

AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the Short-Term, Limited-Duration Health Insurance Coverage Act.

Section 5. Definitions. In this Act:

"Department" means the Department of Insurance.

"Health insurance coverage" has the meaning given to that term in the Illinois Health Insurance Portability and Accountability Act.

"Health insurance issuer" has the meaning given to that term in the Illinois Health Insurance Portability and Accountability Act.

"Fraud" means an intentional misrepresentation of a material fact in connection with the coverage.

"Short-term, limited-duration health insurance coverage" means health insurance coverage provided pursuant to a policy with an issuer, regardless of the situs of the delivery of the policy, that is less than 365 days after the effective date of the policy.

Section 10. Application; scope; duration of coverage.

(a) This Act applies to health insurance issuers that offer

short-term, limited-duration health insurance coverage to individuals in this State and to short-term, limited-duration health insurance coverage that is delivered or issued for delivery in this State, including coverage issued outside of this State that covers individuals in this State.

(b) A short-term, limited-duration health insurance coverage policy may not be issued or delivered to any person residing in this State unless the policy, when delivered or issued for delivery in this State, complies with the provisions of this Act.

(c) Any short-term, limited-duration health insurance coverage policy that is delivered or issued for delivery in this State must have an expiration date in the policy that is less than 181 days after the effective date and shall not be renewable or extendable within a period of 365 days after the individual's coverage under the policy ends, either at the option of the issuer or the individual. Renewal of a short-term, limited-duration health insurance coverage policy includes the issuance of a new short-term, limited-duration health insurance policy by an issuer to a policyholder within 60 days after the expiration of a policy previously issued by the issuer to the policyholder.

(d) Any short-term, limited-duration health insurance coverage policy that is delivered or issued for delivery in this State may not be rescinded before the expiration date in the policy, except in cases of nonpayment of premiums, fraud,

or as provided in subsection (e).

(e) Any short-term, limited-duration health insurance coverage policy that is delivered or issued for delivery in this State shall contain an option for an individual to cancel coverage after any 30-day interval during the term of the plan.

Section 15. Disclosure requirements.

(a) A health insurance issuer that offers short-term, limited-duration health insurance coverage to be delivered or issued for delivery in this State shall, in addition to all other documents required, including, but not limited to, the policy, the certificate, the membership booklet, and a description of appeal and external review rights, deliver an outline of coverage to an applicant for or an enrollee in short-term, limited-duration health insurance coverage delivered or issued for delivery in this State.

(b) Any short-term, limited-duration health insurance coverage policy that is delivered or issued for delivery in the State shall display prominently in the policy, any application, sales, and marketing materials provided in connection with enrollment in such coverage, and the outline of coverage for such coverage, in at least 14-point, bold type, the following:
"NOTICE: THE SHORT-TERM, LIMITED-DURATION INSURANCE BENEFITS UNDER THIS COVERAGE DO NOT MEET ALL FEDERAL REQUIREMENTS TO QUALIFY AS "MINIMUM ESSENTIAL COVERAGE" FOR HEALTH INSURANCE UNDER THE AFFORDABLE CARE ACT. THIS PLAN OF COVERAGE DOES NOT

INCLUDE ALL ESSENTIAL HEALTH BENEFITS AS REQUIRED BY THE AFFORDABLE CARE ACT. PREEXISTING CONDITIONS ARE NOT COVERED UNDER THIS PLAN OF COVERAGE. BE SURE TO CHECK YOUR POLICY CAREFULLY TO MAKE SURE YOU UNDERSTAND WHAT THE POLICY DOES AND DOES NOT COVER. IF THIS COVERAGE EXPIRES OR YOU LOSE ELIGIBILITY FOR THIS COVERAGE, YOU MIGHT HAVE TO WAIT UNTIL THE NEXT OPEN ENROLLMENT PERIOD TO GET OTHER HEALTH INSURANCE COVERAGE. YOU MAY BE ABLE TO GET LONGER TERM INSURANCE THAT QUALIFIES AS "MINIMUM ESSENTIAL COVERAGE" FOR HEALTH INSURANCE UNDER THE AFFORDABLE CARE ACT NOW AND HELP TO PAY FOR IT AT WWW.HEALTHCARE.GOV."

(c) Any individual selling a short-term, limited-duration health insurance coverage policy in this State in face-to-face or telephonic sales interactions must read out loud the disclosure in subsection (b) to a prospective purchaser. An entity selling a short-term, limited-duration health insurance coverage policy in Illinois must display the disclosure in subsection (b) on the webpage where a prospective purchaser would purchase coverage.

(d) Nothing in this Section precludes an insurer from providing disclosures in addition to those required in subsections (b) and (c). Nothing in this Section precludes an insurer from providing disclosures intended to clarify those required in subsections (b) and (c) if approved by the Department.

Section 20. Filing and approval.

(a) Coverage subject to this Act may not be delivered or issued for delivery in this State unless the policy evidencing such coverage has been filed with and been approved by the Department.

(b) A health insurance issuer who intends to deliver or issue for delivery a short-term, limited-duration health insurance coverage policy in this State shall file with the Department:

(1) all paperwork required for individual health insurance coverage pursuant to 50 Ill. Adm. Code 916; and

(2) all sales and marketing materials provided in connection with enrollment in such coverage for informational purposes.

(c) The Department shall adopt any rules necessary to carry out the provisions of this Act.

Section 90. The Illinois Insurance Code is amended by adding Article IIB and Sections 123C-23, 123C-24, 123C-25, 123C-26, 123C-27, 123C-28, and 462a and by changing Sections 121-2.08, 123C-1, 123C-2, 123C-3, 123C-9, 123C-11, 123C-12, 123C-13, 123C-16, 123C-17, 123C-19, 156, 173.1, 456, 457, and 458 as follows:

(215 ILCS 5/Art. IIB heading new)

ARTICLE IIB. DOMESTIC STOCK COMPANY DIVISION

(215 ILCS 5/35B-1 new)

Sec. 35B-1. Short title. This Article may be cited as the Domestic Stock Company Division Law.

(215 ILCS 5/35B-5 new)

Sec. 35B-5. Purpose. The purpose of this Article is to stimulate economic development in the State of Illinois by creating and sustaining employment opportunities and increasing and sustaining taxable revenue, through improving the competitive position of domestic stock companies, maintaining the competitiveness of this State as a state of domicile for domestic stock companies, and enhancing the desirability of this State as a jurisdiction of domicile for newly incorporating and existing foreign stock companies.

(215 ILCS 5/35B-10 new)

Sec. 35B-10. Definitions. As used in this Article:

"Assets" means all assets or property, whether real, personal or mixed, tangible or intangible, and any right or interest therein, including all rights under contracts and other agreements.

"Capital" means the capital stock component of statutory surplus, as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, version effective January 1, 2001, and subsequent revisions.

"Divide" or "division" means the act by operation of law by which a domestic stock company divides into 2 or more resulting companies in accordance with a plan of division and this Article;

"Dividing company" means a domestic stock company that approves a plan of division pursuant to Section 35B-20;

"Domestic stock company" means a domestic stock company transacting or being organized to transact any of the kinds of insurance business enumerated in Section 4.

"Liability" means a liability or obligation of any kind, character, or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, determined, determinable, or otherwise.

"New company" means a domestic stock company that is created by a division occurring on or after the effective date of this amendatory Act of the 100th General Assembly.

"Plan of division" means a plan of division approved by a dividing company in accordance Section 35B-20.

"Policy liability" means a liability as defined in this Section arising out of or related to an insurance policy, contract of insurance, or reinsurance agreement.

"Recorder" means the office of the recorder of the county where the principal office of a domestic stock company is located.

"Resulting company" means a domestic stock company created by a division or a dividing company that survives a division.

"Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

"Sign" or "signature" includes a manual, facsimile, or conformed or electronic signature.

"Surplus" means total statutory surplus less capital, calculated in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, version effective January 1, 2001, and subsequent revisions.

"Transfer" includes an assignment, assumption, conveyance, sale, lease, encumbrance, including a mortgage or security interest, gift, or transfer by operation of law.

(215 ILCS 5/35B-15 new)

Sec. 35B-15. Plan of division.

(a) A domestic stock company may, in accordance with the requirements of this Article, divide into 2 or more resulting companies pursuant to a plan of division.

(b) Each plan of division shall include:

(1) the name of the domestic stock company seeking to divide;

(2) the name of each resulting company that will be

created by the proposed division;

(3) for each new company that will be created by the proposed division, a copy of its:

(A) proposed articles of incorporation;

(B) proposed bylaws; and

(C) the kinds of insurance business enumerated in Section 4 that the new company would be authorized to conduct;

(4) the manner of allocating between or among the resulting companies:

(A) the assets of the domestic stock company that will not be owned by all of the resulting companies as tenants in common pursuant to Section 35B-35; and

(B) the liabilities of the domestic stock company, including policy liabilities, to which not all of the resulting companies will become jointly and severally liable pursuant to paragraph (3) of subsection (a) of Section 35B-40;

(5) the manner of distributing shares in the new companies to the dividing company or its shareholders;

(6) a reasonable description of the liabilities, including policy liabilities, and items of capital, surplus, or other assets, in each case, that the domestic stock company proposes to allocate to each resulting company, including specifying the reinsurance contract, reinsurance coverage obligations, and related claims that

are applicable to those policies;

(7) all terms and conditions required by the laws of this State or the articles of incorporation and bylaws of the domestic stock company;

(8) evidence demonstrating that the interest of all classes of policyholders of the dividing company will be properly protected; and

(9) all other terms and conditions of the division.

Nothing in this subsection (b) shall expand or reduce the allocation and assignment of reinsurance as stated in the reinsurance contract.

(c) If the domestic stock company survives the division, the plan of division shall include, in addition to the information required by subsection (b):

(1) all proposed amendments to the dividing company's articles of incorporation and bylaws, if any;

(2) if the dividing company desires to cancel some, but less than all, shares in the dividing company, the manner in which it will cancel such shares; and

(3) if the dividing company desires to convert some, but less than all, shares in the dividing company into shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof, a statement disclosing the manner in which it will convert the shares.

(d) If the domestic stock company does not survive the

proposed division, the plan of division shall contain, in addition to the information required by subsection (b), the manner in which the dividing company will cancel or convert shares in the dividing company into shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof.

(e) Terms of a plan of division may be made dependent on facts objectively ascertainable outside of the plan of division.

(f) A dividing company may amend a plan of division in accordance with any procedures set forth in the plan of division or, if no such procedures are set forth in the plan of division, in any manner determined by the board of directors of the dividing company, except that a shareholder that was entitled to vote on or consent to approval of the plan of division is entitled to vote on or consent to any amendment of the plan of division that will change:

(1) the amount or kind of shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof, to be received by any of the shareholders of the dividing company under the plan of division;

(2) the articles of incorporation or bylaws of any resulting company that will be in effect when the division becomes effective, except for changes that do not require approval of the shareholders of the resulting company under

its articles of incorporation or bylaws; or

(3) any other terms or conditions of the plan of division, if the change would adversely affect the shareholders in any material respect.

(g) A dividing company may abandon a plan of division after it has approved the plan of division without any action by the shareholders and in accordance with any procedures set forth in the plan of division or, if no such procedures are set forth in the plan of division, in a manner determined by the board of directors of the dividing company.

(h) A dividing company may abandon a plan of division after it has filed a certificate of division with the recorder by filing with the recorder, with concurrent copy to the director, a certificate of abandonment signed by the dividing company. The certificate of abandonment shall be effective on the date it is filed with the recorder and the dividing company shall be deemed to have abandoned its plan of division on such date.

(i) A dividing company may not abandon or amend its plan of division once the division becomes effective.

(215 ILCS 5/35B-20 new)

Sec. 35B-20. Requirements of a plan of division.

(a) A domestic stock company shall not file a plan of division with the Director unless the plan of division has been approved in accordance with:

(1) any applicable provisions of its articles of

incorporation and bylaws; and

(2) all laws of this State governing the internal affairs of a domestic stock company that provide for approval of a merger.

(b) If any provision of the articles of incorporation or bylaws of a domestic stock company requires that a specific number or percentage of board of directors or shareholders approve the proposal or adoption of a plan of merger, or imposes other special procedures for the proposal or adoption of a plan of merger, such domestic stock company shall adhere to such provision in proposing or adopting a plan of division. If any provision of the articles of incorporation or bylaws of a domestic stock company is amended, such amendment shall thereafter apply to a division only in accordance with its express terms.

(215 ILCS 5/35B-25 new)

Sec. 35B-25. Plan of division approval.

(a) A division shall not become effective until it is approved by the Director after reasonable notice and a public hearing, if the notice and hearing are deemed by the Director to be in the public interest. The Director shall hold a public hearing if one is requested by the dividing company. A hearing conducted under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

(b) The Director shall approve a plan of division unless

the Director finds that:

(1) the interest of any class of policyholder or shareholder of the dividing company will not be properly protected;

(2) each new company created by the proposed division, except a new company that is a nonsurviving party to a merger pursuant to subsection (b) of Section 156, would be ineligible to receive a license to do insurance business in this State pursuant to Section 5;

(3) the proposed division violates a provision of the Uniform Fraudulent Transfer Act;

(4) the division is being made for purposes of hindering, delaying, or defrauding any policyholders or other creditors of the dividing company;

(5) one or more resulting companies will not be solvent upon the consummation of the division; or

(6) the remaining assets of one or more resulting companies will be, upon consummation of a division, unreasonably small in relation to the business and transactions in which the resulting company was engaged or is about to engage.

(c) In determining whether the standards set forth in paragraph (3) of subsection (b) have been satisfied, the Director shall only apply the Uniform Fraudulent Transfer Act to a dividing company in its capacity as a resulting company and shall not apply the Uniform Fraudulent Transfer Act to any

dividing company that is not proposed to survive the division.

(d) In determining whether the standards set forth in paragraphs (3), (4), (5), and (6) of subsection (b) have been satisfied, the Director may consider all proposed assets of the resulting company, including, without limitation, reinsurance agreements, parental guarantees, support or keep well agreements, or capital maintenance or contingent capital agreements, in each case, regardless of whether the same would qualify as an admitted asset as defined in Section 3.1.

(e) In determining whether the standards set forth in paragraph (3) of subsection (b) have been satisfied, with respect to each resulting company, the Director shall, in applying the Uniform Fraudulent Transfer Act, treat:

- (1) the resulting company as a debtor;
- (2) liabilities allocated to the resulting company as obligations incurred by a debtor;
- (3) the resulting company as not having received reasonably equivalent value in exchange for incurring the obligations; and
- (4) assets allocated to the resulting company as remaining property.

(f) All information, documents, materials, and copies thereof submitted to, obtained by, or disclosed to the Director in connection with a plan of division or in contemplation thereof, including any information, documents, materials, or copies provided by or on behalf of a domestic stock company in

advance of its adoption or submission of a plan of division, shall be confidential and shall be subject to the same protection and treatment in accordance with Section 131.14d as documents and reports disclosed to or filed with the Director pursuant to Section 131.14b until such time, if any, as a notice of the hearing contemplated by subsection (a) is issued.

(g) From and after the issuance of a notice of the hearing contemplated by subsection (a), all business, financial, and actuarial information that the domestic stock company requests confidential treatment, other than the plan of division, shall continue to be confidential and shall not be available for public inspection and shall be subject to the same protection and treatment in accordance with Section 131.14d as documents and reports disclosed to or filed with the Director pursuant to Section 131.14b.

(h) All expenses incurred by the Director in connection with proceedings under this Section, including expenses for the services of any attorneys, actuaries, accountants, and other experts as may be reasonably necessary to assist the Director in reviewing the proposed division, shall be paid by the dividing company filing the plan of division. A dividing company may allocate expenses described in this subsection in a plan of division in the same manner as any other liability.

(i) If the Director approves a plan of division, the Director shall issue an order that shall be accompanied by findings of fact and conclusions of law.

(j) The conditions in this Section for freeing one or more of the resulting companies from the liabilities of the dividing company and for allocating some or all of the liabilities of the dividing company shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Director in a final order that is not subject to further appeal.

(215 ILCS 5/35B-30 new)

Sec. 35B-30. Certificate of division.

(a) After a plan of division has been adopted and approved, an officer or duly authorized representative of the dividing company shall sign a certificate of division.

(b) The certificate of division shall set forth:

(1) the name of the dividing company;

(2) a statement disclosing whether the dividing company will survive the division;

(3) the name of each new company that will be created by the division;

(4) the kinds of insurance business enumerated in Section 4 that the new company will be authorized to conduct;

(5) the date that the division is to be effective, which shall not be more than 90 days after the dividing company has filed the certificate of division with the recorder, with a concurrent copy to the Director;

(6) a statement that the division was approved by the Director in accordance with Section 35B-25;

(6) a statement that the dividing company provided, no later than 10 business days after the dividing company filed the plan of division with the Director, reasonable notice to each reinsurer that is party to a reinsurance contract that is applicable to the policies included in the plan of division;

(7) if the dividing company will survive the division, an amendment to its articles of incorporation or bylaws approved as part of the plan of division;

(8) for each new company created by the division, its articles of incorporation and bylaws, provided that the articles of incorporation and bylaws need not state the name or address of an incorporator; and

(9) a reasonable description of the capital, surplus, other assets and liabilities, including policy liabilities, of the dividing company that are to be allocated to each resulting company.

(c) The articles of incorporation and bylaws of each new company must satisfy the requirements of the laws of this State, provided that the documents need not be signed or include a provision that need not be included in a restatement of the document.

(d) A certificate of division is effective when filed with the recorder, with a concurrent copy to the Director, as

provided in this Section or on another date specified in the plan of division, whichever is later, provided that a certificate of division shall become effective not more than 90 days after it is filed with the recorder. A division is effective when the relevant certificate of division is effective.

(215 ILCS 5/35B-35 new)

Sec. 35B-35. Effects of division.

(a) When a division becomes effective pursuant to Section 35B-30:

(1) if the dividing company has survived the division:

(A) it continues to exist;

(B) its articles of incorporation shall be amended, if necessary, as provided in the plan of division; and

(C) its bylaws shall be amended, if necessary, as provided in the plan of division;

(2) if the dividing company has not survived the division, its separate existence ceases to exist;

(3) each new company:

(A) comes into existence;

(B) shall hold any capital, surplus, and other assets allocated to such new company by the plan of division as a successor to the dividing company, automatically, by operation of law and not by transfer,

whether directly or indirectly; and

(C) its articles of incorporation, if any, and bylaws, if any, shall be effective;

(4) capital, surplus, and other assets of the dividing company:

(A) that is allocated by the plan of division either:

(i) vests in the applicable new company as provided in the plan of division; or

(ii) remains vested in the dividing company as provided in the plan of division;

(B) that is not allocated by the plan of division either:

(i) remains vested in the dividing company, if the dividing company survives the division; or

(ii) is allocated to and vests equally in the resulting companies as tenants in common, if the dividing company does not survive the division; or

(C) otherwise vests as provided in this subsection without transfer, reversion, or impairment;

(5) a resulting company to which a cause of action is allocated as provided in paragraph (4) of this subsection (a) may be substituted or added in any pending action or proceeding to which the dividing company is a party when the division becomes effective;

(6) the liabilities, including policy liabilities, of

the dividing company are allocated between or among the resulting companies as provided in Section 35B-40 and each resulting company to which liabilities are allocated is liable only for those liabilities, including policy liabilities, so allocated as successors to the dividing company, automatically, by operation of law, and not by transfer (or, for the avoidance of doubt, assumption), whether directly or indirectly; and

(7) the shares in the dividing company that are to be converted or canceled in the division are converted or canceled, and the shareholders of those shares are entitled only to the rights provided to them under the plan of division and any appraisal rights that they may have pursuant to Section 35B-45.

(b) Except as provided in the articles of incorporation or bylaws of the dividing company, the division does not give rise to any rights that a shareholder, director of a domestic stock company, or third party would have upon a dissolution, liquidation, or winding up of the dividing company.

(c) The allocation to a new company of capital, surplus, or other assets that is collateral covered by an effective financing statement shall not be effective until a new financing statement naming the new company as a debtor is effective under the Uniform Commercial Code.

(d) Unless otherwise provided in the plan of division, the shares in and any securities of each new company shall be

distributed to:

(1) the dividing company, if it survives the division;

or

(2) shareholders of the dividing company that do not assert any appraisal rights that they may have pursuant to Section 35B-45, pro rata.

(215 ILCS 5/35B-40 new)

Sec. 35B-40. Resulting company liabilities.

(a) Except as otherwise expressly provided in this Section, when a division becomes effective, each resulting company is responsible, automatically, by operation of law, for:

(1) individually, the liabilities, including policy liabilities, that the resulting company issues, undertakes, or incurs in its own name after the division;

(2) individually, the liabilities, including policy liabilities, of the dividing company that are allocated to or remain the liability of the resulting company to the extent specified in the plan of division; and

(3) jointly and severally with the other resulting companies, the liabilities, including policy liabilities, of the dividing company that are not allocated by the plan of division.

(b) Except as otherwise expressly provided in this Section, when a division becomes effective, no resulting company is responsible for or shall have any liability or obligation in

respect of:

(1) any liabilities, including policy liabilities, that another resulting company issues, undertakes, or incurs in its own name after the division; or

(2) any liabilities, including policy liabilities, of the dividing company that are allocated to or remain the liability of another resulting company in accordance with the plan of division.

(c) If a provision of a debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, indenture or other contract relating to indebtedness, or a provision of any other type of contract other than an insurance policy, annuity, or reinsurance agreement, that was issued, incurred, or executed by the domestic stock company before requires the consent of the obligee to a merger of the dividing company or treats the merger as a default, that provision applies to a division of the dividing company as if the division was a merger.

(d) If a division breaches a contractual obligation of the dividing company at the time the division becomes effective, all of the resulting companies are liable, jointly and severally, for the contractual breach, but the validity and effectiveness of the division, including, without limitation, the allocation of liabilities in accordance with the plan of division, shall not be affected by the contractual breach.

(e) A direct or indirect allocation of capital, surplus,

assets, or liabilities, including policy liabilities, in a division shall occur automatically, by operation of law, and shall not be treated as a distribution or transfer for any purpose with respect to either the dividing company or any of the resulting companies.

(f) Liens, security interests, and other charges on the capital, surplus, or other assets of the dividing company are not impaired by the division, notwithstanding any otherwise enforceable allocation of liabilities, including policy liabilities, of the dividing company.

(g) If the dividing company is bound by a security agreement governed by Article 9 of the Uniform Commercial Code as enacted in this State or in any other jurisdiction, and the security agreement provides that the security interest attaches to after-acquired collateral, each resulting company is bound by the security agreement.

(h) An allocation of a policy or other liability does not:

(1) except as provided in the plan of division and specifically approved by the Director, affect the rights that a policyholder or creditor has under other law in respect of the policy or other liability, except that those rights are available only against a resulting company responsible for the policy or liability under this Section;
or

(2) release or reduce the obligation of a reinsurer, surety, or guarantor of the policy or liability.

(215 ILCS 5/35B-45 new)

Sec. 35B-45. Shareholder rights. If the dividing company does not survive the division, an objecting shareholder of a dividing company is entitled to appraisal rights and to obtain payment of the fair value of that shareholder's shares, in the same manner and to the extent provided for pursuant to Section 167.

(215 ILCS 5/35B-50 new)

Sec. 35B-50. Rules. The Director may adopt such rules as are necessary or appropriate to carry out this Article.

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

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

(a) As used in this Section:

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

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

"Industrial insured" means an insured:

(i) that procures the insurance of any risk or risks of the kinds specified in Classes 2 and 3 of Section 4 of this

Code by use of the services of a full-time employee who is a qualified risk manager or the services of a regularly and continuously retained consultant who is a qualified risk manager;

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

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

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

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

"Safety-Net Hospital" means an Illinois hospital that qualifies as a Safety-Net Hospital under Section 5-5e.1 of the Illinois Public Aid Code.

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

(b) For contracts of insurance effective January 1, 2015 or later, within 90 days after the effective date of each contract of insurance issued under this Section, the insured shall file a report with the Director by submitting the report to the Surplus Line Association of Illinois in writing or in a computer readable format and provide information as designated by the Surplus Line Association of Illinois. The information in

the report shall be substantially similar to that required for surplus line submissions as described in subsection (5) of Section 445 of this Code. Where applicable, the report shall satisfy, with respect to the subject insurance, the reporting requirement of Section 12 of the Fire Investigation Act.

(c) For contracts of insurance effective January 1, 2015 through December 31, 2017 ~~or later~~, within 30 days after filing the report, the insured shall pay to the Director for the use and benefit of the State a sum equal to the gross premium of the contract of insurance multiplied by the surplus line tax rate, as described in paragraph (3) of subsection (a) of Section 445 of this Code, and shall pay the fire marshal tax that would otherwise be due annually in March for insurance subject to tax under Section 12 of the Fire Investigation Act. For contracts of insurance effective January 1, 2018 or later, within 30 days after filing the report, the insured shall pay to the Director for the use and benefit of the State a sum equal to 0.5% of the gross premium of the contract of insurance, and shall pay the fire marshal tax that would otherwise be due annually in March for insurance subject to tax under Section 12 of the Fire Investigation Act. For contracts of insurance effective January 1, 2015 or later, within 30 days after filing the report, the insured shall pay to the Surplus Line Association of Illinois a countersigning fee that shall be assessed at the same rate charged to members pursuant to subsection (4) of Section 445.1 of this Code.

(d) For contracts of insurance effective January 1, 2015 or later, the insured shall withhold the amount of the taxes and countersignature fee from the amount of premium charged by and otherwise payable to the insurer for the insurance. If the insured fails to withhold the tax and countersignature fee from the premium, then the insured shall be liable for the amounts thereof and shall pay the amounts as prescribed in subsection (c) of this Section.

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

(Source: P.A. 100-535, eff. 9-22-17.)

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-1. Definitions. As used in this Article:

A. "Affiliate" or "Affiliated company" includes a parent entity that controls a captive insurance company and:

(1) is an affiliate of another entity if the entity directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the other entity.

(2) is an affiliate of another entity if the entity is an affiliate of and is controlled by the other entity directly or indirectly through one or more intermediaries.

A subsidiary or holding company of an entity is an affiliate of

~~that entity. shall have the meaning set forth in subsection (a) of Section 131.1 (and, for purposes of such definition, the definitions of "control" and "person", as set forth in subsections (b) and (c) of Section 131.1, respectively, shall be applicable).~~

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

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

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

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

(2) any organized association of individuals, legal representatives, corporations (whether for profit or not for profit), partnerships, trusts, associations, units of government or other organizations, or any combination of

the foregoing:

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

(b) whose member organizations:

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

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

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

Provided, however, that with respect to each of the associations described in paragraphs (1), (2) and (3) above, no member organization may (i) own, control, or hold with power to

vote in excess of 25% of the voting securities of an association captive insurance company incorporated as a stock insurer, or (ii) have more than 25% of the voting control of an association captive insurance company organized as a mutual insurer.

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

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

E. "Director" means the Director of the Department of Insurance.

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

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

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

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

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

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

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

(2) directly or indirectly (including control through a company which is wholly owned by such group of industrial insureds) have complete voting control over an industrial insured captive insurance company organized as a mutual insurer; provided, however, that no member organization may (i) own, control, or hold with power to vote in excess of 25% of the voting securities of an industrial insured captive insurance company incorporated as a stock insurer, or (ii) have more than 25% of the voting control of an industrial insured captive insurance company organized as a mutual insurer.

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

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

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

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

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

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

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

N. "Control" means the power to direct, or cause the direction of, the management and policies of an entity, other than the power that results from an official position with or corporate office held in the entity. The power may be possessed directly or indirectly by any means, including through the ownership of voting securities or by contract, other than a commercial contract for goods or non-management services.

O. "Qualified independent actuary" means a person that is either:

(1) a member in good standing with the Casualty Actuarial Society; or

(2) a member in good standing with the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

P. "Controlled unaffiliated business" means an entity:

(1) that is not an affiliate;

(2) that has an existing contractual relationship with an affiliate under which the affiliate bears a potential financial loss; and

(3) whose risks are managed by a captive insurance company under Section 123C-24 of this Code.

Q. "Operational risk" means any potential financial loss of an affiliate, except for a loss arising from an insurance policy issued by a captive or insurance affiliate.

R. "Captive management company" means an entity providing administrative services to a captive insurance company.

S. "Safety-Net Hospital" means an Illinois hospital that qualifies as a Safety-Net Hospital under Section 5-5e.1 of the Illinois Public Aid Code.

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-2. Authority of captives; restrictions.

~~A. (Blank). Any captive insurance company, when permitted by its articles of association or charter, may apply to the Director for a certificate of authority to transact any and all insurance in classes 2 and 3 of Section 4 of this Code, except that:~~

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

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

~~companies;~~

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

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

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

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

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

~~(iv) accident and health insurance as provided in clause (a) of Class 2 of Section 4, provided, however, this exclusion does not preclude stop loss insurance or reinsurance of a single employer self funded employee disability benefit plan or an employee welfare plan as described in 29 U.S.C. 1001 et seq.~~

A-5. A captive insurance company may not issue:

(1) life insurance;

(2) annuities;

(3) accident and health insurance for the company's parent and affiliates, except to insure employee benefits

that are subject to the federal Employee Retirement Income Security Act of 1974 or, to the extent the parent company is a college or university, an accident or health plan offered to enrolled students of the college or university;

(4) title insurance;

(5) mortgage guaranty insurance;

(6) financial guaranty insurance;

(7) homeowner's insurance coverage;

(8) personal automobile insurance; or

(9) workers' compensation insurance, except to the extent allowed in subsection A-10.

A-10. A captive insurance company is authorized to issue a contractual reimbursement policy to:

(1) the parent company or an affiliated certified self-insurer authorized under the Workers' Compensation Act or a similar affiliated entity expressly authorized by analogous laws of another state; or

(2) the parent company or an affiliate that is insured by a workers' compensation insurance policy with a negotiated deductible endorsement.

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

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

(2) it appoints a resident registered agent to accept

service of process and to otherwise act on its behalf in this State.

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

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

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-3. Minimum capital and surplus.

A. The Department may not issue a certificate of authority to a captive insurance company unless the company possesses and maintains unencumbered capital and surplus in an amount determined by the Director after considering:

(1) the amount of premium written by the captive insurance company;

(2) the characteristics of the assets held by the captive insurance company;

(3) the terms of reinsurance arrangements entered into by the captive insurance company;

(4) the type of business covered in policies issued by

the captive insurance company;

(5) the underwriting practices and procedures of the captive insurance company; and

(6) any other criteria that has an impact on the operations of the captive insurance company determined to be significant by the Director. ~~No pure captive insurance company, association captive insurance company incorporated as a stock insurer, or industrial insured captive insurance company incorporated as a stock insurer shall be issued a certificate of authority unless it shall possess and thereafter maintain unimpaired paid-in capital of not less than the minimum capital requirement applicable to the class or classes and clause or clauses of Section 4 describing the kind or kinds of insurance which such captive insurance company is authorized to write, as set forth in subsection (1) of Section 13.~~

B. The amount of capital and surplus determined by the Director under subsection A of this Section may not be less than \$250,000 for a pure captive insurance company, \$500,000 for an industrial insured captive insurance company, and \$750,000 for an association captive insurance company. ~~Such capital may be in the form of (1) all cash or cash equivalents; or (2) cash or cash equivalents representing at least 20% of the requisite capital, together with an irrevocable letter of credit for the remainder of the requisite capital, which letter of credit must (a) be approved by the Director, (b) be issued~~

~~or unconditionally confirmed by (i) a bank chartered by this State, (ii) a member bank of the Federal Reserve System or (iii) a United States office of a foreign banking corporation that is: (A) licensed under the laws of the United States or any state thereof, (B) regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies, and (C) designated by the Securities Valuation Office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit or, in the event that the Director elects to establish credit standards by rule, in compliance with rules promulgated by the Director establishing reasonable standards of safety and soundness substantially equivalent to those of the Securities Valuation Office of the National Association of Insurance Commissioners, and (c) satisfy the requirements of Section 123C 19; or (3) cash or cash equivalents representing at least 33% of the requisite capital, together with irrevocable contractual obligations of the member organizations of the captive insurance company for the payment of the remainder of the requisite capital in no more than 3 equal installments in each of the 3 calendar years following the date of the grant of the certificate of authority to the captive insurance company, which irrevocable contractual obligations shall by contract be subject to acceleration (in a manner acceptable to the Director) by the Company at the direction of the Director and shall be secured~~

~~by a letter of credit or other form of guarantee or security acceptable to the Director.~~

C. The capital and surplus required by subsection A of this Section must be in the form of:

(1) United States currency;

(2) an irrevocable letter of credit, in a form approved by the Director and not secured by a guarantee from an affiliate, naming the Director as beneficiary for the security of the captive insurance company's policyholders and issued by a bank approved by the Director;

(3) bonds of this State; or

(4) bonds or other evidences of indebtedness of the United States, the principal and interest of which are guaranteed by the United States.

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-9. Reports, statements and mandatory reserves.

A. Captive insurance companies shall not be required to make any annual report except as provided in this Article.

B. (1) On or before ~~Prior to~~ March 1 of each year, each captive insurance company shall submit to the Director a report of its financial condition, verified by oath of 2 of its executive officers and including (i) a balance sheet reporting assets, liabilities, capital and surplus, (ii) a statement of

gain or loss from operations, (iii) a statement of changes in financial position, (iv) a statement of changes in capital and surplus, ~~and~~ (v) in the case of industrial insured captive insurance companies, an analysis of loss reserve development, information on risks ceded and assumed under reinsurance agreements, on forms prescribed by the Director, and a schedule of its invested assets on forms prescribed by the Director, and (vi) a statement of actuarial opinion by a qualified independent actuary concerning the reasonableness of the captive insurance company's loss and loss adjustment expense reserves in such form and of such content as specified in the National Association of Insurance Commissioners Annual Statement Instructions: Property and Casualty.

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

(3) On or before June 1 of each year, each captive insurance company shall submit to the Director a report of its financial condition at last year's end with an independent certified public accountant's opinion of the company's financial condition. ~~Prior to June 1 of each year, each association and industrial insured captive insurance company shall submit to the Director a report of its financial condition, certified by a recognized firm of independent public~~

~~accountants acceptable to the Director and including the items referred to in items (i), (ii), (iii) and (iv) of paragraph (1) of this subsection B.~~

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

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

D. Every captive insurance company shall, at all times, maintain reserves in an amount estimated in the aggregate to provide for the payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which

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

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

E-5. A captive insurance company may make a written application to the Director for filing its annual report required under this Section on a fiscal year's end. If an alternative filing date is granted, the company shall file:

(1) the annual report, including a statement of actuarial opinion by a qualified independent actuary concerning the reasonableness of the captive insurance company's loss and loss adjustment expense reserves in such form and of such content as specified in the National Association of Insurance Commissioners Annual Statement Instructions: Property and Casualty, no later than the 60th day after the date of the company's fiscal year's end;

(2) the report of its financial condition at last year's end with an independent certified public accountant's opinion of the company's financial condition;
and

(3) its balance sheet, income statement, and statement of cash flows, verified by 2 of its executive officers, before March 1 of each year to provide sufficient detail to support a premium tax return.

F. The reports required by this Section shall be prepared and filed on a calendar year basis.

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

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-11. Grounds and procedures for suspension or revocation of certificate of authority.

A. The certificate of authority of a captive insurance company to do an insurance business in this State may be suspended or revoked by the Director for any of the following reasons:

(1) insolvency or impairment of required capital or surplus to policy holders;

(2) failure to meet the requirements of Sections 123C-3 or 123C-4;

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

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

(5) failure to submit to examination or any legal obligation relative thereto, as required by Section 123C-10;

(6) refusal or failure to pay expenses, ~~and~~ charges, and taxes as required by Sections 408, 409, 123C-10, and 123C-17;

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

(8) failure otherwise to comply with the laws of this State.

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

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

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-12. Legal investments.

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

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

C. A captive insurance company may make loans to its affiliates with the prior approval of the Director. Each loan must be evidenced by a note approved by the Director. A captive insurance company may not make a loan of the minimum capital and surplus funds required by this Article.

D. The Director may prohibit or limit an investment that threatens the solvency or liquidity of a captive insurance company.

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-13. Reinsurance.

A. Any captive insurance company may provide reinsurance on risks ceded by any other insurer; provided, however, that the risks so assumed are the same as the captive insurance company

could legally insure on a direct basis.

The provisions of Section 174.1 shall not apply to any captive insurance company providing reinsurance.

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

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

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

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

(c) submits to this State's authority to examine its books and records and agrees to pay the cost

thereof;

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

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

(f) files with the Department the following:

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

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

(g) has not been the subject of an order of the Director entered after notice and hearing prohibiting the reinsurer from utilizing this paragraph (1); or

(2) the taking of credit by the captive insurance company has otherwise received the prior approval of the Director.

C. A captive insurance company shall provide notice to the Director of a reinsurance agreement to which the company

becomes a party not later than the 30th day after the date of the execution of the agreement.

D. A captive insurance company shall provide notice of a termination of a previously filed reinsurance agreement to the Director not later than the 30th day after the date of termination.

E. Notwithstanding Section 123C-15 of this Code, a captive insurance company, with the Director's approval, may accept risks from and cede risks to or take credit for reserves on risks ceded to:

(1) a captive reinsurance pool composed only of other captive insurance companies holding a certificate of authority under this Article or a similar law of another jurisdiction; or

(2) an affiliated captive insurance company holding a certificate of authority under this Article or a similar law of another jurisdiction.

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-16. Tax.

A. Every captive insurance company organized under the provisions of this Article and doing business in this State shall, for the privilege of doing business in this State, pay to the Director for the State treasury the State tax imposed

under Section 409 to the same extent and in the same manner as a domestic insurance company using a tax form prescribed by the Director on or before March 15 of each year.

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

C. A domestic captive insurance company that has engaged one or more administrative or management service organizations in order to comply with subsection D of Section 123C-2 shall be deemed to meet the requirements of Section 409(4)(a) through (d) provided that the company and such organizations when viewed collectively as a group:

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

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

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

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

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-17. Fees.

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

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

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

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

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

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

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

(Section scheduled to be repealed on January 1, 2027)

Sec. 123C-19. Letters of credit.

A. Any letter of credit used to meet the requirements set forth in Sections 123C-3 and 123C-4:

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

~~used to provide more than 80% of the amount required in Section 123C-4;~~

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

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

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

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

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

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

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

~~D. (Blank). Any company including amounts supported by letters of credit in its capital or surplus shall, prior to the time any person becomes a policyholder, notify such person of the amounts supported by letters of credit and included in the company's capital or surplus.~~

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

(215 ILCS 5/123C-23 new)

Sec. 123C-23. Approval of captive reinsurance pools. Before determining whether to approve a captive insurance company's participation in a captive reinsurance pool under Section 123C-13 of this Code, the Director may:

(1) require the captive insurance company provide to the Director evidence that the captive reinsurance pool:

(a) is composed only of other captive insurance companies holding a certificate of authority under this Article or a similar law of another jurisdiction;
and

(b) will be able to meet the pool's financial

obligations; and

(2) impose any other limitation or requirement on the captive insurance company that is necessary and proper to provide adequate security for the captive insurance company.

(215 ILCS 5/123C-24 new)

Sec. 123C-24. Standards for risk management of controlled unaffiliated business. The Director may adopt rules establishing standards to ensure that an affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by the captive insurance company.

(215 ILCS 5/123C-25 new)

Sec. 123C-25. Captive managers. Before providing captive management services to a licensed captive insurance company, a captive management company shall register with the Director by providing the information required on a form adopted by the Director.

(215 ILCS 5/123C-26 new)

Sec. 123C-26. Dividends.

A. A captive insurance company shall notify the Director in writing when issuing policyholder dividends.

B. A captive insurance company, with the Director's

approval, may issue dividends or distributions to the holders of an equity interest in the captive insurance company. The Director shall adopt rules to implement this subsection B.

(215 ILCS 5/123C-27 new)

Sec. 123C-27. Rulemaking authority. The Director may adopt reasonable rules as necessary to implement the purposes and provisions of this Article.

(215 ILCS 5/123C-28 new)

Sec. 123C-28. Confidentiality.

A. Any information filed by an applicant or captive insurance company under this Article is confidential and privileged for all purposes, including for purposes of the Freedom of Information Act, a response to a subpoena, or evidence in a civil action. Except as provided by subsections B and C of this Section, the information may not be disclosed without the prior written consent of the applicant or captive insurance company to which the information pertains.

B. If the recipient of the information described by subsection A of this Section has the legal authority to maintain the confidential or privileged status of the information and verifies that authority in writing, the Director or his or her designee may disclose the information to any of the following entities functioning in an official capacity:

(1) a director of insurance or an insurance department of another state;

(2) an authorized law enforcement official;

(3) a State's Attorney of this State;

(4) the Attorney General;

(5) a grand jury;

(6) the National Association of Insurance Commissioners if the captive insurance company is affiliated with an insurance company that is part of an insurance holding company system as described in Article VIII 1/2 of this Code;

(7) another state or federal regulator if the applicant or captive insurance company to which the information relates operates in the entity's jurisdiction;

(8) an international insurance regulator or analogous financial agency if the captive insurance company is affiliated with an insurance company that is part of an insurance holding company system as described in Article VIII 1/2 of this Code and the holding company system operates in the entity's jurisdiction; or

(9) members of a supervisory college described by Section 131.20c of this Code, if the captive insurance company is affiliated with an insurance company that is part of an insurance holding company system as described in Article VIII 1/2 of this Code.

C. The Director may use information described by subsection

A of this Section in the furtherance of a legal or regulatory action relating to the administration of this Code.

(215 ILCS 5/156) (from Ch. 73, par. 768)

Sec. 156. Merger and consolidation permitted.

(a) Upon complying with the provisions of this article, any domestic company, except a Lloyds, is hereby authorized and empowered to merge or consolidate with any domestic company or with any foreign or alien company, except a Lloyds if the surviving company meets the requirements for authorization to engage in the insurance business in this state and, if such merger or consolidation is authorized by the laws of the state or country under which such foreign or alien company is incorporated or organized.

(b) The Director may permit the formation of a domestic stock company that is established for the sole purpose of merging or consolidating with an existing stock company simultaneously with the effectiveness of a division authorized by this Code. Upon request of the dividing company, the Director may waive the requirements of Section 131.8 of this Code. Each domestic stock company formed under this subsection shall be deemed to exist before a merger and division under this Section becomes effective, but solely for the purpose of being a party to such merger and division. The Director shall not require that such domestic stock company be licensed to transact insurance business in this state before such merger

and division. All insurance policies, annuities, or reinsurance agreements allocated to such domestic stock company shall become the obligation of the domestic stock company that survives the merger simultaneously with the effectiveness of the merger and division. The plan of merger or consolidation shall be deemed to have been authorized and approved by such domestic stock company if the dividing company authorized and approved such plan. The certificate of merger shall state that it was approved by the domestic stock company formed under this subsection.

(Source: Laws 1967, p. 1760.)

(215 ILCS 5/173.1) (from Ch. 73, par. 785.1)

Sec. 173.1. Credit allowed a domestic ceding insurer.

(1) Except as otherwise provided under Article VIII 1/2 of this Code and related provisions of the Illinois Administrative Code, credit for reinsurance shall be allowed a domestic ceding insurer as either an admitted asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (A) ~~subsection (1)(A)~~ or (B) or (B-5) or (C) or (C-5) or (D) of this subsection (1). Credit shall be allowed under paragraph (A), ~~subsection (1)(A) or (B)~~, or (B-5) of this subsection (1) only as respects cessions of those kinds or classes of business in which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile, or in the case of a

U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under paragraph (B-5) or (C) of this subsection (1) ~~(C) of this Section~~ only if the applicable requirements of paragraph (E) of this subsection (1) ~~subsection (1) (E)~~ have been satisfied.

(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is authorized in this State to transact the types of insurance ceded and has at least \$5,000,000 in capital and surplus.

(B) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this State. An accredited reinsurer is one that:

(1) files with the Director evidence of its submission to this State's jurisdiction;

(2) submits to this State's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(4) files annually with the Director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent

audited financial statement; and

(5) maintains a surplus as regards policyholders in an amount that is not less than \$20,000,000 and whose accreditation has been approved by the Director. ~~No credit shall be allowed a domestic ceding insurer, if the assuming insurers' accreditation has been revoked by the Director after notice and hearing.~~

(B-5) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a U.S. branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this Code and the assuming insurer or U.S. branch of an alien assuming insurer:

(a) maintains a surplus as regards policyholders in an amount not less than \$20,000,000; and

(b) submits to the authority of this State to examine its books and records.

(2) The requirement of item (a) of subparagraph (1) of paragraph (B-5) of this subsection (1) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(C) (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as

defined in paragraph (B) of subsection (3) of this Section ~~subsection 3(B)~~, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report to the Director information substantially the same as that required to be reported on the NAIC annual and quarterly financial statement by authorized insurers and any other financial information that the Director deems necessary to determine the financial condition of the assuming insurer and the sufficiency of the trust fund. The assuming insurer shall provide or make the information available to the ceding insurer. The assuming insurer may decline to release trade secrets or commercially sensitive information that would qualify as exempt from disclosure under the Freedom of Information Act. The Director shall also make the information publicly available, subject only to such reasonable objections as might be raised to a request pursuant to the Freedom of Information Act, as determined by the Director. The assuming insurer shall submit to examination of its books and records by the Director and bear the expense of examination.

(2) (a) Credit for reinsurance shall not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(i) the regulatory official of the state where the trust is domiciled; or

(ii) the regulatory official of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(b) The form of the trust and any trust amendments also shall be filed with the regulatory official of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States policyholders and ceding insurees and their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Director.

(c) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year the trustee of the trust shall report to the Director in writing the balance of the trust and a list of the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the next following December 31.

No later than February 28 of each year, the assuming insurer's chief executive officer or chief financial

officer shall certify to the Director that the trust fund contains funds in an amount not less than the assuming insurer's liabilities (as reported to the assuming insurer by its cedent) attributable to reinsurance ceded by U.S. ceding insurers, and in addition, a trustee surplus of no less than \$20,000,000. In the event that item (a-5) of subparagraph (3) of this paragraph (C) applies to the trust, the assuming insurer's chief executive officer or chief financial officer shall then certify to the Director that the trust fund contains funds in an amount not less than the assuming insurer's liabilities (as reported to the assuming insurer by its cedent) attributable to reinsurance ceded by U.S. ceding insurers and, in addition, a reduced trustee surplus of not less than the amount that has been authorized by the regulatory authority having principal regulatory oversight of the trust.

(d) No later than February 28 of each year, an assuming insurer that maintains a trust fund in accordance with this paragraph (C) shall provide or make available, if requested by a beneficiary under the trust fund, the following information to the assuming insurer's U.S. ceding insurers or their assigns and successors in interest:

(i) a copy of the form of the trust agreement and any trust amendments to the trust agreement pertaining to the trust fund;

(ii) a copy of the annual and quarterly financial

information, and its most recent audited financial statement provided to the Director by the assuming insurer, including any exhibits and schedules thereto;

(iii) any financial information provided to the Director by the assuming insurer that the Director has deemed necessary to determine the financial condition of the assuming insurer and the sufficiency of the trust fund;

(iv) a copy of any annual and quarterly financial information provided to the Director by the trustee of the trust fund maintained by the assuming insurer, including any exhibits and schedules thereto;

(v) a copy of the information required to be reported by the trustee of the trust to the Director under the provisions of this paragraph (C); and

(vi) a written certification that the trust fund consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance liabilities (as reported to the assuming insurer by its cedent) attributable to reinsurance ceded by U.S. ceding insurers and, in addition, a trusted surplus of not less than \$20,000,000.

(3) The following requirements apply to the following categories of assuming insurer:

(a) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less

than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers, and in addition, the assuming insurer shall maintain a trusted surplus of not less than \$20,000,000, except as provided in item (a-5) of this subparagraph (3).

(a-5) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the Director with principal regulatory oversight of the trust may authorize a reduction in the required trusted surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusted surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

(b) (i) In the case of a group including incorporated and individual unincorporated underwriters:

(I) for reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993 ~~August 1, 1995~~, the trust shall consist of a trustee account in an amount not less than the respective underwriters' ~~group's~~ several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any member of the group;

(II) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992 ~~July 31, 1995~~ and not amended or renewed after that date, notwithstanding the other provisions of this Act, the trust shall consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(III) in addition to these trusts, the group shall maintain in trust a trustee surplus of which not less than \$100,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all years of account.

(ii) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members.

(iii) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the Director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member, or if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

(c) In the case of a group of incorporated insurers under common administration, the group shall:

(i) have continuously transacted an insurance business outside the United States for at least 3 years immediately before making application for accreditation;

(ii) maintain aggregate policyholders' surplus of not less than \$10,000,000,000;

(iii) maintain a trust in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled

ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(iv) in addition, maintain a joint trusted surplus of which not less than \$100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group as additional security for these liabilities; and

(v) within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the Director an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(C-5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Director as a reinsurer in this State and secures its obligations in accordance with the requirements of this paragraph (C-5).

(1) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(a) the assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a

qualified jurisdiction, as determined by the Director pursuant to subparagraph (3) of this paragraph (C-5);

(b) the assuming insurer must maintain minimum capital and surplus, or its equivalent, in an amount not less than \$250,000,000 or such greater amount as determined by the Director pursuant to regulation; this requirement may also be satisfied by an association, including incorporated and individual unincorporated underwriters, having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000;

(c) the assuming insurer must maintain financial strength ratings from 2 or more rating agencies deemed acceptable by the Director; these ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information; each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association, including incorporated and individual unincorporated underwriters, that has been

approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating; these financial strength ratings shall be one factor used by the Director in determining the rating that is assigned to the assuming insurer; acceptable rating agencies include the following:

(i) Standard & Poor's;

(ii) Moody's Investors Service;

(iii) Fitch Ratings;

(iv) A.M. Best Company; or

(v) any other nationally recognized statistical rating organization;

(d) the assuming insurer must agree to submit to the jurisdiction of this State, appoint the Director as its agent for service of process in this State, and agree to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment; and

(e) the assuming insurer must agree to meet applicable information filing requirements as determined by the Director, both with respect to an initial application for certification and on an ongoing basis.

(2) An association, including incorporated and

individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subparagraph (1) of this paragraph (C-5):

(a) the association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in the amounts specified in item (b) of subparagraph (1) of this paragraph (C-5);

(b) the incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(c) within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the Director an annual certification by the association's

domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(3) The Director shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the Director as a certified reinsurer.

(a) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Director shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. A qualified jurisdiction must agree in writing to share information and cooperate with the Director with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the Director has

determined that the jurisdiction does not adequately and promptly enforce final U.S. judgments and arbitration awards. The costs and expenses associated with the Director's review and evaluation of the domiciliary jurisdictions of non-U.S. assuming insurers shall be borne by the certified reinsurer or reinsurers domiciled in such jurisdiction.

(b) Additional factors to be considered in determining whether to recognize a qualified jurisdiction include, but are not limited to, the following:

(i) the framework under which the assuming insurer is regulated;

(ii) the structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance;

(iii) the substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction;

(iv) the form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used;

(v) the domiciliary regulator's willingness to cooperate with U.S. regulators in general and the Director in particular;

(vi) the history of performance by assuming insurers in the domiciliary jurisdiction;

(vii) any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction; and

(viii) any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or its successor organization.

(c) If, upon conducting an evaluation under this paragraph with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Director shall publish notice and evidence of such recognition in an appropriate manner. The Director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(d) The Director shall consider the list of

qualified jurisdictions through the NAIC committee process in determining qualified jurisdictions. If the Director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, then the Director shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.

(e) U.S. jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(f) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, then the Director may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(4) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, then the Director may defer to that jurisdiction's certification and to the rating assigned by that jurisdiction if the assuming insurer submits a properly executed Form CR-1 and such additional information as the Director requires. Such assuming insurer shall be considered to be a certified reinsurer in this State but only upon the Director's assignment of an Illinois rating, which shall be made

based on the requirements of subparagraph (5) of this paragraph (C-5). The following shall apply:

(a) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in Illinois as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Director of any change in its status or rating within 10 days after receiving notice of the change.

(b) The Director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subparagraph (5) of this paragraph (C-5).

(c) The Director may withdraw recognition of the other jurisdiction's certification at any time with written notice to the certified reinsurer. Unless the Director suspends or revokes the certified reinsurer's certification in accordance with item (c) of subparagraph (9) of this paragraph (C-5), the certified reinsurer's certification shall remain in good standing in Illinois for a period of 3 months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in Illinois.

(5) The Director shall assign a rating to each

certified reinsurer pursuant to rules adopted by the Department. Factors that shall be considered as part of the evaluation process include the following:

(a) The certified reinsurer's financial strength rating from an acceptable rating agency. Financial strength ratings shall be classified according to the following ratings categories:

(i) Ratings Category "Secure - 1" corresponds to the highest level of rating given by a rating agency, including, but not limited to, A.M. Best Company rating A++; Standard & Poor's rating AAA; Moody's Investors Service rating Aaa; and Fitch Ratings rating AAA.

(ii) Ratings Category "Secure - 2" corresponds to the second-highest level of rating or group of ratings given by a rating agency, including, but not limited to, A.M. Best Company rating A+; Standard & Poor's rating AA+, AA, or AA-; Moody's Investors Service ratings Aa1, Aa2, or Aa3; and Fitch Ratings ratings AA+, AA, or AA-.

(iii) Ratings Category "Secure - 3" corresponds to the third-highest level of rating or group of ratings given by a rating agency, including, but not limited to, A.M.

Best Company rating A; Standard & Poor's ratings A+ or A; Moody's Investors Service ratings A1 or A2; and Fitch Ratings ratings A+ or A.

(iv) Ratings Category "Secure - 4" corresponds to the fourth-highest level of rating or group of ratings given by a rating agency, including, but not limited to, A.M. Best Company rating A-; Standard & Poor's rating A-; Moody's Investors Service rating A3; and Fitch Ratings rating A-.

(v) Ratings Category "Secure - 5" corresponds to the fifth-highest level of rating or group of ratings given by a rating agency, including, but not limited to, A.M. Best Company ratings B++ or B+; Standard & Poor's ratings BBB+, BBB, or BBB-; Moody's Investors Service ratings Baa1, Baa2, or Baa3; and Fitch Ratings ratings BBB+, BBB, or BBB-.

(vi) Ratings Category "Vulnerable - 6" corresponds to a level of rating given by a rating agency, other than those described in subitems (i) through (v) of this item (a), including, but not limited to, A.M. Best Company rating B, B-, C++, C+, C, C-, D, E, or F; Standard & Poor's ratings BB+, BB, BB-, B+,

B, B-, CCC, CC, C, D, or R; Moody's Investors Service ratings Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, or C; and Fitch Ratings ratings BB+, BB, BB-, B+, B, B-, CCC+, CCC, CCC-, or D.

A failure to obtain or maintain at least 2 financial strength ratings from acceptable rating agencies shall result in loss of eligibility for certification.

(b) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

(c) For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property and casualty reinsurers) or Schedule S (for life and health reinsurers).

(d) For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property and casualty reinsurers) or Form CR-S (for life and health reinsurers).

(e) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion

of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

(f) Regulatory actions against the certified reinsurer.

(g) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in item (h) of this subparagraph (5).

(h) For certified reinsurers not domiciled in the U.S., audited financial statements (audited Generally Accepted Accounting Principles (U.S. GAAP) basis statement if available, audited International Financial Reporting Standards (IFRS) basis statements are allowed but must include an audited footnote reconciling equity and net income to U.S. GAAP basis or, with the permission of the Director, audited IFRS basis statements with reconciliation to U.S. GAAP basis certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the Director shall consider the audited financial statements filed with its non-U.S. jurisdiction supervisor for the

3 years immediately preceding the date of the initial application for certification.

(i) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

(j) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, that involves U.S. ceding insurers. The Director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

The maximum rating that a certified reinsurer may be assigned shall correspond to its financial strength rating, which shall be determined according to subitems (i) through (vi) of item (a) of this subparagraph (5). The Director shall use the lowest financial strength rating received from an acceptable rating agency in establishing the maximum rating of a certified reinsurer.

(6) Based on the analysis conducted under item (e) of subparagraph (5) of this paragraph (C-5) of a certified reinsurer's reputation for prompt payment of claims, the Director may make appropriate adjustments in the security the certified reinsurer is required to

post to protect its liabilities to U.S. ceding insurers, provided that the Director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under item (a) of subparagraph (8) of this paragraph (C-5) if the Director finds that:

(a) more than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed \$100,000 for each cedent; or

(b) the aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by 90 days or more exceeds \$50,000,000.

(7) The Director shall post notice on the Department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Director may not take final action on the application until at least 30 days after posting the notice required by this subparagraph. The Director shall publish a list of all certified reinsurers and their ratings.

(8) A certified reinsurer shall secure obligations assumed from U.S. ceding insurers under this

subsection (1) at a level consistent with its rating.

(a) The amount of security required in order for full credit to be allowed shall correspond with the applicable ratings category:

Secure - 1: 0%.

Secure - 2: 10%.

Secure - 3: 20%.

Secure - 4: 50%.

Secure - 5: 75%.

Vulnerable - 6: 100%.

(b) Nothing in this subparagraph (8) shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this Section.

(c) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the Director and consistent with the provisions of subsection (2) of this Section, or in a multibeneficiary trust in accordance with paragraph (C) of this subsection (1), except as otherwise provided in this subparagraph (8).

(d) If a certified reinsurer maintains a trust to fully secure its obligations subject to paragraph (C) of this subsection (1), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, then the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other U.S. jurisdictions and for its obligations subject to paragraph (C) of this subsection (1). It shall be a condition to the grant of certification under this paragraph (C-5) that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the Director with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account. The certified reinsurer shall also provide or make available, if requested by a beneficiary under a trust, all the information that is required to be provided under the requirements of item (d) of subparagraph (2) of paragraph (C) of this subsection (1) to the

certified reinsurer's U.S. ceding insurers or their assigns and successors in interest. The assuming insurer may decline to release trade secrets or commercially sensitive information that would qualify as exempt from disclosure under the Freedom of Information Act.

(e) The minimum trustee surplus requirements provided in paragraph (C) of this subsection (1) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust shall maintain a minimum trustee surplus of \$10,000,000.

(f) With respect to obligations incurred by a certified reinsurer under this subsection (1), if the security is insufficient, then the Director may reduce the allowable credit by an amount proportionate to the deficiency and may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(9)(a) In the case of a downgrade by a rating agency or other disqualifying circumstance, the Director shall by written notice assign a new rating to

the certified reinsurer in accordance with the requirements of subparagraph (5) of this paragraph (C-5).

(b) If the rating of a certified reinsurer is upgraded by the Director, then the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Director, then the Director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(c) The Director may suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this Section or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations. In seeking to suspend, revoke, or

otherwise modify a certified reinsurer's certification, the Director shall follow the procedures provided in paragraph (G) of this subsection (1).

(d) For purposes of this subsection (1), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of its obligations.

(i) As used in this item (d), the term "terminated" refers to revocation, suspension, voluntary surrender and inactive status.

(ii) If the Director continues to assign a higher rating as permitted by other provisions of this Section, then this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(e) Upon revocation of the certification of a certified reinsurer by the Director, the assuming insurer shall be required to post security in accordance with subsection (2) of this Section in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust, then the Director may allow additional credit equal to the ceding insurer's pro rata share of the funds, discounted to reflect the

risk of uncollectibility and anticipated expenses of trust administration.

(f) Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of 3 months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Director to be at high risk of uncollectibility.

(10) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection (1), and the Director shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(11) Credit for reinsurance under this paragraph (C-5) shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer.

(12) The Director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and

qualified jurisdictions.

(D) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph subsection (1) (A), (B), or (C) of this subsection (1) but only with respect to the insurance of risks located in jurisdictions where that reinsurance is required by applicable law or regulation of that jurisdiction.

(E) If the assuming insurer is not licensed to transact insurance in this State or an accredited or certified reinsurer in this State, the credit permitted by paragraphs (B-5) and subsection (1) (C) of this subsection (1) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

(2) to designate the Director or a designated attorney as its true and lawful attorney upon whom may

be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if an obligation to arbitrate is created in the agreement.

(F) If the assuming insurer does not meet the requirements of paragraph (A) or (B) of this subsection (1) ~~(1)(A) or (B)~~, the credit permitted by paragraph (C) of this subsection (1) ~~(1)(C)~~ shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subparagraph (3) of paragraph (C) subsection (C)(3) of this subsection (1) ~~Section~~ or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the state official with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the state official with regulatory oversight all of the

assets of the trust fund.

(2) The assets shall be distributed by and claims shall be filed with and valued by the state official with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the state official with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the state official with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any rights otherwise available to it under U.S. law that are inconsistent with the provision.

(G) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, then the Director may suspend or revoke the reinsurer's accreditation or certification.

(1) The Director must give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the Director's order on hearing, unless:

(a) the reinsurer waives its right to hearing;

(b) the Director's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subparagraph (4) of paragraph (C-5) of this subsection (1); or

(c) the Director finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Director's action.

(2) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (2) of this Section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation, except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (2) of this Section.

(H) The following provisions shall apply concerning

concentration of risk:

(1) A ceding insurer shall take steps to manage its reinsurance recoverable proportionate to its own book of business. A domestic ceding insurer shall notify the Director within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Director within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) Credit for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (1) of this Section shall be allowed in an amount not exceeding the assets or liabilities carried by the ceding insurer. The credit shall not exceed the amount of funds held by or held in trust for the ceding insurer under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in paragraph (B) of subsection (3) of this Section ~~(3)(B)~~. This security may be in the form of:

(A) Cash.

(B) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office that conform to the requirements of Article VIII of this Code that are not issued by an affiliate of either the assuming or ceding company.

(C) Clean, irrevocable, unconditional, letters of credit issued or confirmed by a qualified United States financial institution, as defined in paragraph (A) of subsection (3) of this Section ~~(3)(A)~~. The letters of

credit shall be effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

(D) Any other form of security acceptable to the Director.

(3) (A) For purposes of paragraph (C) of subsection (2) of this Section ~~subsection 2(C)~~, a "qualified United States financial institution" means an institution that:

(1) is organized or, in the case of a U.S. office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(2) is regulated, supervised, and examined by U.S. federal or state authorities having regulatory authority over banks and trust companies;

(3) has been designated by either the Director or the Securities Valuation Office of the National Association of Insurance Commissioners as meeting such standards of financial condition and standing as are considered

necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Director; and

(4) is not affiliated with the assuming company.

(B) A "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(1) is organized or, in the case of the U.S. branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers;

(2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(3) is not affiliated with the assuming company, however, if the subject of the reinsurance contract is insurance written pursuant to Section 155.51 of this Code, the financial institution may be affiliated with the assuming company with the prior approval of the Director.

(C) Except as set forth in subparagraph (11) of paragraph (C-5) of subsection (1) of this Section as to cessions by certified reinsurers, this amendatory Act of the 100th General Assembly shall apply to all cessions after the effective date of this amendatory Act of the 100th General Assembly under

reinsurance agreements that have an inception, anniversary, or renewal date not less than 6 months after the effective date of this amendatory Act of the 100th General Assembly.

(D) The Department shall adopt rules implementing the provisions of this Article.

(Source: P.A. 90-381, eff. 8-14-97.)

(215 ILCS 5/456) (from Ch. 73, par. 1065.3)

Sec. 456. Making of rates. (1) All rates shall be made in accordance with the following provisions:

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by companies to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, to underwriting practice and judgment and to all other relevant factors within and outside this state;

(b) The systems of expense provisions included in the rates for use by any company or group of companies may differ from those of other companies or groups of companies to reflect the requirements of the operating methods of any such company or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(c) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which measure variation in hazards or expense provisions, or both. Such rating plans may measure any differences among risks that have a probable effect upon losses or expenses;

(d) Rates shall not be excessive, inadequate or unfairly discriminatory.

~~A rate in a competitive market is not excessive. A rate in a noncompetitive market~~ is excessive if it is likely to produce a ~~long-run~~ profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to the services rendered.

A rate is not inadequate unless such rate is clearly insufficient to sustain projected losses and expenses in the class of business to which it applies and the use of such rate has or, if continued, will have the effect of substantially lessening competition or the tendency to create monopoly in any market.

Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory because different premiums result for policyholders with like exposures but different expenses, or like expenses but different loss exposures, so

long as the rate reflects the differences with reasonable accuracy.

(e) The rating plan shall contain a mandatory offer of a deductible applicable only to the medical benefit under the Workers' Compensation Act. Such deductible offer shall be in a minimum amount of at least \$1,000 per accident.

(f) Any rating plan or program shall include a rule permitting 2 or more employers with similar risk characteristics, who participate in a loss prevention program or safety group, to pool their premium and loss experience in determining their rate or premium for such participation in the program.

(2) Except to the extent necessary to meet the provisions of subdivision (d) of subsection (1) of this Section, uniformity among companies in any matters within the scope of this Section is neither required nor prohibited.

(Source: P.A. 82-939.)

(215 ILCS 5/457) (from Ch. 73, par. 1065.4)

Sec. 457. Rate filings. (1) Every ~~Beginning January 1, 1983, every~~ company shall prefile ~~file~~ with the Director every manual of classifications, every manual of rules and rates, every rating plan and every modification of the foregoing which it intends to use. Such filings shall be made at least ~~not later than~~ 30 days before ~~after~~ they become effective. A company may satisfy its obligation to make such filings by

adopting the filing of a licensed rating organization of which it is a member or subscriber, filed pursuant to subsection (2) of this Section, in total or, with the approval of the Director, ~~by notifying the Director in what respects it intends to~~ deviate from such filing. If a company intends to deviate from the filing of a licensed rating organization of which it is a member, the company shall provide the Director with supporting information that specifies the basis for the requested deviation and provides justification for the deviation. Any company adopting a pure premium filed by a rating organization pursuant to subsection (2) must file with the Director the modification factor it is using for expenses and profit so that the final rates in use by such company can be determined.

(2) ~~Each Beginning January 1, 1983, each~~ licensed rating organization must prefile ~~file~~ with the Director every manual of classification, every manual of rules and advisory rates, every pure premium which has been fully adjusted and fully developed, every rating plan and every modification of any of the foregoing which it intends to recommend for use to its members and subscribers, at least not later than 30 days before ~~after~~ such manual, premium, plan or modification thereof takes effect. Every licensed rating organization shall also file with the Director the rate classification system, all rating rules, rating plans, policy forms, underwriting rules or similar materials, and each modification of any of the foregoing which

it requires its members and subscribers to adhere to not later than 30 days before such filings or modifications thereof are to take effect. Every such filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated.

(3) A filing and any supporting information made pursuant to this Section shall be open to public inspection as soon as filed ~~after the filing becomes effective.~~

(4) A filing shall not be effective nor used until approved by the Director. A filing shall be deemed approved and legally effective if the Director fails to disapprove within 30 days after the filing.

(Source: P.A. 82-939.)

(215 ILCS 5/458) (from Ch. 73, par. 1065.5)

Sec. 458. Disapproval of filings. (1) If within 30 ~~thirty~~ days of any filing the Director finds that such filing does not meet the requirements of this Article, he shall send to the company or rating organization which made such filing a written notice of disapproval of such filing, specifying therein in what respects he finds that such filing fails to meet the requirements of this Article ~~and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective.~~ A company or rating organization whose filing has been disapproved shall be given a hearing upon a written request made within 30 days after the disapproval order. ~~If the~~

~~company or rating organization making the filing shall, prior to the expiration of the period prescribed in the notice, request a hearing, such filings shall be effective until the expiration of a reasonable period specified in any order entered thereon. If the rate resulting from such filing be unfairly discriminatory or materially inadequate, and the difference between such rate and the approved rate equals or exceeds the cost of making an adjustment, the Director shall in such notice or order direct an adjustment of the premium to be made with the policyholder either by refund or collection of additional premium. If the policyholder does not accept the increased rate, cancellation shall be made on a pro rata basis. Any policy issued pursuant to this subsection shall contain a provision that the premium thereon shall be subject to adjustment upon the basis of the filing finally approved.~~

(2) If at any time subsequent to the applicable review period provided for in subsection (1) of this Section, the Director finds that a filing does not meet the requirements of this Article, he shall, after a hearing held upon not less than ten days written notice, specifying the matters to be considered at such hearing, to every company and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Article, and stating when, within a reasonable period thereafter, such filings shall be deemed no longer effective. Copies of said order shall be sent to every

such company and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(3) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the Director for a hearing thereon, provided, however, that the company or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the Director shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days written notice to the applicant and to every company and rating organization which made such filing.

If, after such hearing, the Director finds that the filing does not meet the requirements of this Article, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such company and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(4) Whenever an insurer has no legally effective rates as a result of the Director's disapproval of rates or other act, the Director shall on request of the insurer specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him or her. When new rates become legally effective, the Director shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis shall not be required.

(Source: P.A. 82-939.)

(215 ILCS 5/462a new)

Sec. 462a. Premium increase notice. A policy of workers' compensation insurance issued, delivered, amended, or renewed on or after January 1, 2019 shall remain in full force and effect subject to the same terms and conditions, loss cost multipliers, and classification of the employer with regard to the payment of dividends, unless written notice is mailed or delivered by the insurer to the employer, at the address shown on the policy, and to the employer's authorized agent or broker, indicating the insurer's intention to condition renewal upon issuance of a policy that supersedes the policy previously issued and that will result in a premium in excess of 5% above the rate recommendation filed with the Department, exclusive of any premium increase generated as a result of

increased loss costs or increased exposure units or as a result of experience rating, contractor credit adjustment program, large deductible, retrospective rating, or audit. The notice shall be delivered at least 30 days in advance of the expiration date of the policy, and shall set forth: (1) the amount of the premium increase or, if the amount cannot reasonably be determined as of the time the notice is provided, a reasonable estimate of the premium increase based upon the information available to the insurer at that time; and (2) the reason for the increased premium in excess of the rate recommendation filed with the Department. Nothing in this Section requires the insurer to provide notice when the employer, an agent or broker authorized by the employer, or another insurer of the employer has delivered written notice that the policy has been replaced or is no longer desired.

(215 ILCS 5/123C-4 rep.)

(215 ILCS 5/460 rep.)

Section 95. The Illinois Insurance Code is amended by repealing Sections 123C-4 and 460.

Section 99. Effective date. This Act takes effect upon becoming law, except that the provisions changing Sections 456, 457, and 458 of the Illinois Insurance Code and the provisions repealing Section 460 of the Illinois Insurance Code take effect February 1, 2019.