

1 AN ACT concerning disclosure of certain information
2 relating to insurance companies.

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

5 Section 5. The Illinois Insurance Code is amended by
6 changing Sections 35A-50, 107.12, 131.22, 132.5, 136, 141.4,
7 186.1, 188.1, 191, 223, 401.5, 404, 500-85, and 511.109 as
8 follows:

9 (215 ILCS 5/35A-50)

10 Sec. 35A-50. Confidentiality and prohibition on
11 announcements.

12 (a)(1) All RBC Reports, to the extent the information
13 therein is not required to be set forth in a publicly
14 available annual statement schedule, and RBC Plans, including
15 the results or report of any examination or analysis of an
16 insurer performed under this Article and any Corrective Order
17 issued by the Director pursuant to the examination or
18 analysis, with respect to any domestic insurer or foreign
19 insurer that are in the possession or control of the Director
20 shall be confidential by law and privileged, shall not be
21 subject to the Freedom of Information Act, shall not be
22 subject to subpoena, and shall not be subject to discovery or
23 admission into evidence in any private civil action. However,
24 the Director is authorized to use the documents, materials,
25 or other information in the furtherance of any regulatory or
26 legal action brought as a part of the Director's official
27 duties filed-with-the-Direector--constitute--information--that
28 might--be--damaging--to--the-insurer-if-made-available-to-its
29 competitors-and-shall-be-kept-confidential-by--the--Direector.
30 This--information--shall--not-be-made-public-or-be-subject-to
31 subpoena, other than by the Director and then--only--for--the

1 purpose--of--enforcement--actions--taken--by--the--Director--under
2 this--Code--or--other--provisions--of--the--insurance--laws--of--this
3 State.

4 (2) Neither the Director nor any person who
5 received documents, materials, or other information while
6 acting under the authority of the Director shall be
7 permitted or required to testify in any private civil
8 action concerning any confidential documents, materials,
9 or information subject to paragraph (1).

10 (3) In order to assist in the performance of the
11 Director's duties, the Director:

12 (A) may share documents, materials, or other
13 information, including the confidential and
14 privileged documents, materials, or information
15 subject to paragraph (1), with other state, federal,
16 and international regulatory agencies, with the
17 National Association of Insurance Commissioners and
18 its affiliates or subsidiaries, and with state,
19 federal, and international law enforcement
20 authorities, provided that the recipient agrees to
21 maintain the confidentiality and privileged status
22 of the document, material, or other information;

23 (B) may receive documents, materials, or
24 information, including otherwise confidential and
25 privileged documents, materials, or information,
26 from the National Association of Insurance
27 Commissioners and its affiliates or subsidiaries and
28 from regulatory and law enforcement officials of
29 other foreign or domestic jurisdictions, and shall
30 maintain as confidential or privileged any document,
31 material, or information received with notice or the
32 understanding that it is confidential or privileged
33 under the laws of the jurisdiction that is the
34 source of the document, material, or information;

1 and

2 (C) may enter into agreements governing the
3 sharing and use of information consistent with this
4 subsection.

5 (4) No waiver of any applicable privilege or claim
6 of confidentiality in the documents, materials, or
7 information shall occur as a result of disclosure to the
8 Director under this Section or as a result of sharing
9 authorized in paragraph (3).

10 (b) It is the judgment of the legislature that the
11 comparison of an insurer's total adjusted capital to any of
12 its RBC levels is a regulatory tool that may indicate the
13 need for possible corrective action with respect to the
14 insurer and not a means to rank insurers generally.
15 Therefore, except as otherwise required under the provisions
16 of this Code, the disclosure, in any manner or form, directly
17 or indirectly, of information containing an assertion,
18 representation, or statement regarding the RBC levels of any
19 insurer or any component derived in the calculation of RBC
20 levels by any insurer, insurance producer, limited insurance
21 producer, broker, or other person engaged in any manner in
22 the insurance business would be misleading and is prohibited.
23 In the event that a materially false statement with respect
24 to the comparison regarding an insurer's total adjusted
25 capital to any of its RBC levels or an inappropriate
26 comparison of any other amount to the insurer's RBC levels is
27 published in any written publication and the insurer is able
28 to demonstrate to the Director with substantial proof the
29 falsity of the statement or the inappropriateness thereof,
30 the insurer may publish an announcement in a written
31 publication if the sole purpose of the announcement is to
32 rebut the materially false statement.

33 (c) It is the further judgment of the legislature that
34 the RBC Instructions, RBC Reports, Adjusted RBC Reports, RBC

1 Plans, and Revised RBC Plans are intended solely for use by
 2 the Director in monitoring the solvency of insurers and the
 3 need for possible corrective action with respect to insurers
 4 and shall not be used by the Director for ratemaking or
 5 considered or introduced as evidence in any rate proceeding
 6 or used by the Director to calculate or derive any elements
 7 of an appropriate premium level or rate of return for any
 8 line of insurance that an insurer or an affiliate is
 9 authorized to write.

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

11 (215 ILCS 5/107.12) (from Ch. 73, par. 719.12)

12 Sec. 107.12. The Director of Insurance may examine the
 13 financial records of the Exchange, syndicates, limited
 14 syndicates, subscribers and Exchange brokers.
 15 Notwithstanding any contrary provision of this Code, the
 16 Director may share documents, materials, or other information
 17 created, produced, or obtained by or disclosed to the
 18 Director or any other person in the course of any examination
 19 with the Board, provided the Board agrees to maintain the
 20 confidentiality of the documents, materials, or other
 21 information. No waiver of any applicable privilege or claim
 22 of confidentiality shall occur as a result of the sharing of
 23 documents, materials, or other information pursuant to this
 24 Section.

25 (Source: P.A. 81-1047.)

26 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

27 Sec. 131.22. Confidential treatment. All--information,
 28 documents, and copies thereof obtained by or disclosed to the
 29 Director--or any other person in the course of an examination
 30 or--investigation--made--under---Section---131.21---and---all
 31 information--submitted--under--Sections-131.13-or-131.20a-and
 32 all personal financial statement information submitted--under

1 Section 131.5 must be given confidential treatment and is not
2 subject to subpoena and may not be made public by the
3 Director or any other person, without the prior written
4 consent of the company to which it pertains unless the
5 Director, after giving the company and its affiliates who
6 would be affected thereby notice and opportunity to be heard,
7 determines that the interests of policyholders, shareholders
8 or the public will be served by the publication thereof in
9 which event he may publish all or any part thereof in such
10 manner as he may deem appropriate.

11 Nothing contained in this Section shall prevent or be
12 construed as prohibiting the Director from disclosing such
13 information to the insurance department of any other state or
14 county or to law enforcement officials of this or any other
15 state or agency of the federal government at any time upon
16 the written agreement of the entity receiving the information
17 to hold that information confidential and in a manner
18 consistent with this Code.

19 (1) Documents, materials, or other information in
20 the possession or control of the Director that are
21 obtained by or disclosed to the Director or any other
22 person in the course of an examination or investigation
23 made pursuant to Section 131.21 and all information
24 reported pursuant to Section 131.21 shall be confidential
25 by law and privileged, shall not be subject to the
26 Freedom of Information Act, shall not be subject to
27 subpoena, and shall not be subject to discovery or
28 admission into evidence in any private civil action.
29 However, the Director is authorized to use the documents,
30 materials, or other information in the furtherance of any
31 regulatory or legal action brought as a part of the
32 Director's official duties.

33 (2) Neither the Director nor any person who
34 received documents, materials, or other information while

1 acting under the authority of the Director shall be
2 permitted or required to testify in any private civil
3 action concerning any confidential documents, materials,
4 or information subject to paragraph (1).

5 (3) In order to assist in the performance of the
6 Director's duties, the Director:

7 (A) may share documents, materials, or other
8 information, including the confidential and
9 privileged documents, materials, or information
10 subject to paragraph (1), with other state, federal,
11 and international regulatory agencies, with the
12 National Association of Insurance Commissioners and
13 its affiliates or subsidiaries, and with state,
14 federal, and international law enforcement
15 authorities, provided that the recipient agrees to
16 maintain the confidentiality and privileged status
17 of the document, material, or other information;

18 (B) may receive documents, materials, or
19 information, including otherwise confidential and
20 privileged documents, materials, or information,
21 from the National Association of Insurance
22 Commissioners and its affiliates or subsidiaries and
23 from regulatory and law enforcement officials of
24 other foreign or domestic jurisdictions, and shall
25 maintain as confidential or privileged any document,
26 material, or information received with notice or the
27 understanding that it is confidential or privileged
28 under the laws of the jurisdiction that is the
29 source of the document, material, or information;
30 and

31 (C) may enter into agreements governing the
32 sharing and use of information consistent with this
33 subsection.

34 (4) No waiver of any applicable privilege or claim

1 of confidentiality in the documents, materials, or
2 information shall occur as a result of disclosure to the
3 Director under this Section or as a result of sharing
4 authorized in paragraph (3).

5 (Source: P.A. 88-364.)

6 (215 ILCS 5/132.5) (from Ch. 73, par. 744.5)
7 Sec. 132.5. Examination reports.

8 (a) General description. All examination reports shall
9 be comprised of only facts appearing upon the books, records,
10 or other documents of the company, its agents, or other
11 persons examined or as ascertained from the testimony of its
12 officers, agents, or other persons examined concerning its
13 affairs and the conclusions and recommendations as the
14 examiners find reasonably warranted from those facts.

15 (b) Filing of examination report. No later than 60 days
16 following completion of the examination, the examiner in
17 charge shall file with the Department a verified written
18 report of examination under oath. Upon receipt of the
19 verified report, the Department shall transmit the report to
20 the company examined, together with a notice that affords the
21 company examined a reasonable opportunity of not more than 30
22 days to make a written submission or rebuttal with respect to
23 any matters contained in the examination report.

24 (c) Adoption of the report on examination. Within 30
25 days of the end of the period allowed for the receipt of
26 written submissions or rebuttals, the Director shall fully
27 consider and review the report, together with any written
28 submissions or rebuttals and any relevant portions of the
29 examiners work papers and enter an order:

30 (1) Adopting the examination report as filed or
31 with modification or corrections. If the examination
32 report reveals that the company is operating in violation
33 of any law, regulation, or prior order of the Director,

1 the Director may order the company to take any action the
2 Director considers necessary and appropriate to cure the
3 violation.

4 (2) Rejecting the examination report with
5 directions to the examiners to reopen the examination for
6 purposes of obtaining additional data, documentation, or
7 information and refileing under subsection (b).

8 (3) Calling for an investigatory hearing with no
9 less than 20 days notice to the company for purposes of
10 obtaining additional documentation, data, information,
11 and testimony.

12 (d) Order and procedures. All orders entered under
13 paragraph (1) of subsection (c) shall be accompanied by
14 findings and conclusions resulting from the Director's
15 consideration and review of the examination report, relevant
16 examiner work papers, and any written submissions or
17 rebuttals. The order shall be considered a final
18 administrative decision and may be appealed in accordance
19 with the Administrative Review Law. The order shall be served
20 upon the company by certified mail, together with a copy of
21 the adopted examination report. Within 30 days of the
22 issuance of the adopted report, the company shall file
23 affidavits executed by each of its directors stating under
24 oath that they have received a copy of the adopted report and
25 related orders.

26 Any hearing conducted under paragraph (3) of subsection
27 (c) by the Director or an authorized representative shall be
28 conducted as a nonadversarial confidential investigatory
29 proceeding as necessary for the resolution of any
30 inconsistencies, discrepancies, or disputed issues apparent
31 upon the face of the filed examination report or raised by or
32 as a result of the Director's review of relevant work papers
33 or by the written submission or rebuttal of the company.
34 Within 20 days of the conclusion of any hearing, the Director

1 shall enter an order under paragraph (1) of subsection (c).

2 The Director shall not appoint an examiner as an
3 authorized representative to conduct the hearing. The hearing
4 shall proceed expeditiously with discovery by the company
5 limited to the examiner's work papers that tend to
6 substantiate any assertions set forth in any written
7 submission or rebuttal. The Director or his representative
8 may issue subpoenas for the attendance of any witnesses or
9 the production of any documents deemed relevant to the
10 investigation, whether under the control of the Department,
11 the company, or other persons. The documents produced shall
12 be included in the record, and testimony taken by the
13 Director or his representative shall be under oath and
14 preserved for the record. Nothing contained in this Section
15 shall require the Department to disclose any information or
16 records that would indicate or show the existence or content
17 of any investigation or activity of a criminal justice
18 agency.

19 The hearing shall proceed with the Director or his
20 representative posing questions to the persons subpoenaed.
21 Thereafter the company and the Department may present
22 testimony relevant to the investigation. Cross-examination
23 shall be conducted only by the Director or his
24 representative. The company and the Department shall be
25 permitted to make closing statements and may be represented
26 by counsel of their choice.

27 (e) Publication and use. Upon the adoption of the
28 examination report under paragraph (1) of subsection (c), the
29 Director shall continue to hold the content of the
30 examination report as private and confidential information
31 for a period of 35 days, except to the extent provided in
32 subsection (b). Thereafter, the Director may open the report
33 for public inspection so long as no court of competent
34 jurisdiction has stayed its publication.

1 Nothing contained in this Code shall prevent or be
 2 construed as prohibiting the Director from disclosing the
 3 content of an examination report, preliminary examination
 4 report or results, or any matter relating thereto, to the
 5 insurance department of any other state or country or to law
 6 enforcement officials of this or any other state or agency of
 7 the federal government at any time, so long as the agency or
 8 office receiving the report or matters relating thereto
 9 agrees in writing to hold it confidential and in a manner
 10 consistent with this Code.

11 In the event the Director determines that regulatory
 12 action is appropriate as a result of any examination, he may
 13 initiate any proceedings or actions as provided by law.

14 (f) Privilege for and confidentiality of ancillary
 15 information. (1)(A) Except as provided in subsection (e) and
 16 in this subsection, documents, materials, or other
 17 information including, but not limited to, all working
 18 papers, recorded-information, documents, and copies thereof,
 19 created, produced, or by, obtained by, or disclosed to the
 20 Director or any other person in the course of any examination
 21 or in the course of analysis by the Director of the financial
 22 condition or market conduct of a company shall be
 23 confidential by law and privileged, shall not be subject to
 24 the Freedom of Information Act, shall not be subject to
 25 subpoena, and shall not be subject to discovery or admission
 26 into evidence in any private civil action. must--be--given
 27 confidential--treatment,--are-not-subject-to-subpoena,--and-may
 28 not-be-made-public-by-the--Director--or--any--other--persons,
 29 except--to--the-extent-provided-in-subsection-(e).--Access-may
 30 also-be-granted-to--the--National--Association--of--Insurance
 31 Commissioners.--These--parties--must--agree-in-writing-before
 32 receiving--the--information--to--provide--to--it--the--same
 33 confidential--treatment--as--required-by-this-Section,--unless
 34 the-prior-written-consent-of-the-company-to-which-it-pertains

1 has-been-obtained. The Director is authorized to use the
2 documents, materials, or other information in the furtherance
3 of any regulatory or legal action brought as part of the
4 Director's official duties.

5 (B) Documents, materials, or other information,
6 including, but not limited to, all working papers, and copies
7 thereof, in the possession or control of the National
8 Association of Insurance Commissioners and its affiliates and
9 subsidiaries shall be confidential by law and privileged,
10 shall not be subject to subpoena, and shall not be subject to
11 discovery or admission into evidence in any private civil
12 action, if they are:

13 (i) created, produced, or obtained by or disclosed
14 to the National Association of Insurance Commissioners
15 and its affiliates and subsidiaries in the course of the
16 National Association of Insurance Commissioners and its
17 affiliates and subsidiaries assisting an examination made
18 under this Code, or assisting a commissioner in the
19 analysis of the financial condition or market conduct of
20 a company; or

21 (ii) disclosed to the National Association of
22 Insurance Commissioners and its affiliates and
23 subsidiaries under paragraph (3) of this subsection by a
24 commissioner.

25 (C) For the purposes of paragraph (1)(B), "Code"
26 includes the law of another state or jurisdiction that is
27 substantially similar to this Code.

28 (2) Neither the Director nor any person who received the
29 documents, material, or other information while acting under
30 the authority of the Director, including the National
31 Association of Insurance Commissioners and its affiliates and
32 subsidiaries, shall be permitted to testify in any private
33 civil action concerning any confidential documents,
34 materials, or information subject to paragraph (1).

1 (3) In order to assist in the performance of the
2 Director's duties, the Director:

3 (A) may share documents, materials, or other
4 information, including the confidential and privileged
5 documents, materials, or information subject to paragraph
6 (1), with other state, federal, and international regulatory
7 agencies, with the National Association of Insurance
8 Commissioners and its affiliates and subsidiaries, and with
9 state, federal, and international law enforcement
10 authorities, provided that the recipient agrees to maintain
11 the confidentiality and privileged status of the document,
12 material, or other information;

13 (B) may receive documents, materials, or information,
14 including otherwise confidential and privileged documents,
15 materials, or information, from the National Association of
16 Insurance Commissioners and its affiliates and subsidiaries
17 and from regulatory and law enforcement officials of other
18 foreign or domestic jurisdictions, and shall maintain as
19 confidential or privileged any document, material, or
20 information received with notice or the understanding that it
21 is confidential or privileged under the laws of the
22 jurisdiction that is the source of the document, material, or
23 information; and

24 (C) may enter into agreements governing sharing and use
25 of information consistent with this subsection.

26 (4) No waiver of any applicable privilege or claim of
27 confidentiality in the documents, materials, or information
28 shall occur as a result of disclosure to the Director under
29 this Section or as result of sharing as authorized in
30 paragraph (3).

31 (5) A privilege established under the law of any state
32 or jurisdiction that is substantially similar to the
33 privilege established under this subsection shall be
34 available and enforced in any proceeding in, and in any court

1 of, this State.

2 (6) In this subsection "department," "insurance
3 department," "law enforcement agency," "regulatory agency,"
4 and the "National Association of Insurance Commissioners"
5 include, but are not limited to, their employees, agents,
6 consultants, and contractors.

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

8 (215 ILCS 5/136) (from Ch. 73, par. 748)

9 Sec. 136. Annual statement.

10 (1) Every company authorized to do business in this
11 State or accredited by this State shall file with the
12 Director by March 1st in each year 2 copies of its financial
13 statement for the year ending December 31st immediately
14 preceding on forms prescribed by the Director, which shall
15 conform substantially to the form of statement adopted by the
16 National Association of Insurance Commissioners. Unless the
17 Director provides otherwise, the annual statement is to be
18 prepared in accordance with the annual statement instructions
19 and the Accounting Practices and Procedures Manual adopted by
20 the National Association of Insurance Commissioners. The
21 Director shall have power to make such modifications and
22 additions in this form as he may deem desirable or necessary
23 to ascertain the condition and affairs of the company. The
24 Director shall have authority to extend the time for filing
25 any statement by any company for reasons which he considers
26 good and sufficient. In every statement the admitted assets
27 shall be shown at the actual values as of the last day of the
28 preceding year, in accordance with Section 126.7. The
29 statement shall be verified by oaths of the president and
30 secretary of the company or, in their absence, by 2 other
31 principal officers. In addition, any company may be required
32 by the Director, when he considers that action to be
33 necessary and appropriate for the protection of

1 policyholders, creditors, shareholders, or claimants, to
2 file, within 60 days after mailing to the company a notice
3 that such is required, a supplemental summary statement as of
4 the last day of any calendar month occurring during the 100
5 days next preceding the mailing of such notice designated by
6 him on forms prescribed and furnished by the Director. The
7 Director may require supplemental summary statements to be
8 certified by an independent actuary deemed competent by the
9 Director or by an independent certified public accountant.

10 (2) The statement of an alien company shall embrace only
11 its condition and transactions in the United States and shall
12 be verified by the oaths of its resident manager or principal
13 representative in the United States, except that in the case
14 of any life company organized under the laws of Canada or any
15 province thereof, the statement may be verified by the oaths
16 of any of its principal officers designated for that purpose
17 by its board of directors.

18 (3) For the information of the public generally the
19 Director shall cause an abstract of the information contained
20 in the annual statement to be made available to the public as
21 soon as practicable after filing with the Department, by
22 printing those abstracts in pamphlet tabular form for free
23 general distribution by the Department, or by such other
24 publication in the city of Springfield or in the city of
25 Chicago as may be reasonably necessary more fully to inform
26 the public of the financial condition of companies
27 transacting business in this State.

28 (4) Each domestic, foreign, and alien insurer authorized
29 to do business in this State or accredited by this State
30 shall participate in the National Association of Insurance
31 Commissioners' Insurance Regulatory Information System,
32 including the payment of all fees and charges of the system.
33 Each company shall, on or before March 1 of each year, file
34 with the National Association of Insurance Commissioners a

1 copy of its annual financial statement along with any
2 additional filings prescribed by the Director for the
3 preceding year. The statement filed with the National
4 Association of Insurance Commissioners shall be in the same
5 format and scope as that required by this Code and shall
6 include a signed jurat page and actuarial certification. Any
7 amendments and addendums to the annual statement shall also
8 be filed with the National Association of Insurance
9 Commissioners. Each company shall also file with the National
10 Association of Insurance Commissioners annual and quarterly
11 financial statement information in computer readable format
12 as required by the Insurance Regulatory Information System.
13 Failure of a company to file financial statement information
14 in computer readable format shall subject the company to the
15 provisions of Section 139.

16 (5)(a) All financial analysis ratios and examination
17 synopsis concerning insurance companies that are submitted to
18 the Director by the National Association of Insurance
19 Commissioners' Insurance Regulatory Information System and in
20 the possession or control of the Director shall be
21 confidential by law and privileged, shall not be subject to
22 the Freedom of Information Act, shall not be subject to
23 subpoena, and shall not be subject to discovery or admission
24 into evidence in any private civil action. However, the
25 Director is authorized to use the documents, materials, or
26 other information in the furtherance of any regulatory or
27 legal action brought as a part of the Director's official
28 duties are confidential and may not be disclosed by the
29 Director.

30 (b) Neither the Director nor any person who received
31 documents, materials, or other information while acting under
32 the authority of the Director shall be permitted or required
33 to testify in any private civil action concerning any
34 confidential documents, materials, or information subject to

1 paragraph (a).

2 (c) In order to assist in the performance of the
3 Director's duties, the Director:

4 (i) may share documents, materials, or other
5 information, including the confidential and privileged
6 documents, materials, or information subject to paragraph
7 (a), with other state, federal, and international
8 regulatory agencies, with the National Association of
9 Insurance Commissioner and its affiliates or
10 subsidiaries, and with state, federal, and international
11 law enforcement authorities, provided that the recipient
12 agrees to maintain the confidentiality and privileged
13 status of the document, material, or other information;

14 (ii) may receive documents, materials, or
15 information, including otherwise confidential and
16 privileged documents, materials, or information, from the
17 National Association of Insurance Commissioners and its
18 affiliates or subsidiaries and from regulatory and law
19 enforcement officials of other foreign or domestic
20 jurisdictions, and shall maintain as confidential or
21 privileged any document, material, or information
22 received with notice or the understanding that it is
23 confidential or privileged under the laws of the
24 jurisdiction that is the source of the document,
25 material, or information; and

26 (iii) may enter into agreements governing the
27 sharing and use of information consistent with this
28 subsection.

29 (d) No waiver of any applicable privilege or claim of
30 confidentiality in the documents, materials, or information
31 shall occur as a result of disclosure to the Director under
32 this Section or as a result of sharing authorized in
33 paragraph (c).

34 (Source: P.A. 90-418, eff. 8-15-97.)

1 (215 ILCS 5/141.4)

2 Sec. 141.4. Disclosure of material transactions.

3 (a) An insurer domiciled in this State shall file a
4 report with the Director disclosing material acquisitions and
5 dispositions of assets or material nonrenewals,
6 cancellations, or revisions of ceded reinsurance agreements
7 unless the acquisitions and dispositions of assets or the
8 material nonrenewals, cancellations, or revisions of ceded
9 reinsurance agreements have been otherwise submitted to the
10 Director for review, approval, or information purposes. The
11 report must be filed no later than 15 days after the end of
12 the calendar month in which a reportable transaction occurs.
13 A copy of the report, including any exhibits or other
14 attachments filed as a part of the report, shall be filed
15 with the National Association of Insurance Commissioners.
16 ~~All reports obtained by or disclosed to the Director under~~
17 ~~this Section shall be given confidential treatment and shall~~
18 ~~not be subject to subpoena and shall not be made public by~~
19 ~~the Director, the National Association of Insurance~~
20 ~~Commissioners, or any other person, except to insurance~~
21 ~~departments of other states, without the prior written~~
22 ~~consent of the insurer to which it pertains unless the~~
23 ~~Director, after giving the insurer who would be affected~~
24 ~~notice and an opportunity to be heard, determines that the~~
25 ~~interests of policyholders, shareholders, or the public will~~
26 ~~be served by publication, in which event the Director may~~
27 ~~publish all or any part in the manner the Director may deem~~
28 ~~appropriate.~~

29 (b) Asset acquisitions or dispositions that are not
30 material do not have to be reported under this Section. For
31 purposes of this Section, a material acquisition (or the
32 aggregate of any series of related acquisitions during any 30
33 day period) or disposition (or the aggregate of any series of
34 related dispositions during any 30 day period) is one that is

1 nonrecurring and not in the ordinary course of business and
2 involves more than 5% of the reporting insurer's total
3 admitted assets as reported in its most recent statutory
4 financial statement filed with the Director. Asset
5 acquisitions subject to this Section include, but are not
6 limited to, every purchase, lease, exchange, merger,
7 consolidation, succession, or other acquisition other than
8 the construction or development of real property by or for
9 the reporting insurer or the acquisition of materials for
10 that purpose. Asset dispositions subject to this Section
11 include, but are not limited to, every sale, lease, exchange,
12 merger, consolidation, mortgage, hypothecation, assignment
13 (whether for the benefit of creditors or otherwise),
14 abandonment, destruction, or other disposition. All of the
15 following information shall be disclosed in the report of a
16 material acquisition or disposition of assets:

- 17 (1) Date of the transaction.
- 18 (2) Manner of acquisition or disposition.
- 19 (3) Description of the assets involved.
- 20 (4) Nature and amount of the consideration received
21 or given.
- 22 (5) Purpose of, or reason for, the transaction.
- 23 (6) Manner by which the amount of consideration was
24 determined.
- 25 (7) Gain or loss recognized or realized as a result
26 of the transaction.
- 27 (8) Name of the person from whom the assets were
28 acquired or to whom they were disposed.

29 Insurers shall report acquisitions and dispositions on a
30 nonconsolidated basis unless the insurer is part of a
31 consolidated group of insurers that utilizes a pooling
32 arrangement or a 100% reinsurance agreement that affects the
33 solvency and integrity of the insurer's reserves and the
34 insurer ceded substantially all of its direct and assumed

1 business to the pool. An insurer is deemed to have ceded
2 substantially all of its direct and assumed business to a
3 pool if the insurer has less than \$1,000,000 total direct
4 plus assumed written premiums during a calendar year that are
5 not subject to a pooling arrangement and the net income of
6 the business not subject to the pooling arrangement
7 represents less than 5% of the insurer's capital and surplus.

8 (c) Ceded reinsurance agreement nonrenewals,
9 cancellations, or revisions that are not material do not have
10 to be reported under this Section. For purposes of this
11 Section, a material nonrenewal, cancellation, or revision is
12 one that affects:

13 (1) For property and casualty business, including
14 accident and health business written by a property and
15 casualty insurer:

16 (A) more than 50% of the insurer's total ceded
17 written premium; or

18 (B) more than 50% of the insurer's total ceded
19 indemnity and loss adjustment reserves.

20 (2) For life, annuity, and accident and health
21 business: more than 50% of the total reserve credit taken
22 for business ceded, on an annual basis, as indicated in
23 the insurer's most recent annual statement.

24 (3) Property and casualty or life, annuity, and
25 accident and health business:

26 (A) an authorized reinsurer representing more
27 than 10% of total cession is replaced by one or more
28 unauthorized reinsurers; or

29 (B) previously established collateral
30 requirements have been reduced or waived as respects
31 one or more unauthorized reinsurer representing
32 collectively more than 10% of a total cession.

33 With respect to property and casualty business, including
34 accident and health business written by a property and

1 casualty insurer, no filing shall be required if the
2 insurer's total ceded written premium represents, on an
3 annualized basis, less than 10% of its total written premium
4 for direct and assumed business. With respect to life,
5 annuity, and accident and health business, no filing shall be
6 required if the total reserve credit taken for business ceded
7 represents, on an annualized basis, less than 10% of the
8 statutory reserve requirement prior to any cession.

9 All of the following information shall be disclosed in
10 the report of a material nonrenewal, cancellation, or
11 revision of ceded reinsurance agreements:

12 (1) Effective date of the nonrenewal, cancellation
13 or revision.

14 (2) The description of the transaction with an
15 identification of the initiator thereof.

16 (3) Purpose of, or reason for, the transaction.

17 (4) The identity of the replacement insurers, if
18 applicable.

19 Insurers shall report all material nonrenewals,
20 cancellations, or revisions of ceded reinsurance agreements
21 on a nonconsolidated basis unless the insurer is part of a
22 consolidated group of insurers that utilizes a pooling
23 arrangement or 100% reinsurance agreement that affects the
24 solvency and integrity of the insurer's reserves and the
25 insurer ceded substantially all of its direct and assumed
26 business to the pool. An insurer is deemed to have ceded
27 substantially all of its direct and assumed business to a
28 pool if the insurer has less than \$1,000,000 of total direct
29 plus assumed written premiums during a calendar year that are
30 not subject to the pooling arrangement and the net income of
31 the business not subject to the pooling arrangement
32 represents less than 5% of the insurer's capital and surplus.

33 (d)(1) All reports obtained by or disclosed to the
34 Director pursuant to this Section in the possession or

1 control of the Director, shall be confidential by law and
2 privileged, shall not be subject to the Freedom of
3 Information Act, shall not be subject to subpoena, and
4 shall not be subject to discovery or admission into
5 evidence in any private civil action without the prior
6 written consent of the insurer to which it pertains.
7 However, the Director is authorized to use the documents,
8 material, or other information in the furtherance of any
9 regulatory or legal action brought as a part of the
10 Director's official duties.

11 (2) After giving the insurer who would be affected
12 notice and an opportunity to be heard, the Director may
13 determine that the interest of policyholders,
14 shareholders, or the public will be served by publication
15 of the information subject to subdivision (d)(1), in
16 which event the Director may publish all or any part in
17 the manner the Director may deem appropriate.

18 (3) Neither the Director nor any person who
19 received documents, materials, or other information while
20 acting under the authority of the Director shall be
21 permitted or required to testify in any private civil
22 action concerning any confidential documents, materials,
23 or information subject to subdivision (d)(1).

24 (4) In order to assist in the performance of the
25 Director's duties, the Director:

26 (A) may share documents, materials, or other
27 information, including the confidential and
28 privileged documents, materials, or information
29 subject to subdivision (d)(1), with other state,
30 federal, and international regulatory agencies, with
31 the National Association of Insurance Commissioners
32 and its affiliates and subsidiaries, and with state,
33 federal, and international law enforcement
34 authorities, provided that the recipient agrees to

1 maintain the confidentiality and privileged status
2 of the document, material, or other information.

3 (B) may receive documents, materials, or
4 information, including otherwise confidential and
5 privileged documents, materials, or information,
6 from the National Association of Insurance
7 Commissioners and its affiliates and subsidiaries
8 and from regulatory and law enforcement officials or
9 other foreign or domestic jurisdictions, and shall
10 maintain as confidential or privileged any document,
11 material, or information received with notice or the
12 understanding that it is confidential or privileged
13 under the laws of the jurisdiction that is the
14 source of the document, material, or information;
15 and

16 (C) may enter into agreements governing
17 sharing and use of information consistent with this
18 subsection.

19 (5) No waiver of any applicable privilege or claim
20 of confidentiality in the documents, materials, or
21 information shall occur as a result of disclosure to the
22 Director under this Section or as a result of sharing as
23 authorized in subdivision (d)(4).

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

25 (215 ILCS 5/186.1) (from Ch. 73, par. 798.1)

26 Sec. 186.1. Supervision by the Director.

27 (1) If the Director determines that any domestic
28 insurance company is operating in a manner, that could lead
29 to, or is in, a financial condition, which if continued would
30 make it hazardous to the public, and its policyholders, the
31 Director may issue an order:

32 (a) notifying the company and its Board of Directors of
33 his determination and setting forth the specific deficiencies

1 leading to the determination;

2 (b) setting forth the specific action required or
3 prohibited to correct the cited deficiencies; and

4 (c) ordering the company to comply with the Director's
5 order within such reasonable time as the Director shall
6 prescribe.

7 (2) Operation or financial condition deficiencies
8 supporting the Director's determination under subsection (1)
9 may include, but are not limited to, the following:

10 (a) The company has failed to maintain a relationship of
11 policyholder surplus to premium writings or policyholder
12 surplus to claim and unearned premium reserves which provides
13 a reasonable margin of safety for the policyholders
14 considering the classes of insurance the company is writing.

15 (b) The company's asset liquidity is not adequate to
16 provide orderly payment of its obligations.

17 (c) The company's current or projected net income is
18 inadequate to meet its present or projected obligations.

19 (d) The company has a history of claim reserve
20 inadequacy which affects the reliability of its financial
21 statements.

22 (e) The company has failed to maintain adequate books
23 and records or has otherwise conducted its insurance
24 operation in a manner which impairs the Director's ability to
25 determine its true financial condition.

26 (3) If a company fails to comply with the Director's
27 order issued pursuant to subsection (1) within the time
28 prescribed for such compliance the Director may institute
29 proceedings for the conservation, rehabilitation or
30 liquidation of the company under Article XIII of this Code.

31 (4)(a) The Director may require that the company prepare
32 and file a plan to correct the deficiencies cited by the
33 Director in his order within such time as the Director may
34 prescribe. A corrective order may require, prohibit or

1 permit certain acts subject to conditions including the
2 Director's prior approval. The scope of a corrective order
3 may relate to but shall not be limited to:

- 4 (i) the disposition, recovery or mix of assets;
- 5 (ii) the assumption or cession of reinsurance, including
6 reinsurance of outstanding risks;
- 7 (iii) lending and borrowing;
- 8 (iv) investments;
- 9 (v) restricting underwriting and marketing activities.

10 (b) The Director may require that any company under such
11 corrective order direct any certified public accountants,
12 consulting actuary or financial consultant retained by the
13 company to prepare for the Director such reports, accounting
14 data and such other reports as the Director may reasonably
15 require to assist in carrying out the responsibilities of the
16 Director under this Section.

17 (5)(a) Any company subject to an order under subsections
18 (1) or (4) may request a hearing before the Director to
19 review that order. Such request shall be made in writing
20 within 10 days of the receipt of such order, shall state the
21 company's objections to the order, and shall be addressed to
22 the Director. Such hearing shall be convened not less than
23 10 days nor more than 20 days after receipt of the written
24 request for hearing unless otherwise agreed to by the
25 company. The Director shall make a final determination
26 within 10 days after the conclusion of the hearing. The
27 Director shall hold all hearings under this subsection
28 privately in accordance with subsection (6) of this Section.
29 The pendency of a hearing or pendency of the Director's final
30 determination shall not stay the effect of the Director's
31 order.

32 (b) After the Director's final determination pursuant to
33 any hearing under this subsection, any party to the
34 proceedings whose interests are affected by the Director's

1 final determination shall be entitled to judicial review of
2 such final determination pursuant to the provisions of the
3 "Administrative Review Law".

4 Notwithstanding the availability of administrative
5 remedies or judicial review under the "Administrative Review
6 Law", a company which is subject to an order of the Director
7 under this Section shall be entitled to immediate judicial
8 review and injunctive relief in the Circuit Court of Cook
9 County or the Circuit Court of Sangamon County upon
10 satisfying the court:

11 (i) that accepting the facts set forth in the order as
12 true, the order is arbitrary or capricious;

13 (ii) that the company's interests are substantially
14 impaired by the order; and

15 (iii) that the company will suffer permanent injury in
16 the absence of immediate injunctive relief.

17 (6)(a) All administrative and judicial proceedings
18 arising under this Article shall be held privately unless a
19 public hearing is requested by the company, and all records
20 of the company, and all records of the Department concerning
21 the company, so far as they pertain to or are a part of the
22 record of the proceedings, shall be and remain confidential,
23 unless the company requests otherwise. Such records shall
24 not be subject to public disclosure under "The Illinois
25 Freedom of Information Act", certified December 27, 1983, as
26 amended, or otherwise, nor shall such records be subject to
27 subpoena by third parties, unless the company and Director
28 consent to such disclosure or release under subpoena.

29 (b) The Director may share the notices, correspondence,
30 reports, records, or information with other state, federal,
31 and international regulatory agencies, with the National
32 Association of Insurance Commissioners and its affiliates and
33 subsidiaries, and with state, federal, and international law
34 enforcement authorities, if the Director determines that the

1 disclosure is necessary or proper for the enforcement of the
2 laws of this or another state of the United States, and
3 provided that the recipient agrees to maintain the
4 confidentiality of the documents, materials, or other
5 information. No waiver of any applicable privilege or claim
6 of confidentiality shall occur as a result of the sharing of
7 documents, materials, or other information pursuant to this
8 subsection.

9 (c) The Director may open the proceedings or hearings or
10 make public the notices, correspondence, reports, records, or
11 other information if the Director deems that it is in the
12 best interest of the public or in the best interest of the
13 company, its insureds, creditors, or the general public.

14 (7) The powers vested in the Director by this Section
15 are additional to any and all other powers and remedies
16 vested in the Director by law, and nothing herein contained
17 shall prohibit the Director from proceeding under any other
18 applicable law or under this Section in conjunction with any
19 other law.

20 (Source: P.A. 84-715.)

21 (215 ILCS 5/188.1) (from Ch. 73, par. 800.1)

22 Sec. 188.1. Provisions for conservation of assets of a
23 domestic, foreign, or alien company.

24 (1) Upon the filing by the Director of a verified
25 complaint alleging (a) that with respect to a domestic,
26 foreign, or alien company, whether authorized or
27 unauthorized, a condition exists that would justify a court
28 order for proceedings under Section 188, and (b) that the
29 interests of creditors, policyholders or the public will
30 probably be endangered by delay, then the circuit court of
31 Sangamon or Cook County or the circuit court of the county in
32 which such company has or last had its principal office shall
33 enter forthwith without a hearing or prior notice an order

1 directing the director to take possession and control of the
2 property, business, books, records, and accounts of the
3 company, and of the premises occupied by it for the
4 transaction of its business, or such part of each as the
5 complaint shall specify, and enjoining the company and its
6 officers, directors, agents, servants, and employees from
7 disposition of its property and from transaction of its
8 business except with the concurrence of the Director until
9 the further order of the court. Copies of the verified
10 complaint and the seizure order shall be served upon the
11 company.

12 (2) The order shall continue in force and effect for
13 such time as the court deems necessary for the Director to
14 ascertain the condition and situation of the company. On
15 motion of either party or on its own motion, the court may
16 from time to time hold such hearings as it deems desirable,
17 and may extend, shorten, or modify the terms of, the seizure
18 order. So far as the court deems it possible, the parties
19 shall be given adequate notice of such hearings. As soon as
20 practicable, the court shall vacate the seizure order or
21 terminate the conservation proceedings of the company, either
22 when the Director has failed to institute proceedings under
23 Section 188 having a reasonable opportunity to do so, or upon
24 an order of the court pursuant to such proceedings.

25 (3) Entry of a seizure order under this Section shall
26 not constitute an anticipatory breach of any contract of the
27 company.

28 (4) The court may hold all hearings in conservation
29 proceedings privately in chambers, and shall do so on request
30 of any officer of the company proceeded against.

31 (5) In conservation proceedings and judicial reviews
32 thereof, all records of the company, other documents, and all
33 insurance department files and court records and papers, so
34 far as they pertain to and are a part of the record of the

1 conservation proceedings, shall be and remain confidential
2 except as is necessary to obtain compliance therewith, unless
3 and until the court, after hearing arguments in chambers from
4 the Director and the company, shall decide otherwise, or
5 unless the company requests that the matter be made public,
6 or unless the Director applies for a rehabilitation or
7 liquidation order. However, the Director may share documents,
8 materials, or other information in his or her possession or
9 control pertaining to an insurer that is the subject of a
10 proceeding under this Code with other state, federal, and
11 international regulatory agencies, with the National
12 Association of Insurance Commissioners and its affiliates and
13 subsidiaries, and with state, federal, and international law
14 enforcement authorities, provided that the recipient agrees
15 to maintain the confidentiality of the documents, materials,
16 or other information. No waiver of any applicable privilege
17 or claim of confidentiality shall occur as a result of
18 disclosure by the Director under this Section or as a result
19 of sharing documents, materials, or other information
20 pursuant to this subsection.

21 (6) Any person having possession of and refusing to
22 deliver any of the property, business, books, records or
23 accounts of a company against which a seizure order has been
24 issued shall be guilty of a Class A misdemeanor.

25 (Source: P.A. 89-206, eff. 7-21-95.)

26 (215 ILCS 5/191) (from Ch. 73, par. 803)

27 Sec. 191. Title to property of company.

28 (a) The Director and his successor and successors in
29 office shall be vested by operation of law with the title to
30 all property, contracts, and rights of action of the company
31 as of the date of the order directing rehabilitation or
32 liquidation. The Director is entitled to immediate possession
33 and control of all property, contracts, and rights of action

1 of the company, and is further authorized and directed to
2 remove any and all records and property of the company to the
3 Director's possession and control or to such other place as
4 may be convenient for the purposes of efficient and orderly
5 administration of the rehabilitation or liquidation. All
6 persons, companies, and entities shall immediately release
7 their possession and control of any and all property,
8 contracts, and rights of action of the company to the
9 Director including, but not limited to, bank accounts and
10 bank records, premium and related records, and claim,
11 underwriting, accounting, and litigation files. The entry of
12 an order of rehabilitation or liquidation creates an estate
13 that comprises all of the liabilities and assets of the
14 company. The filing or recording of such order in the office
15 of the recorder or the Registrar of Titles in any county of
16 this State shall impart the same notice that a deed, bill of
17 sale or other evidence of title duly filed for record by such
18 company would have imparted.

19 (b) The Director may provide information to other state
20 insurance regulators and guaranty associations, including
21 reports and analyses of financial condition and the status of
22 development of a plan of rehabilitation. The Director may
23 also permit a state insurance regulator or guaranty
24 association to obtain a listing of policyholders and
25 certificate holders residing in the requestor's state,
26 including current addresses and summary policy information,
27 provided that the regulator or guaranty association agrees to
28 maintain the confidentiality of the records, and that the
29 records will be used only for regulatory or guaranty
30 association purposes. No waiver of any applicable privilege
31 shall occur as a result of disclosure to the Director under
32 this Section or as a result of sharing documents, materials,
33 or other information pursuant to this Section.

34 (Source: P.A. 89-206, eff. 7-21-95.)

1 (215 ILCS 5/223) (from Ch. 73, par. 835)

2 Sec. 223. Director to value policies; legal standard of
3 valuation.

4 (1) The Director shall annually value, or cause to be
5 valued, the reserve liabilities (hereinafter called reserves)
6 for all outstanding life insurance policies and annuity and
7 pure endowment contracts of every life insurance company
8 doing business in this State, except that in the case of an
9 alien company, such valuation shall be limited to its United
10 States business, and may certify the amount of any such
11 reserves, specifying the mortality table or tables, rate or
12 rates of interest, and methods (net level premium method or
13 other) used in the calculation of such reserves. In
14 calculating such reserves, he may use group methods and
15 approximate averages for fractions of a year or otherwise. In
16 lieu of the valuation of the reserves herein required of any
17 foreign or alien company, he may accept any valuation made,
18 or caused to be made, by the insurance supervisory official
19 of any state or other jurisdiction when such valuation
20 complies with the minimum standard herein provided and if the
21 official of such state or jurisdiction accepts as sufficient
22 and valid for all legal purposes the certificate of valuation
23 of the Director when such certificate states the valuation to
24 have been made in a specified manner according to which the
25 aggregate reserves would be at least as large as if they had
26 been computed in the manner prescribed by the law of that
27 state or jurisdiction.

28 Any such company which at any time has adopted any
29 standard of valuation producing greater aggregate reserves
30 than those calculated according to the minimum standard
31 herein provided may, with the approval of the Director, adopt
32 any lower standard of valuation, but not lower than the
33 minimum herein provided, however, that, for the purposes of
34 this subsection, the holding of additional reserves

1 previously determined by a qualified actuary to be necessary
2 to render the opinion required by subsection (1a) shall not
3 be deemed to be the adoption of a higher standard of
4 valuation. In the valuation of policies the Director shall
5 give no consideration to, nor make any deduction because of,
6 the existence or the possession by the company of

7 (a) policy liens created by any agreement given or
8 assented to by any assured subsequent to July 1, 1937,
9 for which liens such assured has not received cash or
10 other consideration equal in value to the amount of such
11 liens, or

12 (b) policy liens created by any agreement entered
13 into in violation of Section 232 unless the agreement
14 imposing or creating such liens has been approved by a
15 Court in a proceeding under Article XIII, or in the case
16 of a foreign or alien company has been approved by a
17 court in a rehabilitation or liquidation proceeding or by
18 the insurance official of its domiciliary state or
19 country, in accordance with the laws thereof.

20 (1a) This subsection shall become operative at the end
21 of the first full calendar year following the effective date
22 of this amendatory Act of 1991.

23 (A) General.

24 (1) Every life insurance company doing
25 business in this State shall annually submit the
26 opinion of a qualified actuary as to whether the
27 reserves and related actuarial items held in support
28 of the policies and contracts specified by the
29 Director by regulation are computed appropriately,
30 are based on assumptions that satisfy contractual
31 provisions, are consistent with prior reported
32 amounts and comply with applicable laws of this
33 State. The Director by regulation shall define the
34 specifics of this opinion and add any other items

1 deemed to be necessary to its scope.

2 (2) The opinion shall be submitted with the
3 annual statement reflecting the valuation of reserve
4 liabilities for each year ending on or after
5 December 31, 1992.

6 (3) The opinion shall apply to all business in
7 force including individual and group health
8 insurance plans, in form and substance acceptable to
9 the Director as specified by regulation.

10 (4) The opinion shall be based on standards
11 adopted from time to time by the Actuarial Standards
12 Board and on additional standards as the Director
13 may by regulation prescribe.

14 (5) In the case of an opinion required to be
15 submitted by a foreign or alien company, the
16 Director may accept the opinion filed by that
17 company with the insurance supervisory official of
18 another state if the Director determines that the
19 opinion reasonably meets the requirements applicable
20 to a company domiciled in this State.

21 (6) For the purpose of this Section,
22 "qualified actuary" means a member in good standing
23 of the American Academy of Actuaries who meets the
24 requirements set forth in its regulations.

25 (7) Except in cases of fraud or willful
26 misconduct, the qualified actuary shall not be
27 liable for damages to any person (other than the
28 insurance company and the Director) for any act,
29 error, omission, decision or conduct with respect to
30 the actuary's opinion.

31 (8) Disciplinary action by the Director
32 against the company or the qualified actuary shall
33 be defined in regulations by the Director.

34 (9) A memorandum, in form and substance

1 acceptable to the Director as specified by
2 regulation, shall be prepared to support each
3 actuarial opinion.

4 (10) If the insurance company fails to provide
5 a supporting memorandum at the request of the
6 Director within a period specified by regulation or
7 the Director determines that the supporting
8 memorandum provided by the insurance company fails
9 to meet the standards prescribed by the regulations
10 or is otherwise unacceptable to the Director, the
11 Director may engage a qualified actuary at the
12 expense of the company to review the opinion and the
13 basis for the opinion and prepare the supporting
14 memorandum as is required by the Director.

15 (11) Except as provided in paragraph (15),
16 documents, materials, or other information in the
17 possession or control of the Director that are a
18 memorandum in support of the opinion, and any other
19 material provided by the company to the Director in
20 connection with the memorandum, shall be
21 confidential by law and privileged, shall not be
22 subject to the Freedom of Information Act, shall not
23 be subject to subpoena, and shall not be subject to
24 discovery or admission into evidence in any private
25 civil action. However, the Director is authorized to
26 use the documents, materials, or other information
27 in the furtherance of any regulatory or legal action
28 brought as a part of the Director's official duties.

29 (12) Neither the Director nor any person who
30 received documents, materials, or other information
31 while acting under the authority of the Director
32 shall be permitted or required to testify in any
33 private civil action concerning any confidential
34 documents, materials, or information subject to

1 paragraph (11).

2 (13) In order to assist in the performance of
3 the Director's duties, the Director:

4 (i) may share documents, materials, or
5 other information, including the confidential
6 and privileged documents, materials, or
7 information subject to paragraph (11) with
8 other state, federal, and international
9 regulatory agencies, with the National
10 Association of Insurance Commissioners and its
11 affiliates and subsidiaries, and with state,
12 federal, and international law enforcement
13 authorities, provided that the recipient agrees
14 to maintain the confidentiality and privileged
15 status of the document, material, or other
16 information;

17 (ii) may receive documents, materials, or
18 information, including otherwise confidential
19 and privileged documents, materials, or
20 information, from the National Association of
21 Insurance Commissioners and its affiliates and
22 subsidiaries and from regulatory and law
23 enforcement officials of other foreign or
24 domestic jurisdictions, and shall maintain as
25 confidential or privileged any document,
26 material, or information received with notice
27 or the understanding that it is confidential or
28 privileged under the laws of the jurisdiction
29 that is the source of the document, material,
30 or information; and

31 (iii) may enter into agreements governing
32 sharing and use of information consistent with
33 paragraphs (11) and (13).

34 (14) No waiver of any applicable privilege or

1 claim of confidentiality in the documents,
 2 materials, or information shall occur as a result of
 3 disclosure to the Director under this Section or as
 4 a result of the sharing as authorized in paragraph
 5 (13).

6 ~~(15)(11)~~ Any memorandum in support of the
 7 opinion, and any other material provided by the
 8 company to the Director in connection therewith, may
 9 be ~~shall--be--kept--confidential--by--the--Director--and~~
 10 ~~shall--not--be--made--public--and--shall--not--be~~ subject to
 11 subpoena, ~~other--than~~ for the purpose of defending an
 12 action seeking damages from the actuary submitting
 13 the memorandum ~~any--person~~ by reason of any action
 14 required by this Section or by regulations
 15 promulgated hereunder. ~~provided,--however,--that~~ The
 16 memorandum or other material may otherwise be
 17 released by the Director (a) with the written
 18 consent of the company or (b) to the American
 19 Academy of Actuaries upon request stating that the
 20 memorandum or other material is required for the
 21 purpose of professional disciplinary proceedings and
 22 setting forth procedures satisfactory to the
 23 Director for preserving the confidentiality of the
 24 memorandum or other material. Once any portion of
 25 the confidential memorandum is cited by the company
 26 in its marketing or is cited before any governmental
 27 agency other than a state insurance department or is
 28 released by the company to the news media, all
 29 portions of the confidential memorandum shall be no
 30 longer confidential.

31 (B) Actuarial analysis of reserves and assets
 32 supporting those reserves.

33 (1) Every life insurance company, except as
 34 exempted by or under regulation, shall also annually

1 include in the opinion required by paragraph (A)(1)
2 of this subsection (1a), an opinion of the same
3 qualified actuary as to whether the reserves and
4 related actuarial items held in support of the
5 policies and contracts specified by the Director by
6 regulation, when considered in light of the assets
7 held by the company with respect to the reserves and
8 related actuarial items including, but not limited
9 to, the investment earnings on the assets and the
10 considerations anticipated to be received and
11 retained under the policies and contracts, make
12 adequate provision for the company's obligations
13 under the policies and contracts including, but not
14 limited to, the benefits under and expenses
15 associated with the policies and contracts.

16 (2) The Director may provide by regulation for
17 a transition period for establishing any higher
18 reserves which the qualified actuary may deem
19 necessary in order to render the opinion required by
20 this Section.

21 (2) This subsection shall apply to only those policies
22 and contracts issued prior to the operative date of Section
23 229.2 (the Standard Non-forfeiture Law).

24 (a) Except as otherwise in this Article provided,
25 the legal minimum standard for valuation of contracts
26 issued before January 1, 1908, shall be the Actuaries or
27 Combined Experience Table of Mortality with interest at
28 4% per annum and for valuation of contracts issued on or
29 after that date shall be the American Experience Table of
30 Mortality with either Craig's or Buttolph's Extension for
31 ages under 10 and with interest at 3 1/2% per annum. The
32 legal minimum standard for the valuation of group
33 insurance policies under which premium rates are not
34 guaranteed for a period in excess of 5 years shall be the

1 American Men Ultimate Table of Mortality with interest at
2 3 1/2% per annum. Any life company may, at its option,
3 value its insurance contracts issued on or after January
4 1, 1938, in accordance with their terms on the basis of
5 the American Men Ultimate Table of Mortality with
6 interest not higher than 3 1/2% per annum.

7 (b) Policies issued prior to January 1, 1908, may
8 continue to be valued according to a method producing
9 reserves not less than those produced by the full
10 preliminary term method. Policies issued on and after
11 January 1, 1908, may be valued according to a method
12 producing reserves not less than those produced by the
13 modified preliminary term method hereinafter described in
14 paragraph (c). Policies issued on and after January 1,
15 1938, may be valued either according to a method
16 producing reserves not less than those produced by such
17 modified preliminary term method or by the select and
18 ultimate method on the basis that the rate of mortality
19 during the first 5 years after the issuance of such
20 contracts respectively shall be calculated according to
21 the following percentages of rates shown by the American
22 Experience Table of Mortality:

- 23 (i) first insurance year 50% thereof;
- 24 (ii) second insurance year 65% thereof;
- 25 (iii) third insurance year 75% thereof;
- 26 (iv) fourth insurance year 85% thereof;
- 27 (v) fifth insurance year 95% thereof;

28 (c) If the premium charged for the first policy
29 year under a limited payment life preliminary term policy
30 providing for the payment of all premiums thereon in less
31 than 20 years from the date of the policy or under an
32 endowment preliminary term policy, exceeds that charged
33 for the first policy year under 20 payment life
34 preliminary term policies of the same company, the

1 reserve thereon at the end of any year, including the
2 first, shall not be less than the reserve on a 20 payment
3 life preliminary term policy issued in the same year at
4 the same age, together with an amount which shall be
5 equivalent to the accumulation of a net level premium
6 sufficient to provide for a pure endowment at the end of
7 the premium payment period, equal to the difference
8 between the value at the end of such period of such a 20
9 payment life preliminary term policy and the full net
10 level premium reserve at such time of such a limited
11 payment life or endowment policy. The premium payment
12 period is the period during which premiums are
13 concurrently payable under such 20 payment life
14 preliminary term policy and such limited payment life or
15 endowment policy.

16 (d) The legal minimum standard for the valuations
17 of annuities issued on and after January 1, 1938, shall
18 be the American Annuitant's Table with interest not
19 higher than 3 3/4% per annum, and all annuities issued
20 before that date shall be valued on a basis not lower
21 than that used for the annual statement of the year 1937;
22 but annuities deferred 10 or more years and written in
23 connection with life insurance shall be valued on the
24 same basis as that used in computing the consideration or
25 premiums therefor, or upon any higher standard at the
26 option of the company.

27 (e) The Director may vary the standards of interest
28 and mortality as to contracts issued in countries other
29 than the United States and may vary standards of
30 mortality in particular cases of invalid lives and other
31 extra hazards.

32 (f) The legal minimum standard for valuation of
33 waiver of premium disability benefits or waiver of
34 premium and income disability benefits issued on and

1 after January 1, 1938, shall be the Class (3) Disability
2 Table (1926) modified to conform to the contractual
3 waiting period, with interest at not more than 3 1/2% per
4 annum; but in no event shall the values be less than
5 those produced by the basis used in computing premiums
6 for such benefits. The legal minimum standard for the
7 valuation of such benefits issued prior to January 1,
8 1938, shall be such as to place an adequate value, as
9 determined by sound insurance practices, on the
10 liabilities thereunder and shall be such that the value
11 of the benefits under each and every policy shall in no
12 case be less than the value placed upon the future
13 premiums.

14 (g) The legal minimum standard for the valuation of
15 industrial policies issued on or after January 1, 1938,
16 shall be the American Experience Table of Mortality or
17 the Standard Industrial Mortality Table or the
18 Substandard Industrial Mortality Table with interest at 3
19 1/2% per annum by the net level premium method, or in
20 accordance with their terms by the modified preliminary
21 term method hereinabove described.

22 (h) Reserves for all such policies and contracts
23 may be calculated, at the option of the company,
24 according to any standards which produce greater
25 aggregate reserves for all such policies and contracts
26 than the minimum reserves required by this subsection.

27 (3) This subsection shall apply to only those policies
28 and contracts issued on or after January 1, 1948 or such
29 earlier operative date of Section 229.2 (the Standard
30 Non-forfeiture Law) as shall have been elected by the
31 insurance company issuing such policies or contracts.

32 (a) Except as otherwise provided in subsections
33 (4), (6), and (7), the minimum standard for the valuation
34 of all such policies and contracts shall be the

1 Commissioners Reserve valuation method defined in
2 paragraphs (b) and (f) of this subsection and in
3 subsection 5, 3 1/2% interest for such policies issued
4 prior to September 8, 1977, 5 1/2% interest for single
5 premium life insurance policies and 4 1/2% interest for
6 all other such policies issued on or after September 8,
7 1977, and the following tables:

8 (i) The Commissioners 1941 Standard Ordinary
9 Mortality Table for all Ordinary policies of life
10 insurance issued on the standard basis, excluding
11 any disability and accidental death benefits in such
12 policies, for such policies issued prior to the
13 operative date of subsection (4a) of Section 229.2
14 (Standard Non-forfeiture Law); and the Commissioners
15 1958 Standard Ordinary Mortality Table for such
16 policies issued on or after such operative date but
17 prior to the operative date of subsection (4c) of
18 Section 229.2 provided that for any category of such
19 policies issued on female risks all modified net
20 premiums and present values referred to in this Act
21 may, prior to September 8, 1977, be calculated
22 according to an age not more than 3 years younger
23 than the actual age of the insured and, after
24 September 8, 1977, calculated according to an age
25 not more than 6 years younger than the actual age of
26 the insured; and for such policies issued on or
27 after the operative date of subsection (4c) of
28 Section 229.2, (i) the Commissioners 1980 Standard
29 Ordinary Mortality Table, or (ii) at the election of
30 the company for any one or more specified plans of
31 life insurance, the Commissioners 1980 Standard
32 Ordinary Mortality Table with Ten-Year Select
33 Mortality Factors, or (iii) any ordinary mortality
34 table adopted after 1980 by the National Association

1 of Insurance Commissioners and approved by
2 regulations promulgated by the Director for use in
3 determining the minimum standard of valuation for
4 such policies.

5 (ii) For all Industrial Life Insurance
6 policies issued on the standard basis, excluding any
7 disability and accidental death benefits in such
8 policies--the 1941 Standard Industrial Mortality
9 Table for such policies issued prior to the
10 operative date of subsection 4 (b) of Section 229.2
11 (Standard Non-forfeiture Law); and for such policies
12 issued on or after such operative date the
13 Commissioners 1961 Standard Industrial Mortality
14 Table or any industrial mortality table adopted
15 after 1980 by the National Association of Insurance
16 Commissioners and approved by regulations
17 promulgated by the Director for use in determining
18 the minimum standard of valuation for such policies.

19 (iii) For Individual Annuity and Pure
20 Endowment contracts, excluding any disability and
21 accidental death benefits in such policies--the 1937
22 Standard Annuity Mortality Table--or, at the option
23 of the company, the Annuity Mortality Table for
24 1949, Ultimate, or any modification of either of
25 these tables approved by the Director.

26 (iv) For Group Annuity and Pure Endowment
27 contracts, excluding any disability and accidental
28 death benefits in such policies--the Group Annuity
29 Mortality Table for 1951, any modification of such
30 table approved by the Director, or, at the option of
31 the company, any of the tables or modifications of
32 tables specified for Individual Annuity and Pure
33 Endowment contracts.

34 (v) For Total and Permanent Disability

1 Benefits in or supplementary to Ordinary policies or
2 contracts for policies or contracts issued on or
3 after January 1, 1966, the tables of Period 2
4 disablement rates and the 1930 to 1950 termination
5 rates of the 1952 Disability Study of the Society of
6 Actuaries, with due regard to the type of benefit,
7 or any tables of disablement rates and termination
8 rates adopted after 1980 by the National Association
9 of Insurance Commissioners and approved by
10 regulations promulgated by the Director for use in
11 determining the minimum standard of valuation for
12 such policies; for policies or contracts issued on
13 or after January 1, 1961, and prior to January 1,
14 1966, either such tables or, at the option of the
15 company, the Class (3) Disability Table (1926); and
16 for policies issued prior to January 1, 1961, the
17 Class (3) Disability Table (1926). Any such table
18 shall, for active lives, be combined with a
19 mortality table permitted for calculating the
20 reserves for life insurance policies.

21 (vi) For Accidental Death benefits in or
22 supplementary to policies--for policies issued on or
23 after January 1, 1966, the 1959 Accidental Death
24 Benefits Table or any accidental death benefits
25 table adopted after 1980 by the National Association
26 of Insurance Commissioners and approved by
27 regulations promulgated by the Director for use in
28 determining the minimum standard of valuation for
29 such policies; for policies issued on or after
30 January 1, 1961, and prior to January 1, 1966, any
31 of such tables or, at the option of the company, the
32 Inter-Company Double Indemnity Mortality Table; and
33 for policies issued prior to January 1, 1961, the
34 Inter-Company Double Indemnity Mortality Table.

1 Either table shall be combined with a mortality
2 table permitted for calculating the reserves for
3 life insurance policies.

4 (vii) For Group Life Insurance, life insurance
5 issued on the substandard basis and other special
6 benefits--such tables as may be approved by the
7 Director.

8 (b) Except as otherwise provided in paragraph (f)
9 of subsection (3), subsection (5), and subsection (7)
10 reserves according to the Commissioners reserve valuation
11 method, for the life insurance and endowment benefits of
12 policies providing for a uniform amount of insurance and
13 requiring the payment of uniform premiums shall be the
14 excess, if any, of the present value, at the date of
15 valuation, of such future guaranteed benefits provided
16 for by such policies, over the then present value of any
17 future modified net premiums therefor. The modified net
18 premiums for any such policy shall be such uniform
19 percentage of the respective contract premiums for such
20 benefits that the present value, at the date of issue of
21 the policy, of all such modified net premiums shall be
22 equal to the sum of the then present value of such
23 benefits provided for by the policy and the excess of (A)
24 over (B), as follows:

25 (A) A net level annual premium equal to the
26 present value, at the date of issue, of such
27 benefits provided for after the first policy year,
28 divided by the present value, at the date of issue,
29 of an annuity of one per annum payable on the first
30 and each subsequent anniversary of such policy on
31 which a premium falls due; provided, however, that
32 such net level annual premium shall not exceed the
33 net level annual premium on the 19 year premium
34 whole life plan for insurance of the same amount at

1 an age one year higher than the age at issue of such
2 policy.

3 (B) A net one year term premium for such
4 benefits provided for in the first policy year.

5 For any life insurance policy issued on or after
6 January 1, 1987, for which the contract premium in the
7 first policy year exceeds that of the second year with no
8 comparable additional benefit being provided in that
9 first year, which policy provides an endowment benefit or
10 a cash surrender value or a combination thereof in an
11 amount greater than such excess premium, the reserve
12 according to the Commissioners reserve valuation method
13 as of any policy anniversary occurring on or before the
14 assumed ending date, defined herein as the first policy
15 anniversary on which the sum of any endowment benefit and
16 any cash surrender value then available is greater than
17 such excess premium, shall, except as otherwise provided
18 in paragraph (f) of subsection (3), be the greater of the
19 reserve as of such policy anniversary calculated as
20 described in the preceding part of this paragraph (b) and
21 the reserve as of such policy anniversary calculated as
22 described in the preceding part of this paragraph (b)
23 with (i) the value defined in subpart A of the preceding
24 part of this paragraph (b) being reduced by 15% of the
25 amount of such excess first year premium, (ii) all
26 present values of benefits and premiums being determined
27 without reference to premiums or benefits provided for by
28 the policy after the assumed ending date, (iii) the
29 policy being assumed to mature on such date as an
30 endowment, and (iv) the cash surrender value provided on
31 such date being considered as an endowment benefit. In
32 making the above comparison, the mortality and interest
33 bases stated in paragraph (a) of subsection (3) and in
34 subsection 6 shall be used.

1 Reserves according to the Commissioners reserve
2 valuation method for (i) life insurance policies
3 providing for a varying amount of insurance or requiring
4 the payment of varying premiums, (ii) group annuity and
5 pure endowment contracts purchased under a retirement
6 plan or plan of deferred compensation, established or
7 maintained by an employer (including a partnership or
8 sole proprietorship) or by an employee organization, or
9 by both, other than a plan providing individual
10 retirement accounts or individual retirement annuities
11 under Section 408 of the Internal Revenue Code, as now or
12 hereafter amended, (iii) disability and accidental death
13 benefits in all policies and contracts, and (iv) all
14 other benefits, except life insurance and endowment
15 benefits in life insurance policies and benefits provided
16 by all other annuity and pure endowment contracts, shall
17 be calculated by a method consistent with the principles
18 of this paragraph (b), except that any extra premiums
19 charged because of impairments or special hazards shall
20 be disregarded in the determination of modified net
21 premiums.

22 (c) In no event shall a company's aggregate
23 reserves for all life insurance policies, excluding
24 disability and accidental death benefits be less than the
25 aggregate reserves calculated in accordance with the
26 methods set forth in paragraphs (b), (f), and (g) of
27 subsection (3) and in subsection (5) and the mortality
28 table or tables and rate or rates of interest used in
29 calculating non-forfeiture benefits for such policies.

30 (d) In no event shall the aggregate reserves for
31 all policies, contracts, and benefits be less than the
32 aggregate reserves determined by the qualified actuary to
33 be necessary to render the opinion required by subsection
34 (1a).

1 (e) Reserves for any category of policies,
2 contracts or benefits as established by the Director, may
3 be calculated, at the option of the company, according to
4 any standards which produce greater aggregate reserves
5 for such category than those calculated according to the
6 minimum standard herein provided, but the rate or rates
7 of interest used for policies and contracts, other than
8 annuity and pure endowment contracts, shall not be higher
9 than the corresponding rate or rates of interest used in
10 calculating any nonforfeiture benefits provided for
11 therein.

12 (f) If in any contract year the gross premium
13 charged by any life insurance company on any policy or
14 contract is less than the valuation net premium for the
15 policy or contract calculated by the method used in
16 calculating the reserve thereon but using the minimum
17 valuation standards of mortality and rate of interest,
18 the minimum reserve required for such policy or contract
19 shall be the greater of either the reserve calculated
20 according to the mortality table, rate of interest, and
21 method actually used for such policy or contract, or the
22 reserve calculated by the method actually used for such
23 policy or contract but using the minimum standards of
24 mortality and rate of interest and replacing the
25 valuation net premium by the actual gross premium in each
26 contract year for which the valuation net premium exceeds
27 the actual gross premium. The minimum valuation
28 standards of mortality and rate of interest referred to
29 in this paragraph (f) are those standards stated in
30 subsection (6) and paragraph (a) of subsection (3).

31 For any life insurance policy issued on or after
32 January 1, 1987, for which the gross premium in the first
33 policy year exceeds that of the second year with no
34 comparable additional benefit provided in that first

1 year, which policy provides an endowment benefit or a
2 cash surrender value or a combination thereof in an
3 amount greater than such excess premium, the foregoing
4 provisions of this paragraph (f) shall be applied as if
5 the method actually used in calculating the reserve for
6 such policy were the method described in paragraph (b) of
7 subsection (3), ignoring the second paragraph of said
8 paragraph (b). The minimum reserve at each policy
9 anniversary of such a policy shall be the greater of the
10 minimum reserve calculated in accordance with paragraph
11 (b) of subsection (3), including the second paragraph of
12 said paragraph (b), and the minimum reserve calculated in
13 accordance with this paragraph (f).

14 (g) In the case of any plan of life insurance which
15 provides for future premium determination, the amounts of
16 which are to be determined by the insurance company based
17 on then estimates of future experience, or in the case of
18 any plan of life insurance or annuity which is of such a
19 nature that the minimum reserves cannot be determined by
20 the methods described in paragraphs (b) and (f) of
21 subsection (3) and subsection (5), the reserves which are
22 held under any such plan shall:

- 23 (i) be appropriate in relation to the benefits
24 and the pattern of premiums for that plan, and
- 25 (ii) be computed by a method which is
26 consistent with the principles of this Standard
27 Valuation Law, as determined by regulations
28 promulgated by the Director.

29 (4) Except as provided in subsection (6), the minimum
30 standard for the valuation of all individual annuity and pure
31 endowment contracts issued on or after the operative date of
32 this subsection, as defined herein, and for all annuities and
33 pure endowments purchased on or after such operative date
34 under group annuity and pure endowment contracts shall be the

1 Commissioners Reserve valuation methods defined in paragraph
2 (b) of subsection (3) and subsection (5) and the following
3 tables and interest rates:

4 (a) For individual single premium immediate annuity
5 contracts, excluding any disability and accidental death
6 benefits in such contracts, the 1971 Individual Annuity
7 Mortality Table, any individual annuity mortality table
8 adopted after 1980 by the National Association of
9 Insurance Commissioners and approved by regulations
10 promulgated by the Director for use in determining the
11 minimum standard of valuation for such contracts, or any
12 modification of those tables approved by the Director,
13 and 7 1/2% interest.

14 (b) For individual and pure endowment contracts
15 other than single premium annuity contracts, excluding
16 any disability and accidental death benefits in such
17 contracts, the 1971 Individual Annuity Mortality Table,
18 any individual annuity mortality table adopted after 1980
19 by the National Association of Insurance Commissioners
20 and approved by regulations promulgated by the Director
21 for use in determining the minimum standard of valuation
22 for such contracts, or any modification of those tables
23 approved by the Director, and 5 1/2% interest for single
24 premium deferred annuity and pure endowment contracts and
25 4 1/2% interest for all other such individual annuity and
26 pure endowment contracts.

27 (c) For all annuities and pure endowments purchased
28 under group annuity and pure endowment contracts,
29 excluding any disability and accidental death benefits
30 purchased under such contracts, the 1971 Group Annuity
31 Mortality Table, any group annuity mortality table
32 adopted after 1980 by the National Association of
33 Insurance Commissioners and approved by regulations
34 promulgated by the Director for use in determining the

1 minimum standard of valuation for such annuities and pure
2 endowments, or any modification of those tables approved
3 by the Director, and 7 1/2% interest.

4 After September 8, 1977, any company may file with the
5 Director a written notice of its election to comply with the
6 provisions of this subsection after a specified date before
7 January 1, 1979, which shall be the operative date of this
8 subsection for such company; provided, a company may elect a
9 different operative date for individual annuity and pure
10 endowment contracts from that elected for group annuity and
11 pure endowment contracts. If a company makes no election,
12 the operative date of this subsection for such company shall
13 be January 1, 1979.

14 (5) This subsection shall apply to all annuity and pure
15 endowment contracts other than group annuity and pure
16 endowment contracts purchased under a retirement plan or plan
17 of deferred compensation, established or maintained by an
18 employer (including a partnership or sole proprietorship) or
19 by an employee organization, or by both, other than a plan
20 providing individual retirement accounts or individual
21 retirement annuities under Section 408 of the Internal
22 Revenue Code, as now or hereafter amended.

23 Reserves according to the Commissioners annuity reserve
24 method for benefits under annuity or pure endowment
25 contracts, excluding any disability and accidental death
26 benefits in such contracts, shall be the greatest of the
27 respective excesses of the present values, at the date of
28 valuation, of the future guaranteed benefits, including
29 guaranteed nonforfeiture benefits, provided for by such
30 contracts at the end of each respective contract year, over
31 the present value, at the date of valuation, of any future
32 valuation considerations derived from future gross
33 considerations, required by the terms of such contract, that
34 become payable prior to the end of such respective contract

1 year. The future guaranteed benefits shall be determined by
 2 using the mortality table, if any, and the interest rate, or
 3 rates, specified in such contracts for determining guaranteed
 4 benefits. The valuation considerations are the portions of
 5 the respective gross considerations applied under the terms
 6 of such contracts to determine nonforfeiture values.

7 (6) (a) Applicability of this subsection. (i) The
 8 interest rates used in determining the minimum standard
 9 for the valuation of

10 (A) all life insurance policies issued in a
 11 particular calendar year, on or after the operative
 12 date of subsection (4c) of Section 229.2 (Standard
 13 Nonforfeiture Law),

14 (B) all individual annuity and pure endowment
 15 contracts issued in a particular calendar year
 16 ending on or after December 31, 1983,

17 (C) all annuities and pure endowments
 18 purchased in a particular calendar year ending on or
 19 after December 31, 1983, under group annuity and
 20 pure endowment contracts, and

21 (D) the net increase in a particular calendar
 22 year ending after December 31, 1983, in amounts held
 23 under guaranteed interest contracts

24 shall be the calendar year statutory valuation interest
 25 rates, as defined in this subsection.

26 (b) Calendar Year Statutory Valuation Interest
 27 Rates.

28 (i) The calendar year statutory valuation
 29 interest rates shall be determined according to the
 30 following formulae, rounding "I" to the nearest
 31 .25%.

32 (A) For life insurance,

33
$$I = .03 + W (R1 - .03) + W/2 (R2 - .09).$$

34 (B) For single premium immediate

1 annuities and annuity benefits involving life
2 contingencies arising from other annuities with
3 cash settlement options and from guaranteed
4 interest contracts with cash settlement
5 options,

6 $I = .03 + W (R - .03)$ or with prior
7 approval of the Director $I = .03 + W (Rq -$
8 $.03)$.

9 For the purposes of this subparagraph (i), "I"
10 equals the calendar year statutory valuation
11 interest rate, "R" is the reference interest rate
12 defined in this subsection, "R1" is the lesser of R
13 and .09, "R2" is the greater of R and .09, "Rq" is
14 the quarterly reference interest rate defined in
15 this subsection, and "W" is the weighting factor
16 defined in this subsection.

17 (C) For other annuities with cash
18 settlement options and guaranteed interest
19 contracts with cash settlement options, valued
20 on an issue year basis, except as stated in
21 (B), the formula for life insurance stated in
22 (A) applies to annuities and guaranteed
23 interest contracts with guarantee durations in
24 excess of 10 years, and the formula for single
25 premium immediate annuities stated in (B) above
26 applies to annuities and guaranteed interest
27 contracts with guarantee durations of 10 years
28 or less.

29 (D) For other annuities with no cash
30 settlement options and for guaranteed interest
31 contracts with no cash settlement options, the
32 formula for single premium immediate annuities
33 stated in (B) applies.

34 (E) For other annuities with cash

1 settlement options and guaranteed interest
 2 contracts with cash settlement options, valued
 3 on a change in fund basis, the formula for
 4 single premium immediate annuities stated in
 5 (B) applies.

6 (ii) If the calendar year statutory valuation
 7 interest rate for any life insurance policy issued
 8 in any calendar year determined without reference to
 9 this subparagraph differs from the corresponding
 10 actual rate for similar policies issued in the
 11 immediately preceding calendar year by less than
 12 .5%, the calendar year statutory valuation interest
 13 rate for such life insurance policy shall be the
 14 corresponding actual rate for the immediately
 15 preceding calendar year. For purposes of applying
 16 this subparagraph, the calendar year statutory
 17 valuation interest rate for life insurance policies
 18 issued in a calendar year shall be determined for
 19 1980, using the reference interest rate defined for
 20 1979, and shall be determined for each subsequent
 21 calendar year regardless of when subsection (4c) of
 22 Section 229.2 (Standard Nonforfeiture Law) becomes
 23 operative.

24 (c) Weighting Factors.

25 (i) The weighting factors referred to in the
 26 formulae stated in paragraph (b) are given in the
 27 following tables.

28 (A) Weighting Factors for Life Insurance.

29 Guarantee	Weighting
30 Duration	Factors
31 (Years)	
32 10 or less	.50
33 More than 10, but not more than 20	.45
34 More than 20	.35

1 For life insurance, the guarantee duration
 2 is the maximum number of years the life
 3 insurance can remain in force on a basis
 4 guaranteed in the policy or under options to
 5 convert to plans of life insurance with premium
 6 rates or nonforfeiture values or both which are
 7 guaranteed in the original policy.

8 (B) The weighting factor for single
 9 premium immediate annuities and for annuity
 10 benefits involving life contingencies arising
 11 from other annuities with cash settlement
 12 options and guaranteed interest contracts with
 13 cash settlement options is .80.

14 (C) The weighting factors for other
 15 annuities and for guaranteed interest
 16 contracts, except as stated in (B) of this
 17 subparagraph (i), shall be as specified in
 18 tables (1), (2), and (3) of this subpart (C),
 19 according to the rules and definitions in (4),
 20 (5) and (6) of this subpart (C).

21 (1) For annuities and guaranteed interest
 22 contracts valued on an issue year basis.

23 Guarantee	Weighting Factor		
24 Duration	for Plan Type		
25 (Years)	A	B	C
26 5 or less.	.80	.60	.50
27 More than 5, but not			
28 more than 10.	.75	.60	.50
29 More than 10, but not			
30 more than 20.	.65	.50	.45
31 More than 20.	.45	.35	.35

32 (2) For annuities and guaranteed interest
 33 contracts valued on a change in fund basis, the
 34 factors shown in (1) for Plan Types A, B and C

1 are increased by .15, .25 and .05,
2 respectively.

3 (3) For annuities and guaranteed interest
4 contracts valued on an issue year basis, other
5 than those with no cash settlement options,
6 which do not guarantee interest on
7 considerations received more than one year
8 after issue or purchase, and for annuities and
9 guaranteed interest contracts valued on a
10 change in fund basis which do not guarantee
11 interest rates on considerations received more
12 than 12 months beyond the valuation date, the
13 factors shown in (1), or derived in (2), for
14 Plan Types A, B and C are increased by .05.

15 (4) For other annuities with cash
16 settlement options and guaranteed interest
17 contracts with cash settlement options, the
18 guarantee duration is the number of years for
19 which the contract guarantees interest rates in
20 excess of the calendar year statutory valuation
21 interest rate for life insurance policies with
22 guarantee durations in excess of 20 years. For
23 other annuities with no cash settlement
24 options, and for guaranteed interest contracts
25 with no cash settlement options, the guarantee
26 duration is the number of years from the date
27 of issue or date of purchase to the date
28 annuity benefits are scheduled to commence.

29 (5) The plan types used in the above
30 tables are defined as follows.

31 Plan Type A is a plan under which the
32 policyholder may not withdraw funds, or may
33 withdraw funds at any time but only (a) with an
34 adjustment to reflect changes in interest rates

1 or asset values since receipt of the funds by
2 the insurance company, (b) without such an
3 adjustment but in installments over 5 years or
4 more, or (c) as an immediate life annuity.

5 Plan Type B is a plan under which the
6 policyholder may not withdraw funds before
7 expiration of the interest rate guarantee, or
8 may withdraw funds before such expiration but
9 only (a) with an adjustment to reflect changes
10 in interest rates or asset values since receipt
11 of the funds by the insurance company, or (b)
12 without such adjustment but in installments
13 over 5 years or more. At the end of the
14 interest rate guarantee, funds may be withdrawn
15 without such adjustment in a single sum or
16 installments over less than 5 years.

17 Plan Type C is a plan under which the
18 policyholder may withdraw funds before
19 expiration of the interest rate guarantee in a
20 single sum or installments over less than 5
21 years either (a) without adjustment to reflect
22 changes in interest rates or asset values since
23 receipt of the funds by the insurance company,
24 or (b) subject only to a fixed surrender charge
25 stipulated in the contract as a percentage of
26 the fund.

27 (6) A company may elect to value
28 guaranteed interest contracts with cash
29 settlement options and annuities with cash
30 settlement options on either an issue year
31 basis or on a change in fund basis. Guaranteed
32 interest contracts with no cash settlement
33 options and other annuities with no cash
34 settlement options shall be valued on an issue

1 year basis. As used in this Section, "issue
2 year basis of valuation" refers to a valuation
3 basis under which the interest rate used to
4 determine the minimum valuation standard for
5 the entire duration of the annuity or
6 guaranteed interest contract is the calendar
7 year valuation interest rate for the year of
8 issue or year of purchase of the annuity or
9 guaranteed interest contract. "Change in fund
10 basis of valuation", as used in this Section,
11 refers to a valuation basis under which the
12 interest rate used to determine the minimum
13 valuation standard applicable to each change in
14 the fund held under the annuity or guaranteed
15 interest contract is the calendar year
16 valuation interest rate for the year of the
17 change in the fund.

18 (d) Reference Interest Rate. (i) The reference
19 interest rate referred to in paragraph (b) of this
20 subsection is defined as follows.

21 (A) For all life insurance, the reference
22 interest rate is the lesser of the average over a
23 period of 36 months, and the average over a period
24 of 12 months, with both periods ending on June 30,
25 or with prior approval of the Director ending on
26 December 31, of the calendar year next preceding the
27 year of issue, of Moody's Corporate Bond Yield
28 Average - Monthly Average Corporates, as published
29 by Moody's Investors Service, Inc.

30 (B) For single premium immediate annuities and
31 for annuity benefits involving life contingencies
32 arising from other annuities with cash settlement
33 options and guaranteed interest contracts with cash
34 settlement options, the reference interest rate is

1 the average over a period of 12 months, ending on
2 June 30, or with prior approval of the Director
3 ending on December 31, of the calendar year of issue
4 or year of purchase, of Moody's Corporate Bond Yield
5 Average - Monthly Average Corporates, as published
6 by Moody's Investors Service, Inc.

7 (C) For annuities with cash settlement options
8 and guaranteed interest contracts with cash
9 settlement options, valued on a year of issue basis,
10 except those described in (B), with guarantee
11 durations in excess of 10 years, the reference
12 interest rate is the lesser of the average over a
13 period of 36 months and the average over a period of
14 12 months, ending on June 30, or with prior approval
15 of the Director ending on December 31, of the
16 calendar year of issue or purchase, of Moody's
17 Corporate Bond Yield Average-Monthly Average
18 Corporates, as published by Moody's Investors
19 Service, Inc.

20 (D) For other annuities with cash settlement
21 options and guaranteed interest contracts with cash
22 settlement options, valued on a year of issue basis,
23 except those described in (B), with guarantee
24 durations of 10 years or less, the reference
25 interest rate is the average over a period of 12
26 months, ending on June 30, or with prior approval of
27 the Director ending on December 31, of the calendar
28 year of issue or purchase, of Moody's Corporate Bond
29 Yield Average-Monthly Average Corporates, as
30 published by Moody's Investors Service, Inc.

31 (E) For annuities with no cash settlement
32 options and for guaranteed interest contracts with
33 no cash settlement options, the reference interest
34 rate is the average over a period of 12 months,

1 ending on June 30, or with prior approval of the
2 Director ending on December 31, of the calendar year
3 of issue or purchase, of Moody's Corporate Bond
4 Yield Average-Monthly Average Corporates, as
5 published by Moody's Investors Service, Inc.

6 (F) For annuities with cash settlement options
7 and guaranteed interest contracts with cash
8 settlement options, valued on a change in fund
9 basis, except those described in (B), the reference
10 interest rate is the average over a period of 12
11 months, ending on June 30, or with prior approval of
12 the Director ending on December 31, of the calendar
13 year of the change in the fund, of Moody's Corporate
14 Bond Yield Average-Monthly Average Corporates, as
15 published by Moody's Investors Service, Inc.

16 (G) For annuities valued by a formula based on
17 Rq, the quarterly reference interest rate is, with
18 the prior approval of the Director, the average
19 within each of the 4 consecutive calendar year
20 quarters ending on March 31, June 30, September 30
21 and December 31 of the calendar year of issue or
22 year of purchase of Moody's Corporate Bond Yield
23 Average-Monthly Average Corporates, as published by
24 Moody's Investors Service, Inc.

25 (e) Alternative Method for Determining Reference
26 Interest Rates. In the event that the Moody's Corporate
27 Bond Yield Average-Monthly Average Corporates is no
28 longer published by Moody's Investors Services, Inc., or
29 in the event that the National Association of Insurance
30 Commissioners determines that Moody's Corporate Bond
31 Yield Average-Monthly Average Corporates as published by
32 Moody's Investors Service, Inc. is no longer appropriate
33 for the determination of the reference interest rate,
34 then an alternative method for determination of the

1 reference interest rate, which is adopted by the National
2 Association of Insurance Commissioners and approved by
3 regulations promulgated by the Director, may be
4 substituted.

5 (7) Minimum Standards for Health (Disability, Accident
6 and Sickness) Plans. The Director shall promulgate a
7 regulation containing the minimum standards applicable to the
8 valuation of health (disability, sickness and accident)
9 plans.

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

11 (215 ILCS 5/401.5)

12 Sec. 401.5. Investigation of insurance law violations.

13 (a) If the Director of Insurance has cause to believe
14 that a person has engaged in, or is engaging in, an act,
15 activity, or practice that constitutes a business offense,
16 misdemeanor, or felony violation of the Illinois Insurance
17 Code or related insurance laws, he or she shall designate
18 appropriate investigators or agents to investigate the
19 violations. For purposes of carrying out investigations
20 under this Section, the Department of Insurance is deemed a
21 criminal justice agency under all federal and State laws and
22 regulations, and as such shall have access to any information
23 that concerns or relates to a violation of the Illinois
24 Insurance Code or related insurance laws and that is
25 available to criminal justice agencies.

26 (b) The Director of Insurance may transmit or receive
27 written or oral information relating to possible violations
28 of the insurance laws of this State received by or from any
29 other criminal justice agencies, whether federal, State, or
30 local, if, in the opinion of the Director, the transmittal is
31 appropriate and may further the effective prevention of
32 criminal activities.

33 (c)(1) The Department of Insurance's papers, documents,

1 reports, or evidence relevant to the subject of an
 2 investigation under this Section is not subject to public
 3 inspection for so long as the Director Department deems
 4 reasonably necessary to complete the investigation, to
 5 protect the person investigated from unwarranted injury, or
 6 to be in the public interest. Documents, materials, or other
 7 information in the possession or control of the Director that
 8 are provided pursuant to this Section or obtained by the
 9 Director in an investigation of suspected fraudulent
 10 insurance acts shall be confidential by law and privileged,
 11 shall not be subject to the Freedom of Information Act, shall
 12 not be subject to subpoena, and shall not be subject to
 13 discovery or admission into evidence in any private civil
 14 action. However, the Director is authorized to use the
 15 documents, materials, or other information in the furtherance
 16 of any regulatory or legal action brought as a part of the
 17 Director's official duties. Further, the papers, documents,
 18 reports, or evidence relevant to the subject of an
 19 investigation under this Section is not subject to subpoena
 20 until opened for public inspection by the Department, unless
 21 the Department consents, or until, after notice to the
 22 Department and a hearing, the court determines the Department
 23 would not be unnecessarily hindered by the subpoena. No
 24 officer, agent, or employee of the Department is subject to
 25 subpoena in civil actions by a court of this State to testify
 26 concerning a matter of which they have knowledge under a
 27 pending insurance fraud investigation by the Department.

28 (2) Neither the Director nor any person who
 29 received documents, materials, or other information while
 30 acting under the authority of the Director shall be
 31 permitted or required to testify in any private civil
 32 action concerning any confidential documents, materials,
 33 or information subject to paragraph (1).

34 (3) In order to assist in the performance of the

1 Director's duties, the Director:

2 (A) may share documents, materials, or other
3 information, including the confidential and
4 privileged documents, materials, or information
5 subject to paragraph (1), with other state, federal,
6 and international regulatory agencies, with the
7 National Association of Insurance Commissioners and
8 its affiliates or subsidiaries, and with state,
9 federal, and international law enforcement
10 authorities, provided that the recipient agrees to
11 maintain the confidentiality and privileged status
12 of the document, material, or other information;

13 (B) may receive documents, materials, or
14 information, including otherwise confidential and
15 privileged documents, materials, or information,
16 from the National Association of Insurance
17 Commissioners and its affiliates or subsidiaries and
18 from regulatory and law enforcement officials of
19 other foreign or domestic jurisdictions, and shall
20 maintain as confidential or privileged any document,
21 material, or information received with notice or the
22 understanding that it is confidential or privileged
23 under the laws of the jurisdiction that is the
24 source of the document, material, or information;
25 and

26 (C) may enter into agreements governing the
27 sharing and use of information consistent with this
28 subsection.

29 (4) No waiver of any applicable privilege or claim
30 of confidentiality in the documents, materials, or
31 information shall occur as a result of disclosure to the
32 Director under this Section or as a result of sharing
33 authorized in paragraph (3).

34 (d) No insurer, or employees or agents of an insurer,

1 are subject to civil liability for libel or otherwise by
2 virtue of furnishing information required by the insurance
3 laws of this State or required by the Department of Insurance
4 as a result of its investigation. No cause of action exists
5 and no liability may be imposed, either civil or criminal,
6 against the State, the Director, any officer, agent, or
7 employee of the Department of Insurance, or individuals
8 employed or retained by the Director, for an act or omission
9 by them in the performance of a power or duty authorized by
10 this Section, unless the act or omission was performed in bad
11 faith and with intent to injure a particular person.

12 (e) The powers vested in the Director by this Section
13 are additional to other powers and remedies vested in the
14 Director by law, and nothing in this Section shall be
15 construed as requiring that the Director shall employ the
16 powers conferred in this Section instead of or as a condition
17 precedent to the exercise of any other power or remedy vested
18 in the Director. The Director may establish systems and
19 procedures for carrying out investigations under this Section
20 as are necessary to avoid the impairment or compromise of his
21 or her authority under this Section or any other law relating
22 to the regulation of insurance.

23 (Source: P.A. 89-234, eff. 1-1-96.)

24 (215 ILCS 5/404) (from Ch. 73, par. 1016)

25 Sec. 404. Office of Director; A public office;
26 destruction or disposal of records, papers, documents, and
27 memoranda.

28 (1) (a) The office of the Director shall be a public
29 office and the records, books, and papers thereof on file
30 therein, except those records or documents containing or
31 disclosing any analysis, opinion, calculation, ratio,
32 recommendation, advice, viewpoint, or estimation by any
33 Department staff regarding the financial or market condition

1 of an insurer not otherwise made part of the public record by
2 the Director, shall be accessible to the inspection of the
3 public, except as the Director, for good reason, may decide
4 otherwise, or except as may be otherwise provided in this
5 Code.

6 (b) Except where another provision of this Code
7 expressly prohibits a disclosure of confidential information
8 to the specific officials or organizations described in this
9 subsection, the Director may disclose or share any
10 confidential records or information in his custody and
11 control with any insurance regulatory officials of any state
12 or country, with the law enforcement officials of this State,
13 any other state, or the federal government, or with the
14 National Association of Insurance Commissioners, upon the
15 written agreement of the official or organization receiving
16 the information to hold the information or records
17 confidential and in a manner consistent with this Code,
18 including a requirement that any recipient of the documents,
19 materials, or other information shall not be permitted or
20 required to testify in any private civil action concerning
21 those documents, materials, or other information received.

22 (c) The Director shall maintain as confidential any
23 records or information received from the National Association
24 of Insurance Commissioners or insurance regulatory officials
25 of other states which is confidential in that other
26 jurisdiction.

27 (2) Upon the filing of the examination to which
28 they relate, the Director is authorized to destroy or
29 otherwise dispose of all working papers relative to any
30 company which has been examined at any time prior to that
31 last examination by the Department, so that in such
32 circumstances only current working papers of that last
33 examination may be retained by the Department.

34 (3) Five years after the conclusion of the

1 transactions to which they relate, the Director is
2 authorized to destroy or otherwise dispose of all books,
3 records, papers, memoranda and correspondence directly
4 related to consumer complaints or inquiries.

5 (4) Two years after the conclusion of the
6 transactions to which they relate, the Director is
7 authorized to destroy or otherwise dispose of all books,
8 records, papers, memoranda, and correspondence directly
9 related to all void, obsolete, or superseded rate filings
10 and schedules required to be filed by statute; and all
11 individual company rating experience data and all
12 records, papers, documents and memoranda in the
13 possession of the Director relating thereto.

14 (5) Five years after the conclusion of the
15 transactions to which they relate, the Director is
16 authorized to destroy or otherwise dispose of all
17 examination reports of companies made by the insurance
18 supervisory officials of states other than Illinois;
19 applications, requisitions, and requests for licenses;
20 all records of hearings; and all similar records, papers,
21 documents, and memoranda in the possession of the
22 Director.

23 (6) Ten years after the conclusion of the
24 transactions to which they relate, the Director is
25 authorized to destroy or otherwise dispose of all
26 official correspondence of foreign and alien companies,
27 all foreign companies' and alien companies' annual
28 statements, valuation reports, tax reports, and all
29 similar records, papers, documents and memoranda in the
30 possession of the Director.

31 (7) Whenever any records, papers, documents or
32 memoranda are destroyed or otherwise disposed of pursuant
33 to the provisions of this section, the Director shall
34 execute and file in a separate, permanent office file a

1 certificate listing and setting forth by summary
2 description the records, papers, documents or memoranda
3 so destroyed or otherwise disposed of, and the Director
4 may, in his discretion, preserve copies of any such
5 records, papers, documents or memoranda by means of
6 microfilming or photographing the same.

7 (8) This Section shall apply to records, papers,
8 documents, and memoranda presently in the possession of
9 the Director as well as to records, papers, documents,
10 and memoranda hereafter coming into his possession.

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

12 (215 ILCS 5/500-85)

13 Sec. 500-85. Notification of termination; immunity;
14 confidentiality.

15 (a) An insurer or authorized representative of an
16 insurer that terminates the appointment, employment,
17 contract, or other insurance business relationship with a
18 producer must notify the Director within 30 days following
19 the effective date of the termination, using a format
20 prescribed by the Director, if the reason for termination is
21 one of the reasons set forth in Section 500-70 or the insurer
22 has knowledge the producer was found by a court, government
23 body, or self-regulatory organization authorized by law to
24 have engaged in any of the activities in Section 500-70. Upon
25 written request by the Director, the insurer must provide
26 additional information, documents, records, or other data
27 pertaining to the termination or activity of the producer.

28 (b) The insurer or the authorized representative of the
29 insurer must promptly notify the Director in a format
30 acceptable to the Director if, upon further review or
31 investigation, the insurer discovers additional information
32 that would have been reportable to the Director in accordance
33 with subsection (a) had the insurer then known of its

1 existence.

2 (c) Within 15 days after making the notification
3 required by subsections (a) and (b), the insurer must mail a
4 copy of the notification to the producer at his or her last
5 known address. If the producer is terminated for cause for
6 any of the reasons listed in Section 500-70, the insurer must
7 provide a copy of the notification to the producer at his or
8 her last known address by certified mail, return receipt
9 requested, postage prepaid or by overnight delivery using a
10 nationally recognized carrier.

11 Within 30 days after the producer has received the
12 original or additional notification, the producer may file
13 written comments concerning the substance of the notification
14 with the Director. The producer must, by the same means,
15 simultaneously send a copy of the comments to the reporting
16 insurer, and the comments shall become a part of the
17 Director's file and accompany every copy of a report
18 distributed or disclosed for any reason about the producer as
19 permitted under this Code.

20 (d) There shall be no liability on the part of, nor
21 shall a cause of action of any nature arise against, an
22 insurer, the authorized representative of the insurer, a
23 producer, the Director, or an organization of which the
24 Director is a member for any information, documents, records,
25 or statements provided pursuant to this Section.

26 (e) An insurer, the authorized representative of the
27 insurer, or a producer that fails to report as required under
28 the provisions of this Section or that is found to have
29 reported with malicious intent by a court of competent
30 jurisdiction may, after notice and hearing, have its license
31 or certificate of authority suspended or revoked and may be
32 subjected to a civil penalty.

33 (f) Confidentiality. (1) Any documents, materials, or
34 other information in the possession or control of the

1 Director that are furnished by an insurer, producer, or an
2 employee or agent thereof acting on behalf of the insurer or
3 producer, or obtained by the Director in an investigation
4 pursuant to this Section shall be confidential by law and
5 privileged, shall not be subject to the Freedom of
6 Information Act, shall not be subject to subpoena, and shall
7 not be subject to discovery or admission into evidence in any
8 private civil action. However, the Director is authorized to
9 use the documents, materials, or other information in the
10 furtherance of any regulatory or legal action brought as a
11 part of the Director's official duties.

12 (2) Neither the Director nor any person who received
13 documents, materials, or other information while acting under
14 the authority of the Director shall be permitted or required
15 to testify in any private civil action concerning any
16 confidential documents, materials, or information subject to
17 paragraph (1).

18 (3) In order to assist in the performance of the
19 Director's duties, the Director:

20 (A) may share documents, materials, or other
21 information, including the confidential and
22 privileged documents, materials, or information
23 subject to paragraph (1), with other state, federal,
24 and international regulatory agencies, with the
25 National Association of insurance Commissioners, its
26 affiliates or subsidiaries, and with state, federal,
27 and international law enforcement authorities,
28 provided that the recipient agrees to maintain the
29 confidentiality and privileged status of the
30 document, material, or other information;

31 (B) may receive documents, materials, or
32 information, including otherwise confidential and
33 privileged documents, materials, or information,
34 from the National Association of Insurance

1 Commissioners, its affiliates or subsidiaries and
2 from regulatory and law enforcement officials of
3 other foreign or domestic jurisdictions, and shall
4 maintain as confidential or privileged any document,
5 material, or information received with notice or the
6 understanding that it is confidential or privileged
7 under the laws of the jurisdiction that is the
8 source of the document, material, or information;
9 and

10 (C) may enter into agreements governing the
11 sharing and use of information consistent with this
12 subsection.

13 (4) No waiver of any applicable privilege or claim of
14 confidentiality in the documents, materials, or information
15 shall occur as a result of disclosure to the Director under
16 this Section or as a result of sharing authorized in
17 paragraph (3).

18 (5) Nothing in this Section shall prohibit the Director
19 from releasing final, adjudicated actions, including for
20 cause terminations that are open to public inspection, to a
21 database or other clearinghouse service maintained by the
22 National Association of Insurance Commissioners or affiliates
23 or subsidiaries of the National Association of Insurance
24 Commissioners.

25 (Source: P.A. 92-386, eff. 1-1-02.)

26 (215 ILCS 5/511.109) (from Ch. 73, par. 1065.58-109)

27 Sec. 511.109. Examination.

28 (a) The Director or his designee may examine any
29 applicant for or holder of an administrator's license.

30 (b) Any administrator being examined shall provide to
31 the Director or his designee convenient and free access, at
32 all reasonable hours at their offices, to all books, records,
33 documents and other papers relating to such administrator's

1 business affairs.

2 (c) The Director or his designee may administer oaths
3 and thereafter examine any individual about the business of
4 the administrator.

5 (d) The examiners designated by the Director pursuant to
6 this Section may make reports to the Director. Any report
7 alleging substantive violations of this Article, any
8 applicable provisions of the Illinois Insurance Code, or any
9 applicable Part of Title 50 of the Illinois Administrative
10 Code shall be in writing and be based upon facts obtained by
11 the examiners. The report shall be verified by the
12 examiners.

13 (e) If a report is made, the Director shall either
14 deliver a duplicate thereof to the administrator being
15 examined or send such duplicate by certified or registered
16 mail to the administrator's address specified in the records
17 of the Department. The Director shall afford the
18 administrator an opportunity to request a hearing to object
19 to the report. The administrator may request a hearing
20 within 30 days after receipt of the duplicate of the
21 examination report by giving the Director written notice of
22 such request together with written objections to the report.
23 Any hearing shall be conducted in accordance with Sections
24 402 and 403 of this Code. The right to hearing is waived if
25 the delivery of the report is refused or the report is
26 otherwise undeliverable or the administrator does not timely
27 request a hearing. After the hearing or upon expiration of
28 the time period during which an administrator may request a
29 hearing, if the examination reveals that the administrator is
30 operating in violation of any applicable provision of the
31 Illinois Insurance Code, any applicable Part of Title 50 of
32 the Illinois Administrative Code or prior order, the
33 Director, in the written order, may require the administrator
34 to take any action the Director considers necessary or

1 appropriate in accordance with the report or examination
2 hearing. If the Director issues an order, it shall be issued
3 within 90 days after the report is filed, or if there is a
4 hearing, within 90 days after the conclusion of the hearing.
5 The order is subject to review under the Administrative
6 Review Law.

7 (f)(1) Any documents, materials or other information in
8 the possession or control of the Director that are furnished
9 by a third party administrator, insurer, producer, or an
10 employee or agent thereof acting on behalf of the third party
11 administrator, insurer, producer, or obtained by the Director
12 in an examination shall be confidential by law and
13 privileged, shall not be subject to the Freedom of
14 Information Act, shall not be subject to subpoena, and shall
15 not be subject to discovery or admission into evidence in any
16 private civil action. However, the Director is authorized to
17 use the documents, materials, or other information in the
18 furtherance of any regulatory or legal action brought as a
19 part of the Director's official duties.

20 (2) Neither the Director nor any person who received
21 documents, materials, or other information while acting under
22 the authority of the Director shall be permitted or required
23 to testify in any private civil action concerning any
24 confidential documents, materials, or information subject to
25 paragraph (1).

26 (3) In order to assist in the performance of the
27 Director's duties, the Director:

28 (A) may share documents, materials, or other
29 information, including the confidential and
30 privileged documents, materials, or information
31 subject to paragraph (1), with other state, federal,
32 and international regulatory agencies, with the
33 National Association of Insurance Commissioners and
34 its affiliates or subsidiaries, and with state,

1 federal, and international law enforcement
2 authorities, provided that the recipient agrees to
3 maintain the confidentiality and privileged status
4 of the document, material, or other information;

5 (B) may receive documents, materials, or
6 information, including otherwise confidential and
7 privileged documents, materials, or information,
8 from the National Association of Insurance
9 Commissioners and its affiliates or subsidiaries and
10 from regulatory and law enforcement officials of
11 other foreign or domestic jurisdictions, and shall
12 maintain as confidential or privileged any document,
13 material, or information received with notice or the
14 understanding that it is confidential or privileged
15 under the laws of the jurisdiction that is the
16 source of the document, material, or information;
17 and

18 (C) may enter into agreements governing the
19 sharing and use of information consistent with this
20 subsection.

21 (4) No waiver of any applicable privilege or claim
22 of confidentiality in the documents, materials, or
23 information shall occur as a result of disclosure to the
24 Director under this Section or as a result of sharing
25 authorized in paragraph (3).

26 (Source: P.A. 84-887.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.