~and (B) the Director. Repayment of principal or payment of~~
13 ~~interest may be made only with the approval of the Director~~
14 ~~when he is satisfied that the financial condition of the~~
15 ~~company warrants such action. No loan or advance made under~~
16 ~~this Section or interest accruing thereon shall form a part of~~
17 ~~the legal liabilities of the company until authorized for~~
18 ~~payment by the Director but, until such authorization, all~~
19 ~~statements published by the company or filed with the Director~~
20 ~~shall show the amount thereof then remaining unpaid as a~~
21 ~~special surplus or capital account at the election of the~~
22 ~~company. Such account shall be considered in determining~~
23 ~~whether initial minimum capital and surplus requirements have~~
24 ~~been met. Nothing in this Section shall be construed to mean~~
25 ~~that a company may not otherwise borrow money, but the amount~~
26 ~~so borrowed with accrued interest thereon shall be carried by~~

1 ~~the company as a liability.~~

2 (Source: P.A. 86-632.)

3 (215 ILCS 5/123C-23 new)

4 Sec. 123C-23. Certificate for branch captive insurance
5 companies. In the case of a captive insurance company licensed
6 as a branch captive, the alien captive insurance company shall
7 petition the Director to issue a certificate setting forth the
8 Director's finding that, after considering the character,
9 reputation, financial responsibility, insurance experience,
10 and business qualifications of the officers and directors of
11 the alien captive insurance company, the licensing and
12 maintenance of the branch operations will promote the general
13 good of the State. The alien captive insurance company may
14 register to do business in this State after the Director's
15 certificate is issued.

16 (215 ILCS 5/123C-24 new)

17 Sec. 123C-24. Reports and statements of branch captive
18 insurance companies to be filed with Director. Prior to March 1
19 of each year, or with the approval of the Director within 60
20 days after its fiscal year end, a branch captive insurance
21 company shall file with the Director a copy of all reports and
22 statements required to be filed under the laws of the
23 jurisdiction in which the alien captive insurance company is
24 formed, verified by oath of 2 of its executive officers. If the

1 Director is satisfied that the annual report filed by the alien
2 captive insurance company in its domiciliary jurisdiction
3 provides adequate information concerning the financial
4 condition of the alien captive insurance company, the Director
5 may waive the requirement for completion of the captive annual
6 statement for business written in the alien jurisdiction.

7 (215 ILCS 5/123C-25 new)

8 Sec. 123C-25. Examination of branch captive insurance
9 companies, limitations.

10 (a) The examination of a branch captive insurance company
11 shall be of branch business and branch operations only, so long
12 as the branch captive insurance company provides annually to
13 the Director a certificate of compliance, or its equivalent,
14 issued by or filed with the licensing authority of the
15 jurisdiction in which the branch captive insurance company is
16 formed, and demonstrates to the Director's satisfaction that it
17 is operating in sound financial condition in accordance with
18 all applicable laws and regulations of such jurisdiction.

19 (b) As a condition of licensure, the alien captive
20 insurance company shall grant authority to the Director for
21 examination of the affairs of the alien captive insurance
22 company in the jurisdiction in which the alien captive
23 insurance company is formed.

24 (215 ILCS 5/123C-26 new)

1 Sec. 123C-26. Applicability of tax to branch companies. In
2 the case of a branch captive insurance company, the tax shall
3 apply only to the branch business of such company.

4 (215 ILCS 5/123C-27 new)

5 Sec. 123C-27. Sponsored captive insurance companies;
6 formation; definitions; requirements.

7 (a) As used in this Section, unless the context requires
8 otherwise:

9 "General account" means all assets and liabilities of the
10 sponsored captive insurance company not attributable to a
11 protected cell.

12 "Incorporated protected cell" means a protected cell that
13 is established as a corporation, mutual corporation, nonprofit
14 corporation with one or more members, limited liability
15 company, or reciprocal insurer separate from the sponsored
16 captive insurance company of which it is a part.

17 "Participant" means an entity as defined in Section
18 123C-31, and any affiliates thereof, that are insured by a
19 sponsored captive insurance company, where the losses of the
20 participant are limited through a participant contract to such
21 participant's pro rata share of the assets of one or more
22 protected cells identified in such participant contract.

23 "Participant contract" means a contract by which a
24 sponsored captive insurance company insures the risks of a
25 participant and limits the losses of each such participant to

1 its pro rata share of the assets of one or more protected cells
2 identified in such participant contract.

3 "Protected cell" means a separate account established by a
4 sponsored captive insurance company formed or licensed under
5 the provisions of this Article, in which assets are maintained
6 for one or more participants in accordance with the terms of
7 one or more participant contracts to fund the liability of the
8 sponsored captive insurance company assumed on behalf of such
9 participants as set forth in such participant contracts, and
10 shall include an "incorporated protected cell," as defined in
11 this Section.

12 "Sponsor" means any entity that meets the requirements of
13 Section 123C-30 and is approved by the Director to provide all
14 or part of the capital and surplus required by applicable law
15 and to organize and operate a sponsored captive insurance
16 company.

17 "Sponsored captive insurance company" means any captive
18 insurance company:

19 (1) in which the minimum capital and surplus required
20 by applicable law is provided by one or more sponsors;

21 (2) that is formed or licensed under the provisions of
22 this Article;

23 (3) that insures the risks only of its participants
24 through separate participant contracts; and

25 (4) that funds its liability to each participant
26 through one or more protected cells and segregates the

1 assets of each protected cell from the assets of other
2 protected cells and from the assets of the sponsored
3 captive insurance company's general account.

4 (b) One or more sponsors may form a sponsored captive
5 insurance company under this Article. In addition to the
6 general provisions of this Code, the provisions of this Section
7 shall apply to sponsored captive insurance companies.

8 (c) A sponsored captive insurance company shall be
9 incorporated as a stock insurer with its capital divided into
10 shares and held by the stockholders, as a mutual corporation,
11 as a nonprofit corporation with one or more members, or as a
12 manager-managed limited liability company.

13 (d) In addition to the information required by subsections
14 (c) and (d) of Section 123C-2, each applicant-sponsored captive
15 insurance company shall file with the Director the following:

16 (1) materials demonstrating how the applicant will
17 account for the loss and expense experience of each
18 protected cell at a level of detail found to be sufficient
19 by the Director, and how it will report such experience to
20 the Director;

21 (2) a statement acknowledging that all financial
22 records of the sponsored captive insurance company,
23 including records pertaining to any protected cells, shall
24 be made available for inspection or examination by the
25 Director or the Director's designated agent;

26 (3) all contracts or sample contracts between the

1 sponsored captive insurance company and any participants;
2 and

3 (4) evidence that expenses shall be allocated to each
4 protected cell in a fair and equitable manner.

5 (215 ILCS 5/123C-28 new)

6 Sec. 123C-28. Protected cells. A sponsored captive
7 insurance company formed or licensed under the provisions of
8 this Article may establish and maintain one or more protected
9 cells to insure risks of one or more participants, subject to
10 the following conditions:

11 (a) The shareholders of a sponsored captive insurance
12 company shall be limited to its participants and sponsors,
13 provided that a sponsored captive insurance company may
14 issue nonvoting securities to other persons on terms
15 approved by the Director.

16 (b) Each protected cell shall be accounted for
17 separately on the books and records of the sponsored
18 captive insurance company to reflect the financial
19 condition and results of operations of such protected cell,
20 net income or loss, dividends or other distributions to
21 participants, and such other factors as may be provided in
22 the participant contract or required by the Director.

23 (c) The assets of a protected cell shall not be
24 chargeable with liabilities arising out of any other
25 insurance business the sponsored captive insurance company

1 may conduct.

2 (d) No sale, exchange, or other transfer of assets may
3 be made by such sponsored captive insurance company between
4 or among any of its protected cells without the consent of
5 such protected cells.

6 (e) No sale, exchange, transfer of assets, dividend, or
7 distribution may be made from a protected cell to a sponsor
8 or participant without the Director's approval and in no
9 event shall such approval be given if the sale, exchange,
10 transfer, dividend, or distribution would result in
11 insolvency or impairment with respect to a protected cell.

12 (f) All attributions of assets and liabilities to the
13 protected cells and the general account shall be in
14 accordance with the plan of operation approved by the
15 Director. No other attribution of assets or liabilities may
16 be made by a sponsored captive insurance company between
17 its general account and any protected cell or between any
18 protected cells. The sponsored captive insurance company
19 shall attribute all insurance obligations, assets, and
20 liabilities relating to a reinsurance contract entered
21 into with respect to a protected cell to such protected
22 cell. The performance under such reinsurance contract and
23 any tax benefits, losses, refunds, or credits allocated
24 pursuant to a tax allocation agreement to which the
25 sponsored captive insurance company is a party, including
26 any payments made by or due to be made to the sponsored

1 captive insurance company pursuant to the terms of such
2 agreement, shall reflect the insurance obligations,
3 assets, and liabilities relating to the reinsurance
4 contract that are attributed to such protected cell.

5 (g) Each sponsored captive insurance company shall
6 annually file with the Director such financial reports as
7 the Director shall require, which shall include accounting
8 statements detailing the financial experience of each
9 protected cell.

10 (h) Each sponsored captive insurance company shall
11 notify the Director in writing within 10 business days of
12 any protected cell that is insolvent or otherwise unable to
13 meet its claim or expense obligations.

14 (i) No participant contract shall take effect without
15 the Director's prior written approval, and the addition of
16 each new protected cell and withdrawal of any participant
17 or termination of any existing protected cell shall
18 constitute a change in the business plan requiring the
19 Director's prior written approval.

20 (j) If required by the Director, in his or her
21 discretion, the business written by a sponsored captive,
22 with respect to each cell, shall be:

23 (1) Fronted by an insurance company licensed under
24 the laws of any state.

25 (2) Reinsured by a reinsurer authorized or
26 approved by the State of Illinois.

1 (3) Secured by a trust fund in the United States
2 for the benefit of policyholders and claimants or
3 funded by an irrevocable letter of credit or other
4 arrangement that is acceptable to the Director. The
5 Director may require the sponsored captive to increase
6 the funding of any security arrangement established
7 under this Section. If the form of security is a letter
8 of credit, the letter of credit must be issued or
9 confirmed by a bank approved by the Director. A trust
10 maintained pursuant to this subdivision shall be
11 established in a form and upon such terms approved by
12 the Director.

13 (215 ILCS 5/123C-29 new)

14 Sec. 123C-29. Incorporated protected cells.

15 (a) A protected cell of a sponsored captive insurance
16 company may be formed as an incorporated protected cell, as
17 defined in subsection (a) of Section 123C-27.

18 (b) Subject to the prior written approval of the sponsored
19 captive insurance company and of the Director, an incorporated
20 protected cell shall be entitled to enter into contracts and
21 undertake obligations in its own name and for its own account.
22 In the case of a contract or obligation to which the sponsored
23 captive insurance company is not a party, either in its own
24 name and for its own account or on behalf of a protected cell,
25 the counterparty to the contract or obligation shall have no

1 right or recourse against the sponsored captive insurance
2 company and its assets other than against assets properly
3 attributable to the incorporated protected cell that is a party
4 to the contract or obligation.

5 (c) The articles of incorporation or articles of
6 organization of an incorporated protected cell shall refer to
7 the sponsored captive insurance company for which it is a
8 protected cell and shall state that the protected cell is
9 incorporated or organized for the limited purposes authorized
10 by the sponsored captive insurance company's license. A copy of
11 the prior written approval of the Director to add the
12 incorporated protected cell shall be attached to and filed with
13 the articles of incorporation or the articles of organization.

14 (d) An incorporated protected cell shall have its own
15 distinct name or designation, which shall include the words
16 "Incorporated Cell" or the abbreviation "IC".

17 (e) It is the intent of the General Assembly under this
18 Section to provide sponsored captive insurance companies, with
19 the option to establish one or more protected cells as a
20 separate corporation, mutual corporation, nonprofit
21 corporation, limited liability company, or reciprocal insurer.
22 This Section shall not be construed to limit any rights or
23 protections applicable to protected cells not established as
24 corporations, mutual corporations, nonprofit corporations,
25 limited liability companies, or reciprocal insurers.

1 (215 ILCS 5/123C-30 new)

2 Sec. 123C-30. Qualification of sponsors. A sponsor of a
3 sponsored captive insurance company may be any person approved
4 by the Director in the exercise of his or her discretion, based
5 on a determination that the approval of such person as a
6 sponsor is consistent with the purposes of this Article. In
7 evaluating the qualifications of a proposed sponsor, the
8 Director shall consider the type and structure of the proposed
9 sponsor entity, its experience in financial operations,
10 financial stability and strength, business reputation, and
11 such other facts deemed relevant by the Director. A risk
12 retention group shall not be a sponsor of a sponsored captive
13 insurance company.

14 (215 ILCS 5/123C-31 new)

15 Sec. 123C-31. Participants in sponsored captive insurance
16 companies.

17 (a) Associations, corporations, limited liability
18 companies, partnerships, trusts, risk retention groups, and
19 other business entities may be participants in any sponsored
20 captive insurance company formed or licensed under this
21 Article.

22 (b) A sponsor may be a participant in a sponsored captive
23 insurance company.

24 (c) A participant need not be a shareholder of the
25 sponsored captive insurance company or any affiliate thereof.

1 (d) A participant shall not insure any risks other than its
2 own and the risks of affiliated entities or of controlled
3 unaffiliated entities.

4 (215 ILCS 5/123C-32 new)

5 Sec. 123C-32. Investments by sponsored captive insurance
6 companies. Notwithstanding the provisions of Section 123C-28,
7 the assets of 2 or more protected cells may be combined for
8 purposes of investment, and such combination shall not be
9 construed as defeating the segregation of such assets for
10 accounting or other purposes. Sponsored captive insurance
11 companies shall comply with the investment requirements, as
12 applicable; provided, however, that compliance with such
13 investment requirements shall be waived for sponsored captive
14 insurance companies to the extent that credit for reinsurance
15 ceded to reinsurers is allowed pursuant to Section 123C-11 or
16 to the extent otherwise deemed reasonable and appropriate by
17 the Director. It shall apply to sponsored captive insurance
18 companies except to the extent it is inconsistent with approved
19 accounting standards in use by the company. Notwithstanding any
20 other provision of this Act, the Director may approve the use
21 of alternative reliable methods of valuation and rating.

22 (215 ILCS 5/123C-33 new)

23 Sec. 123C-33. Delinquency of sponsored captive insurance
24 companies.

1 (a) Except as otherwise provided in this Section, it shall
2 apply in full to a sponsored captive insurance company.

3 (b) Upon any order of supervision, rehabilitation, or
4 liquidation of a sponsored captive insurance company, the
5 receiver shall manage the assets and liabilities of the
6 sponsored captive insurance company pursuant to the provisions
7 of this Section.

8 (1) In connection with the conservation,
9 rehabilitation, or liquidation of a sponsored captive
10 insurance company, the assets and liabilities of a
11 protected cell shall at all times be kept separate from,
12 and shall not be commingled with, those of other protected
13 cells and the sponsored captive insurance company.

14 (2) The assets of a protected cell may not be used to
15 pay any expenses or claims other than those attributable to
16 such protected cell.

17 (3) Unless the sponsor consents and the Director has
18 granted prior written approval, the assets of the sponsored
19 captive insurance company's general account shall not be
20 used to pay any expenses or claims attributable solely to a
21 protected cell or protected cells of the sponsored captive
22 insurance company. In the event that the assets of the
23 sponsored captive insurance company's general account are
24 used to pay expenses or claims attributable solely to a
25 protected cell or protected cells of the sponsored captive
26 insurance company, the sponsor is not required to

1 contribute additional capital and surplus to the sponsored
2 captive insurance company's general account,
3 notwithstanding the provisions of Section 123C-4.

4 (4) A sponsored captive insurance company's capital
5 and surplus shall at all times be available to pay any
6 expenses of or claims against the sponsored captive
7 insurance company.

8 (c) In the event of an insolvency of a sponsored captive
9 insurance company where the Director determines that one or
10 more protected cells remain solvent, the Director may separate
11 such cells from the sponsored captive insurance company and, on
12 application of the sponsor, may allow for the conversion of
13 such protected cells into one or more new or existing sponsored
14 captive insurance companies, or one or more other captive
15 insurance companies, pursuant to a plan or plans of operation
16 approved by the Director.

17 (215 ILCS 5/123C-34 new)

18 Sec. 123C-34. Claimant recourse.

19 (a) A creditor of a sponsored captive insurance company
20 shall have recourse against the assets attributable to a
21 protected cell if, and only if it is a creditor of the
22 protected cell. A creditor of a protected cell shall not be
23 entitled to recourse against the assets attributable to any
24 other protected cell or to the assets in the sponsored captive
25 insurance company's general account.

1 (b) When a sponsored captive insurance company has an
2 obligation to a creditor arising from a transaction, or
3 otherwise imposed, with respect to a particular protected cell,
4 the obligation:

5 (1) shall extend only to the assets attributable to
6 that protected cell, and the creditor shall be entitled to
7 recourse only against the assets attributable to that
8 protected cell; and

9 (2) shall not extend to the assets of any other
10 protected cell or to the assets in the sponsored captive
11 insurance company's general account, and the creditor
12 shall not be entitled to recourse against the assets
13 attributable to any other protected cell or to the assets
14 of the sponsored captive insurance company's general
15 account.

16 (c) When an obligation of a sponsored captive insurance
17 company relates solely to its general account, a creditor shall
18 have recourse only against the assets in the general account.

19 (d) The establishment of one or more protected cells alone,
20 and without more, shall not constitute or be deemed to be a
21 fraudulent conveyance, an intent by the sponsored captive
22 insurance company to defraud creditors, or the carrying out of
23 business by the sponsored captive insurance company for any
24 other fraudulent purpose.

1 Sec. 123C-35. Confidentiality.

2 (a) All documents, materials, or other information,
3 including confidential and privileged documents, examination
4 reports, preliminary examination reports or results, working
5 papers, recorded information, and copies thereof produced by,
6 obtained by, or disclosed to the Director or any other person
7 in the course of an examination made under this Section are
8 confidential and shall not be:

9 (1) subject to subpoena;

10 (2) subject to public inspection and copying under the
11 Freedom of Information Act; or

12 (3) discoverable or admissible in evidence in any
13 private civil action.

14 (b) In furtherance of his or her regulatory duties, the
15 Director may:

16 (1) share documents, materials, or other information,
17 including those that are confidential and privileged, with
18 other state, federal, or international regulatory agencies
19 and law enforcement authorities, the National Association
20 of Insurance Directors, the North American Securities
21 Administrators Association, self-regulatory organizations
22 organized under 15 U.S.C. 78f, 78o-3, and 78q-1, and other
23 self-regulatory organizations and their affiliates or
24 subsidiaries, provided that the recipient agrees in
25 writing to maintain the confidentiality and privileged
26 status of the document, material, or other information;

1 (2) receive documents, materials, or information,
2 including those that are confidential and privileged, from
3 other state, federal, and international regulatory
4 agencies and law enforcement authorities, the National
5 Association of Insurance Directors, the North American
6 Securities Administrators Association, self-regulatory
7 organizations organized under 15 U.S.C. 78f, 78o-3, and
8 78q-1, and other self-regulatory organizations and their
9 affiliates or subsidiaries and shall maintain as
10 confidential or privileged any document, material, or
11 information received with notice or the understanding that
12 it is confidential or privileged under the laws of the
13 jurisdiction that is the source of the document, material,
14 or information;

15 (3) enter into written agreements with other state,
16 federal, and international regulatory agencies and law
17 enforcement authorities, the National Association of
18 Insurance Directors, the North American Securities
19 Administrators Association, self-regulatory organizations
20 organized under 15 U.S.C. 78f, 78o-3 and 78q-1, and other
21 self-regulatory organizations and their affiliates or
22 subsidiaries governing sharing and use of information
23 consistent with this Section, including agreements
24 providing for cooperation between the Director and other
25 agencies in relation to the activities of a supervisory
26 college; and

1 (4) participate in a supervisory college for any
2 special purpose financial insurer that is part of an
3 affiliated group with international operations in order to
4 assess the insurer's compliance with Illinois laws and
5 regulations, as well as to assess the business strategy,
6 financial condition, risk exposure, risk management,
7 governance processes, and legal and regulatory position.

8 (c) Prior to sharing information under subsection (b) of
9 this Section, the Director shall determine that sharing the
10 information will substantially further the performance of the
11 regulatory or law enforcement duties of the recipient and may
12 not be made public by the Director or an employee or agent of
13 the Director without the written consent of the company, except
14 to the extent provided in subsection (b) of this Section.

15 Section 99. Effective date. This Act takes effect January
16 1, 2017."