

1 AN ACT concerning insurance.

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

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 403A as follows:

6 (215 ILCS 5/403A) (from Ch. 73, par. 1015A)

7 Sec. 403A. Violations; notice of apparent liability;
8 limitation of forfeiture liability.

9 (1) Any company or person, agent or broker, officer or
10 director and any other person subject to this Code and as may
11 be defined in Section 2 of this Code, who willfully or
12 repeatedly fails to observe or who otherwise violates any of
13 the provisions of this Code or any rule or regulation
14 promulgated by the Director under authority of this Code or
15 any final order of the Director entered under the authority
16 of this Code shall by civil penalty forfeit to the State of
17 Illinois a sum not to exceed \$1,000. Each day during which a
18 violation occurs constitutes a separate offense. The civil
19 penalty provided for in this Section shall apply only to
20 those Sections of this Code or administrative regulations
21 thereunder that do not otherwise provide for a monetary civil
22 penalty.

23 (2) No forfeiture liability under paragraph (1) of this
24 Section may attach unless a written notice of apparent
25 liability has been issued by the Director and received by the
26 respondent, or the Director sends written notice of apparent
27 liability by registered or certified mail, return receipt
28 requested, to the last known address of the respondent. Any
29 respondent so notified must be granted an opportunity to
30 request a hearing within 10 days from receipt of notice, or
31 to show in writing, why he should not be held liable. A

1 notice issued under this Section must set forth the date,
2 facts and nature of the act or omission with which the
3 respondent is charged and must specifically identify the
4 particular provision of the Code, rule, regulation or order
5 of which a violation is charged.

6 (3) No forfeiture liability under paragraph (1) of this
7 Section may attach for any violation occurring more than 2
8 years prior to the date of issuance of the notice of apparent
9 liability and in no event may the total civil penalty
10 forfeiture imposed for the acts or omissions set forth in any
11 one notice of apparent liability exceed \$250,000.

12 (4) The civil penalty forfeitures provided for in this
13 Section are payable to the General Revenue Fund of the State
14 of Illinois, and may be recovered in a civil suit in the name
15 of the State of Illinois brought in the Circuit Court in
16 Sangamon County, or in the Circuit Court of the county where
17 the respondent is domiciled or has its principal operating
18 office.

19 (5) In any case where the Director issues a notice of
20 apparent liability looking toward the imposition of a civil
21 penalty forfeiture under this Section, that fact may not be
22 used in any other proceeding before the Director to the
23 prejudice of the respondent to whom the notice was issued,
24 unless (a) the civil penalty forfeiture has been paid, or (b)
25 a court has ordered payment of the civil penalty forfeiture
26 and that order has become final.

27 (6) Notwithstanding any after-the-fact compliance
28 procedures or any other factor, the amount of a civil penalty
29 or fine imposed for violation of the insurance laws of this
30 State may not be reduced by administrative action to less
31 than 85% of the civil penalty or fine initially imposed.

32 (Source: P.A. 86-938.)