

AN ACT concerning regulation.

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

Section 5. If and only if Senate Bill 1737 of the 100th General Assembly becomes law in the form in which it passed both houses on May 31, 2018, then the Illinois Insurance Code is amended by changing Sections 534.3 and 534.4 as follows:

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

Sec. 534.3. Covered claim; unearned premium defined.

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

(i) The company issuing, assuming, or being allocated the policy becomes an insolvent company as defined in Section 534.4 after the effective date of this Article; and

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

(b) "Covered claim" does not include:

(i) any amount in excess of the applicable limits of liability provided by an insurance policy to which this Article applies; nor

(ii) any claim for punitive or exemplary damages; nor

(iii) any first party claim by an insured who is an affiliate of the insolvent company; nor

(iv) any first party or third party claim by or against an insured whose net worth on December 31 of the year next preceding the date the insurer becomes an insolvent insurer exceeds \$25,000,000; provided that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis. However, this exclusion shall not apply to third party claims against the insured where the insured has applied for or consented to

the appointment of a receiver, trustee, or liquidator for all or a substantial part of its assets, filed a voluntary petition in bankruptcy, filed a petition or an answer seeking a reorganization or arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating the insured bankrupt or insolvent or approving a petition seeking reorganization of the insured or of all or substantial part of its assets; nor

(v) any claim for any amount due any reinsurer, insurer, insurance pool, or underwriting association as subrogated recoveries, reinsurance recoverables, contribution, indemnification or otherwise. No such claim held by a reinsurer, insurer, insurance pool, or underwriting association may be asserted in any legal action against a person insured under a policy issued by an insolvent company other than to the extent such claim exceeds the Fund obligation limitations set forth in Section 537.2 of this Code.

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

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

(215 ILCS 5/534.4) (from Ch. 73, par. 1065.84-4)

Sec. 534.4. "Insolvent company" means a company organized as a stock company, mutual company, reciprocal or Lloyds (a) which holds a certificate of authority to transact insurance in this State either at the time the policy was issued or when the insured event occurred, or any company which has assumed or has been allocated such policy obligation through merger, division, consolidation, or reinsurance, whether or not such assuming company held a certificate of authority to transact insurance in this State at the time such policy was issued or when the insured event occurred; and (b) against which a final Order of Liquidation with a finding of insolvency to which there is no further right of appeal has been entered by a court of competent jurisdiction in the company's State of domicile after the effective date of this Article.

(Source: P.A. 90-499, eff. 8-19-97.)

Section 99. Effective date. This Act takes effect upon becoming law or on the date Senate Bill 1737 of the 100th General Assembly becomes law, whichever is later.