

1 AN ACT concerning insurance.

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

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 534.3 as follows:

6 (215 ILCS 5/534.3) (from Ch. 73, par. 1065.84-3)

7 Sec. 534.3. Covered claim; unearned premium defined.

8 (a) "Covered claim" means an unpaid claim for a loss
9 arising out of and within the coverage of an insurance policy
10 to which this Article applies and which is in force at the
11 time of the occurrence giving rise to the unpaid claim,
12 including claims presented during any extended discovery
13 period which was purchased from the company before the entry
14 of a liquidation order or which is purchased or obtained from
15 the liquidator after the entry of a liquidation order, made
16 by a person insured under such policy or by a person
17 suffering injury or damage for which a person insured under
18 such policy is legally liable, and for unearned premium, if:

19 (i) The company issuing the policy becomes an
20 insolvent company as defined in Section 534.4 after the
21 effective date of this Article; and

22 (ii) The claimant or insured is a resident of this
23 State at the time of the insured occurrence, or the
24 property from which a first party claim for damage to
25 property arises is permanently located in this State or,
26 in the case of an unearned premium claim, the
27 policyholder is a resident of this State at the time the
28 policy was issued; provided, that for entities other than
29 an individual, the residence of a claimant, insured, or
30 policyholder is the state in which its principal place of
31 business is located at the time of the insured event.

1 (b) "Covered claim" does not include:
2 (i) any amount in excess of the applicable limits
3 of liability provided by an insurance policy to which
4 this Article applies; nor
5 (ii) any claim for punitive or exemplary damages;
6 nor
7 (iii) any first party claim by an insured who is an
8 affiliate of the insolvent company; nor
9 (iv) any first party or third party claim by or
10 against an insured whose net worth on December 31 of the
11 year next preceding the date the insurer becomes an
12 insolvent insurer exceeds \$25,000,000; provided that an
13 insured's net worth on such date shall be deemed to
14 include the aggregate net worth of the insured and all of
15 its affiliates as calculated on a consolidated basis.
16 However, this exclusion shall not apply to third party
17 claims against the insured where the insured has applied
18 for or consented to the appointment of a receiver,
19 trustee, or liquidator for all or a substantial part of
20 its assets, filed a voluntary petition in bankruptcy,
21 filed a petition or an answer seeking a reorganization or
22 arrangement with creditors or to take advantage of any
23 insolvency law, or if an order, judgment, or decree is
24 entered by a court of competent jurisdiction, on the
25 application of a creditor, adjudicating the insured
26 bankrupt or insolvent or approving a petition seeking
27 reorganization of the insured or of all or substantial
28 part of its assets; nor
29 (v) any claim for any amount due any reinsurer,
30 insurer, insurance pool, or underwriting association as
31 subrogated recoveries, reinsurance recoverables,
32 contribution, indemnification or otherwise. No such claim
33 held by a reinsurer, insurer, insurance pool, or
34 underwriting association may be asserted in any legal

1 action against a person insured under a policy issued by
2 an insolvent company other than to the extent such claim
3 exceeds the Fund obligation limitations set forth in
4 Section 537.2 of this Code; nor-

5 (vi) any claim under a policy issued by the
6 insolvent insurer having a deductible (or self-insured
7 retention) where the policy provides that deductible or
8 retention amount is equal to or exceeds \$250,000 per
9 claim; provided, however, this exclusion shall not apply
10 to third party claims against the insured where the
11 insured has applied for or consented to the appointment
12 of a receiver, trustee, or liquidator for all or a
13 substantial part of its assets, filed a voluntary
14 petition in bankruptcy, filed a petition or an answer
15 seeking a reorganization or arrangement with creditors or
16 to take advantage of any insolvency law, or if an order,
17 judgment, or decree is entered by a court of competent
18 jurisdiction, on the application of a creditor,
19 adjudicating the insured bankrupt or insolvent or
20 approving a petition seeking reorganization of the
21 insured or of all or a substantial part of its assets as
22 of the deadline for filing claims against the Fund as
23 provided by subsection (a) of Section 540.5.

24 (c) "Unearned Premium" means the premium for the
25 unexpired period of a policy which has been terminated prior
26 to the expiration of the period for which premium has been
27 paid and does not mean premium which is returnable to the
28 insured for any other reason.

29 (Source: P.A. 89-97, eff. 7-7-95; 90-499, eff. 8-19-97.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.