



**SURPLUS LINE  
ASSOCIATION**  
*of Illinois*

# **Illinois Surplus Line Law Section 215 ILCS 5/445**

**with Appendices  
of Referential Material**

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## **SURPLUS LINE LAW**

[445](#)

[445a Domestic SL Insurer](#)

[445.1 Surplus Line Assn of Illinois](#)

[445.2 Board of Directors](#)

[445.3 Plan of Operation](#)

[445.4 Examination](#)

[445.5 Immunity](#)

### **LAWS REFERENCED BY THE SURPLUS LINE LAW**

[Appendix 1: Classes of Insurance](#)

[Appendix 2: Fees, Charges, Refunds, Penalties](#)

[Appendix 3: Fire Investigation Act, Section 12](#)

[Appendix 4: Penalties for Violations](#)

[Appendix 5: Unauthorized Acts, Service of Process](#)

[Appendix 6: Article XXIV, Director, Hearings, Review](#)

[Appendix 7: Article XXXI, Insurance Producers & Firms](#)

[Appendix 8: Industrial Insureds](#)

## **DISCLAIMER**

The materials and information contained herein are only a synopsis of laws and regulations and do not constitute legal advice. It is recommended that you consult your legal advisers regarding application of the Illinois surplus line laws and regulations to any particular situation. The [Surplus Line Association](#) does not undertake and hereby disclaims any obligation to advise you of any change to the Illinois surplus line laws and regulations or the procedures of the Surplus Line Association.

## 215 ILCS 5/445 Surplus line

### Sec. 445. Surplus Line.

- (1) **Surplus Line Defined; Surplus Line Insurer Requirements.** Surplus line insurance is insurance on an Illinois risk of the kinds specified [Classes 2 and 3 of Section 4](#) of this Code procured from an unauthorized company or a [domestic surplus line insurer](#) as defined in [Section 445a](#) after the insurance producer representing the insured or the surplus line producer is unable after diligent effort to procure said insurance from companies which are authorized to transact business in this State other than domestic surplus line insurers as defined in Section 445a. Insurance producers may procure surplus line insurance only if licensed as a surplus line producer under this Section and may procure that insurance only from an unauthorized company or from a domestic surplus line insurer as defined in Section 445a:

  - (a) that based upon information available to the surplus line producer has a policyholders surplus of not less than \$15,000,000 determined in accordance with accounting rules that are applicable to authorized companies; and
  - (b) that has standards of solvency and management that are adequate for the protection of policyholders; and
  - (c) where an unauthorized company does not meet the standards set forth in (a) and (b) above a surplus line producer may, if necessary, procure insurance from that company only if [prior written warning](#) of such fact or condition is given to the insured by the insurance producer or surplus line producer.
- (2) **Surplus Line Producer; License.** Any licensed producer who is a resident of this State may be licensed a surplus line producer upon:

  - (a) passing a written examination. The examination shall reasonably test the knowledge of the applicant concerning the surplus line law and the responsibilities assumed by a surplus line producer thereunder. The examination provided for by this Section shall be conducted under rules and regulations prescribed by the [Director](#). The Director may administer the examination or may make arrangements, including contracting with an outside testing service, for administering such examinations. Any charges assessed by the Director or the testing service for administering such examinations shall be paid directly by the individual applicants. Each applicant required to take an examination shall, at the time of request for examination, enclose with the application a non-refundable \$10 application fee payable to the Director plus an examination administration fee. If the Director administers the examination, the application fee and examination administration fee shall be combined and made payable to the Director. If the Director designates an outside testing service to administer the examination, the applicant shall make a separate examination administration fee remittance payable to the designated testing service for the total fees the testing service charges for each of the various services being requested by the applicant. An applicant who fails to appear for the examination as scheduled, or appears but

fails to pass, shall not be entitled to any refund, and shall be required to submit a new request for examination together with all the requisite fees before being rescheduled for another examination at a later date;

- (b) payment of an annual license fee of \$200; and
- (c) procurement of the surety bond required in [subsection \(4\) of this Section](#).

Each surplus line producer so licensed shall keep a separate account of the business transacted thereunder which shall be open at all times to the inspection of the [Director](#) or his representative.

The examination requirement in (a) above shall not apply to insurance producers who were licensed under the Illinois surplus line law or individuals designated to act for partnership, association or corporation licensed under the Illinois surplus line law on February 27, 1985.

### (3) **Taxes and Reports.**

- (a) **Surplus Line Tax and Penalty for Late Payment.** Each surplus line producer shall file with the Director on or before February 1 and August 1 of each year a report in the form prescribed by the Director on all surplus line insurance procured from unauthorized insurers during the preceding 6 month period ending December 31 or June 30 respectively, and on the filing of such report shall pay to the Director for the use and benefit of the State a sum equal to 3% of the gross premiums less returned premiums upon all surplus line insurance procured or cancelled during the preceding 6 months.

Any surplus line producer who fails to pay the full amount due under this subsection is liable, in addition to the amount due, for such penalty and interest charges as are provided for under [Section 412](#) of this Code. The Director, through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction, for the recovery of the amount of such taxes and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same.

- (b) **Fire Marshal Tax.** Each surplus line producer shall file with the Director on or before March 31 of each year a report in the form prescribed by the Director on all fire insurance procured from unauthorized insurers subject to tax under [Section 12 of the Fire Investigation Act](#), and shall pay to the Director the fire marshal tax required thereunder.
- (c) **Taxes and fees charged to insured.** The taxes imposed under this subsection and the countersigning fees charged by the [Surplus Line Association of Illinois](#) may be charged to and collected from surplus line insureds.

- (4) **Bond.** Each surplus line producer, as a condition to receiving a surplus line producer's license, shall execute and deliver to the Director a surety bond to the People of the State in the penal sum of \$20,000, with a surety which is authorized to transact business in this State, conditioned that the surplus line producer will pay to the Director the tax, interest and penalties levied under [subsection \(3\) of this Section](#).

- (5) **Submission of Documents to Surplus Line Association of Illinois.** Each surplus line producer shall submit every insurance contract issued under his or her license to the [Surplus Line Association of Illinois](#) for recording and countersignature. The insurance contracts submitted shall set forth:
- (a) the name of the insured;
  - (b) the description and location of the insured property risk;
  - (c) the amount insured;
  - (d) the gross premiums charged or returned;
  - (e) the name of the unauthorized insurer or [domestic surplus line insurer](#) as defined in [Section 445a](#) from whom coverage has been procured;
  - (f) the kind or kinds of insurance procured; and
  - (g) amount of premium subject to tax required by [Section 12 of the Fire Investigation Act](#).

Proposals, endorsements and other documents which are incidental to the insurance but which does not affect the premium charged are exempted from countersignature.

The submission of insuring contracts to the [Surplus Line Association of Illinois](#) constitutes a certification by the surplus line producer or by the insurance producer who presented the risk to the surplus line producer for placement as a surplus line risk that after diligent effort the required insurance could not be procured from companies which are authorized to transact business in this State other than [domestic surplus line insurers](#) as defined in [Section 445a](#) and that such procurement was otherwise in accordance with the surplus line law.

- (6) **Countersignature Required.** It shall be unlawful for an insurance producer to deliver any unauthorized company insurance contract or domestic surplus line insurer contract unless such insurance contract is countersigned by the [Surplus Line Association of Illinois](#).
- (7) **Inspection of Records.** Each surplus line producer shall maintain separate records of the business transacted under his or her license, which records shall be open at all times for inspection by the [Director](#) and by the [Surplus Line Association of Illinois](#).
- (8) **Violations and Penalties.** The Director may suspend or revoke or refuse to renew a surplus line producer license for any violation of this Code. In addition to or in lieu of suspension or revocation, the Director may subject a surplus line producer to a civil penalty of up to \$1,000 for each cause for suspension or revocation. Such penalty is enforceable under [subsection 5 of Section 403A of this Code](#).
- (9) **Director May Declare Insurer Ineligible.** If the Director determines that the further assumption of risks might be hazardous to the policyholders of an unauthorized insurer, the Director may order the [Surplus Line Association of Illinois](#) not to countersign insurance contracts evidencing insurance in such insurer and order surplus line producers to cease procuring insurance from such insurer.

- (10) **Service of Process Upon Director.** All insurance contracts delivered under this Section from unauthorized insurers shall contain a provision designating the [Director](#) and his successors in office the true and lawful attorney of the insurer upon whom may be served all lawful process in any action, suit or proceeding arising out of such insurance and further designate the surplus line producer or other resident of this State an agent of the unauthorized insurer to which a copy of such process shall be forwarded by the Director for delivery to the insurer. Service of process made upon the Director to be valid hereunder must state the name of the insured, the name of the unauthorized insurer and identify the contract of insurance. The Director at his option is authorized to forward a copy of the process to the [Surplus Line Association of Illinois](#) for delivery to the surplus line producer or other designated resident of this State or the Director may deliver the process to the unauthorized insurer by other means which he considers to be reasonably prompt and certain.
- (11) The Illinois Surplus Line law does not apply to insurance of property and operations of railroads or aircraft engaged in interstate or foreign commerce, insurance of vessels, crafts or hulls, cargoes, marine builder's risks, marine protection and indemnity, or other risks including strikes and war risks insured under ocean or wet marine forms of policies.
- (12) Surplus line insurance procured under this Section, including insurance procured from a domestic surplus line insurer, is not subject to the provisions of the Illinois Insurance Code other than Sections [123](#), [123.1](#), [401](#), [401.1](#), [402](#), [403](#), [403A](#), [408](#), [412](#), [445](#), [445.1](#), [445.2](#), [445.3](#), [445.4](#), and all of the provisions of [Article XXXI](#) to the extent that the provisions of [Article XXXI](#) are not inconsistent with the terms of this Act.

(Source: P.A. 90-794, eff. 8-14-98.)

## **215 ILCS 5/445a Domestic Surplus Line Insurer**

### **Sec. 445a. Domestic Surplus Line Insurer.**

- (a) A domestic insurer possessing policyholder surplus of at least \$15,000,000 may pursuant to a resolution by its board of directors, and with the written approval of the Director, be designated as a "[domestic surplus line insurer](#)."
- (b) A domestic surplus line insurer may only insure in this State an Illinois risk procured from a surplus line producer pursuant to Section 445 of this Code.
- (c) A domestic surplus line insurer must agree not to issue a policy designed to satisfy the financial responsibility requirements of the Illinois Vehicle Code, the Workers Compensation Act, or the Workers Occupational Diseases Act. A domestic surplus line insurer is not subject to the provisions of Articles XXXIII, XXXIII½, XXXIV, XXXVIII, Section 468, or Section 478.1 of this Code.

(Source: P.A. 90-794, eff. 8-14-98.)

## 215 ILCS 5/445.1 Surplus Line Association of Illinois

**Sec. 445.1. Surplus Line Association of Illinois.** There is hereby created a non-profit association to be known as the [Surplus Line Association of Illinois](#). All surplus line producers shall be and must remain individual members of the Association as a condition of their holding a license as a surplus line producer in this State. The Association must perform its functions under the plan of operation established and approved under [Section 445.3](#) and must exercise its powers through a board of directors established under [Section 445.2](#) of this Code. The Association shall be supervised by the [Director](#) and is subject to the applicable provisions of the Illinois Insurance Code. The Association shall be authorized and have the duty to:

- (1) receive, record and countersign all surplus line insurance contracts which surplus line producers are required to file with the Association under [subsection \(5\) of Section 445](#);
- (2) prepare monthly reports for the Director on surplus line insurance procured by its members during the preceding month in such form and providing such information as the Director may prescribe;
- (3) prepare and deliver to each licensee and to the Director the reports of surplus line business prescribed in [subsection \(3\) of Section 445](#);
- (4) assess its members for costs of operations in accordance with a schedule adopted by the Board of Directors of the Association and approved by the Director;
- (5) employ and retain such persons as are necessary to carry out the duties of the Association;
- (6) borrow money as necessary to effect the purposes of the Association;
- (7) enter contracts as necessary to effect the purposes of the Association;
- (8) perform such other acts as will facilitate and encourage compliance by its members with the surplus line law of this State and rules promulgated thereunder; and
- (9) provide such other services to its members as are incidental or related to the purposes of the Association. Nothing in this Act shall be construed as giving the Association any discretionary authority to enforce this Act or to withhold countersignature of insurance contracts which meet the requirements of [subsection \(5\) of Section 445](#).

(Source: P.A. 83-1300.)

## 215 ILCS 5/445.2 Board of Directors

**Sec. 445.2. Board of Directors.** The Association shall function through a [Board of Directors](#) elected by the Association members, and officers who shall be elected by the Board of Directors.

The Board of Directors of the Association shall consist of not less than 5 nor more than 9 persons serving terms as established in the plan of operation. The plan of operation shall

provide for the election of a Board of Directors by the members of the Association from its membership. The plan of operation shall fix the manner of voting and may weigh each member's vote to reflect the annual surplus line insurance premium written by the member. Members employed by the same or affiliated employers may consolidate their premiums written and delegate an individual officer or partner to represent the member in the exercise of Association affairs, including service on the Association Board of Directors. The [Director](#) shall appoint an interim Board of Directors for the sole purpose of conducting an election of Directors. If no Board of Directors is elected within 90 days after the effective date of this amendatory Act of 1984, the Director shall appoint the initial members of the Board of Directors.

The Board of Directors shall elect such officers as may be provided in the plan of operation.

(Source: P.A. 83-1300.)

## **215 ILCS 5/445.3 Plan of Operation**

### **Sec. 445.3. Plan of Operation.**

- (1) The Association shall submit to the Director a [plan of operation](#) and any amendments thereto to provide operating procedures for the administration of the Association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the Director.
- (2) If the Association fails to submit a suitable plan of operation within 180 days following the effective date of this amendatory Act of 1984, or if at any time thereafter the Association fails to submit required amendments to the plan of operation, the Director shall, after notice and hearing pursuant to Sections 401, 402 and 403 of this Code, adopt and promulgate such rules as are necessary or advisable to effectuate the provisions of this Act. Such rules shall continue in force until modified by the Director or superseded by a plan of operation submitted by the Association and approved by the Director.
- (3) All Association members must comply with the plan of operation.

(Source: P.A. 83-1300.)

## **215 ILCS 5/445.4 Examination**

**Sec. 445.4 Examination.** The Director shall, at such times as he deems necessary, make or cause to be made an examination of the Association. The reasonable cost of any such examination shall be paid by the Association upon presentation to it by the Director of a detailed account of such cost. During the course of such examination, the directors, officers, members, agents and employees of the Association may be examined under oath regarding the operation of the Association and shall make available all books, records, accounts, documents and agreements pertaining thereto. The Director shall furnish a copy of the examination report to the Association. Within 20 days after receipt of the report, the Association may request a hearing on the report or any facts or recommendations therein. If the Director finds the Association or any of its members to be in violation of this Act, he may issue an order requiring discontinuance of such violation.

(Source: P.A. 83-1300.)

## 215 ILCS 5/445.5 Immunity

**Sec. 445.5. Immunity.** There shall be no liability on the part of and no causes of action of any nature shall arise against the Association, its [directors](#), officers, agents or [employees](#), or the [Director of Insurance](#) or his representatives for any action taken or omitted by them in the performance of their powers and duties under this Act.

(Source: P.A. 83-1300.)

## APPENDIX 1

### Class 2. Casualty, Fidelity and Surety.

- (a) **Accident and health.** Insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto, including stop-loss insurance. Stop-loss insurance is insurance against the risk of economic loss issued to a single employer self-funded employee disability benefit plan or an employee welfare benefit plan as described in 29 U.S.C. 1001 et seq.
- (b) **Vehicle.** Insurance against any loss or liability resulting from or incident to the ownership, maintenance or use of any vehicle (motor or otherwise), draft animal or aircraft. Any policy insuring against any loss or liability on account of the bodily injury or death of any person may contain a provision for payment of disability benefits to injured persons and death benefits to dependents, beneficiaries or personal representatives of persons who are killed, including the named insured, irrespective of legal liability of the insured, if the injury or death for which benefits are provided is caused by accident and sustained while in or upon or while entering into or alighting from or through being struck by a vehicle (motor or otherwise), draft animal or aircraft, and such provision shall not be deemed to be accident insurance.
- (c) **Liability.** Insurance against the liability of the insured for the death, injury or disability of an employee or other person, and insurance against the liability of the insured for damage to or destruction of another person's property.
- (d) **Workers' compensation.** Insurance of the obligations accepted by or imposed upon employers under laws for workers' compensation.
- (e) **Burglary and forgery.** Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud or otherwise; including all householders' personal property floater risks.
- (f) **Glass.** Insurance against loss or damage to glass including lettering, ornamentation and fittings from any cause.
- (g) **Fidelity and surety.** Become surety or guarantor for any person, copartnership or corporation in any position or place of trust or as custodian of money or property, public or private; or, becoming a surety or guarantor for the performance of any

person, copartnership or corporation of any lawful obligation, tendering, agreement or contract of any kind, except contracts or policies of insurance; and underwriting blanket bonds. Such obligations shall be known and treated as suretyship obligations and such business shall be known as surety business.

- (h) **Miscellaneous.** Insurance against loss or damage to property and any liability of the insured caused by accidents to boilers, pipes, pressure containers, machinery and apparatus of any kind and any apparatus connected thereto, or used for creating, transmitting or applying power, light, heat, steam or refrigeration, making inspection of and issuing certificates of inspection upon elevators, boilers, machinery and apparatus of any kind and all mechanical apparatus and appliances appertaining thereto; insurance against loss or damage by water entering through leaks or openings in buildings, or from the breakage or leakage of a sprinkler, pumps, water pipes, plumbing and all tanks, apparatus, conduits and containers designed to bring water into buildings or for its storage or utilization therein, or caused by the falling of a tank, tank platform or supports, or against loss or damage from any cause (other than causes specifically enumerated under Class 3 of this section) to such sprinkler, pumps, water pipes, plumbing, tanks, apparatus, conduits or containers; insurance against loss or damage which may result from the failure of debtors to pay their obligations to the insured; and insurance of the payment of money for personal services under contracts of hiring.
- (i) **Other casualty risks.** Insurance against any other casualty risk not otherwise specified under Classes 1 or 3, which may lawfully be the subject of insurance and may properly be classified under Class 2.
- (j) **Contingent losses.** Contingent, consequential and indirect coverages wherein the proximate cause of the loss is attributable to any one of the causes enumerated under Class 2. Such coverages shall, for the purpose of classification, be included in the specific grouping of the kinds of insurance wherein such cause is specified.
- (k) **Livestock and domestic animals.** Insurance against mortality accident and health of livestock and domestic animals.
- (l) **Legal expense insurance.** Insurance against risk resulting from the cost of legal services as defined under Class l(c).

### **Class 3. Fire and Marine, etc.**

- (a) **Fire.** Insurance against loss or damage by fire, smoke and smudge, lightning or other electrical disturbances.
- (b) **Elements.** Insurance against loss or damage by earthquake, windstorms, cyclone, tornado, tempests, hail, frost, snow, ice, sleet, flood, rain, drought or other weather or climatic conditions including excess or deficiency of moisture, rising of the waters of the ocean or its tributaries.
- (c) **War, riot and explosion.** Insurance against loss or damage by bombardment, invasion, insurrection, riot, strikes, civil war or commotion, military or usurped

power, or explosion (other than explosion of steam boilers and the breaking of fly wheels on premises owned, controlled, managed, or maintained by the insured.)

- (d) **Marine and transportation.** Insurance against loss or damage to vessels, craft, aircraft, vehicles of every kind, (excluding vehicles operating under their own power or while in storage not incidental to transportation) as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any or all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks; and for loss or damage to persons or property in connection with or appertaining to marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of such insurance, (but not including life insurance or surety bonds); but, except as herein specified, shall not mean insurances against loss by reason of bodily injury to the person; and insurance against loss or damage to precious stones, jewels, jewelry, gold, silver and other precious metals whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, which shall include jewelers' block insurance; and insurance against loss or damage to bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and civil commotion are the only hazards to be covered; and to piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and civil commotion; and to other aids to navigation and transportation, including dry docks and marine railways, against all risk.
- (e) **Vehicle.** Insurance against loss or liability resulting from or incident to the ownership, maintenance or use of any vehicle (motor or otherwise), draft animal or aircraft, excluding the liability of the insured for the death, injury or disability of another person.
- (f) **Property damage, sprinkler leakage and crop.** Insurance against the liability of the insured for loss or damage to another person's property or property interests from any cause enumerated in this class; insurance against loss or damage by water entering through leaks or openings in buildings, or from the breakage or leakage of a sprinkler, pumps, water pipes, plumbing and all tanks, apparatus, conduits and containers designed to bring water into buildings or for its storage or utilization therein, or caused by the falling of a tank, tank platform or supports or against loss or damage from any cause to such sprinklers, pumps, water pipes, plumbing, tanks, apparatus, conduits or containers; insurance against loss or damage from insects, diseases or other causes to trees, crops or other products of the soil.

- (g) **Other fire and marine risks.** Insurance against any other property risk not otherwise specified under Classes 1 or 2, which may lawfully be the subject of insurance and may properly be classified under Class 3.
- (h) **Contingent losses.** Contingent, consequential and indirect coverages wherein the proximate cause of the loss is attributable to any of the causes enumerated under Class 3. Such coverages shall, for the purpose of classification, be included in the specific grouping of the kinds of insurance wherein such cause is specified.
- (i) **Legal expense insurance.** Insurance against risk resulting from the cost of legal services as defined under Class l(c).

(History.-Laws 1937, p. 696, § 4; Laws 1943, vol. 1, p. 838, § 1; Laws 1957, p. 99, § 4; P.A. 81-992, § 28; P.A. 81-1361, § 1; P.A. 85-1376, § 1; P.A. 86-384, § 1; P.A. 86-1176, § 1; P.A. 88-364, § 5.)

## APPENDIX 2

### 215 ILCS 5/408. Fees and charges.

- (1) The [Director](#) shall charge, collect and give proper acquittances for the payment of the following fees and charges:
  - (a) For filing all documents submitted for the incorporation or organization or certification of a domestic company, except for a fraternal benefit society, \$2,000.
  - (b) For filing all documents submitted for the incorporation or organization of a fraternal benefit society, \$500.
  - (c) For filing amendments to articles of incorporation and amendments to declaration of organization, except for a fraternal benefit society, a mutual benefit association, a burial society or a farm mutual, \$200.
  - (d) For filing amendments to articles of incorporation of a fraternal benefit society, a mutual benefit association or a burial society, \$100.
  - (e) For filing amendments to articles of incorporation of a farm mutual, \$50.
  - (f) For filing bylaws or amendments thereto, \$50.
  - (g) For filing agreement of merger or consolidation or articles of reorganization:
    - (i) for a domestic company, except for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, \$2,000.
    - (ii) for a foreign or alien company, except for a fraternal benefit society, \$600.
    - (iii) for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, \$200.
  - (h) For filing agreements of reinsurance by a domestic company, \$200.
  - (i) For filing all documents submitted by a foreign or alien company to be admitted to transact business or accredited as a reinsurer in this State, except for a fraternal benefit society, \$5,000.

- (j) For filing all documents submitted by a foreign or alien fraternal benefit society to be admitted to transact business in this State, \$500.
- (k) For filing declaration of withdrawal of a foreign or alien company, \$50.
- (l) For filing annual statement by a domestic company, except a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, \$200.
- (m) For filing annual statement by a domestic fraternal benefit society, \$100.
- (n) For filing annual statement by a farm mutual, a mutual benefit association, or a burial society, \$50.
- (o) For issuing a certificate of authority or renewal thereof except to a foreign fraternal benefit society, \$400.
- (p) For issuing a certificate of authority or renewal thereof to a foreign fraternal benefit society, \$200.
- (q) For issuing an amended certificate of authority, \$50.
- (r) For each certified copy of certificate of authority, \$20.
- (s) For each certificate of deposit, or valuation, or compliance or surety certificate, \$20.
- (t) For copies of papers or records per page, \$1.
- (u) For each certification to copies of papers or records, \$10.
- (v) For multiple copies of documents or certificates listed in subparagraphs (r), (s), and (u) of paragraph (1) of this Section, \$10 for the first copy of a certificate of any type and \$5 for each additional copy of the same certificate requested at the same time, unless, pursuant to paragraph (2) of this Section, the [Director](#) finds these additional fees excessive.
- (w) For issuing a permit to sell shares or increase paid-up capital:
  - (i) in connection with a public stock offering, \$300;
  - (ii) in any other case, \$100.
- (x) For issuing any other, certificate required or permissible under the law, \$50.
- (y) For filing a plan of exchange of the stock of a domestic stock insurance company, a plan of demutualization of a domestic mutual company, or a plan of reorganization under Article XII, \$2,000.
- (z) For filing a statement of acquisition of a domestic company as defined in Section 131.4 of this Code, \$2,000.
- (aa) For filing an agreement to purchase the business of an organization authorized under the Dental Service Plan Act, the Vision Service Plan Act, or the Voluntary Health Services Plans Act or of a health maintenance organization or a limited health service organization, \$2,000.
- (bb) For filing a statement of acquisition of a foreign or alien insurance company as defined in Section 131.12a of this Code, \$1,000.
- (cc) For filing a registration statement as required in Sections 131.13 and 131.14 the notification as required by Section 131.20a or an agreement or transaction required by Sections 124.2(2), 141 or 141.1, \$200.
- (dd) For filing an application for licensing of:

- (i) a religious or charitable risk pooling trust or a workers' compensation pool, \$1,000;
    - (ii) a workers' compensation service company, \$500;
    - (iii) a self-insured automobile fleet, \$200; or
    - (iv) a renewal of or amendment of any license issued pursuant to (i), (ii), or (iii) above, \$100.
  - (ee) For filing articles of incorporation for a syndicate to engage in the business of insurance through the Illinois Insurance Exchange, \$2,000.
  - (ff) For filing amended articles of incorporation for a syndicate engaged in the business of insurance through the Illinois Insurance Exchange, \$100.
  - (gg) For filing articles of incorporation for a limited syndicate to join with other subscribers or limited syndicates to do business through the Illinois Insurance Exchange, \$1,000.
  - (hh) For filing amended articles of incorporation for a limited syndicate to do business through the Illinois Insurance Exchange, \$100.
  - (ii) For a permit to solicit subscriptions to a syndicate or limited syndicate, \$100.
  - (jj) For the filing of each form as required in Section 143 of this Code, \$50 per form. The fee for advisory and rating organizations shall be \$200 per form.
    - (i) For the purposes of the form filing fee, filings made on insert page basis will be considered one form at the time of its original submission. Changes made to a form subsequent to its approval shall be considered a new filing.
    - (ii) Only one fee shall be charged for a form, regardless of the number of other forms or policies with which it will be used.
    - (iii) Fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed \$1,500. For advisory or rating organizations, fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed \$2,500.
    - (iv) The [Director](#) may by rule exempt forms from such fees.
  - (kk) For filing an application for licensing of a reinsurance intermediary, \$500.
- (2) When printed copies or numerous copies of the same paper or records are furnished or certified, the [Director](#) may reduce such fees for copies if he finds them excessive. He may, when he considers it in the public interest, furnish without charge to [state insurance departments](#) and persons other than companies, copies or certified copies of reports of examinations and of other papers and records.
- (3) The expenses incurred in any performance examination authorized by law shall be paid by the company or person being examined. The charge shall be reasonably related to the cost of the examination including but not limited to compensation of examiners, electronic data processing costs, supervision and preparation of an examination report and lodging and travel expenses. All lodging and travel expenses shall be in accord with the applicable travel regulations as published by

the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon authorization of the [Director](#). With the exception of the direct reimbursements authorized by the Director, all performance examination charges collected by the [Department](#) shall be paid to the Insurance Producers Administration Fund, however, the electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company being examined for payment to the Statistical Services Revolving Fund.

- (4) At the time of any service of process on the [Director](#) as attorney for such service, the Director shall charge and collect the sum of \$10.00, which may be recovered as taxable costs by the party to the suit or action causing such service to be made if he prevails in such suit or action.
- (5)
  - (a) The costs incurred by the [Department of Insurance](#) in conducting any hearing authorized by law shall be assessed against the parties to the hearing in such proportion as the [Director of Insurance](#) may determine upon consideration of all relevant circumstances including: (1) the nature of the hearing; (2) whether the hearing was instigated by, or for the benefit of a particular party or parties; (3) whether there is a successful party on the merits of the proceeding; and (4) the relative levels of participation by the parties.
  - (b) For purposes of this subsection (5) costs incurred shall mean the hearing officer fees, court reporter fees, and travel expenses of [Department of Insurance](#) officers and employees; provided however, that costs incurred shall not include hearing officer fees or court reporter fees unless the Department has retained the services of independent contractors or outside experts to perform such functions.
  - (c) The [Director](#) shall make the assessment of costs incurred as part of the final order or decision arising out of the proceeding; provided, however, that such order or decision shall include findings and conclusions in support of the assessment costs. This subsection (5) shall not be construed as permitting the payment of travel expenses unless calculated in accordance with the applicable travel regulations of the Department of Central Management Services, as approved by the Governor's Travel Control Board. The Director as part of such order or decision shall require all assessments for hearing officer fees and court reporter fees, if any, to be paid directly to the hearing officer or court reporter by the party(s) assessed for such costs. The assessments for travel expenses of Department officers and employees shall be reimbursable to the [Director of Insurance](#) for deposit to the fund out of which those expenses had been paid.

- (d) The provisions of this subsection (5) shall apply in the case of any hearing conducted by the [Director of Insurance](#) not otherwise specifically provided for by law.
- (6) The [Director](#) shall charge and collect an annual financial regulation fee from every domestic company for examination and analysis of its financial condition. The fee shall be the greater fixed amount based upon the combination of nationwide direct premium income and nationwide reinsurance assumed premium income or upon admitted assets calculated under this subsection as follows:
  - (a) Combination of nationwide direct premium income and nationwide reinsurance assumed premium.
    - (i) \$150, if the premium is less than \$500,000 and there is no reinsurance assumed premium;
    - (ii) \$750, if the premium is \$500,000 or more, but less than \$5,000,000 and there is no reinsurance assumed premium; or if the premium is less than \$5,000,000 and the reinsurance assumed premium is less than \$10,000,000;
    - (iii) \$3,750, if the premium is less than \$5,000,000 and the reinsurance assumed premium is \$10,000,000 or more;
    - (iv) \$7,500, if the premium is \$5,000,000 or more, but less than \$10,000,000;
    - (v) \$18,000, if the premium is \$10,000,000 or more, but less than \$25,000,000;
    - (vi) \$22,500, if the premium is \$25,000,000 or more, but less than \$50,000,000;
    - (vii) \$30,000, if the premium is \$50,000,000 or more, but less than \$100,000,000;
    - (viii) \$37,500, if the premium is \$100,000,000 or more.
  - (b) Admitted assets.
    - (i) \$150, if admitted assets are less than \$1,000,000;
    - (ii) \$750, if admitted assets are \$1,000,000 or more, but less than \$5,000,000;
    - (iii) \$3,750, if admitted assets are \$5,000,000 or more, but less than \$25,000,000;
    - (iv) \$7,500, if admitted assets are \$25,000,000 or more, but less than \$50,000,000;
    - (v) \$18,000, if admitted assets are \$50,000,000 or more, but less than \$100,000,000;
    - (vi) \$22,500, if admitted assets are \$100,000,000 or more, but less than \$500,000,000;
    - (vii) \$30,000, if admitted assets are \$500,000,000 or more, but less than \$1,000,000,000;
    - (viii) \$37,500, if admitted assets are \$1,000,000,000 or more.

- (c) The sum of financial regulation fees charged to the domestic companies of the same domestic affiliated group shall not exceed \$250,000 and shall be billed by the [Director](#) to the member company designated by the group.
- (7) The [Director](#) shall charge and collect an annual financial regulation fee from every foreign or alien company, except fraternal benefit societies for the examination and analysis of its financial condition. The fee shall be a fixed amount based upon Illinois direct premium income and nationwide reinsurance assumed premium income in accordance with the following schedule:
- (a) \$150, if the premium is less than \$500,000 and there is no reinsurance assumed premium;
  - (b) \$750, if the premium is \$500,000 or more, but less than \$5,000,000 and there is no reinsurance assumed premium; or if the premium is less than \$5,000,000 and the reinsurance assumed premium is less than \$10,000,000;
  - (c) \$3,750, if the premium is less than \$5,000,000 and the reinsurance assumed premium is \$10,000,000 or more;
  - (d) \$7,500, if the premium is \$5,000,000 or more, but less than \$10,000,000;
  - (e) \$18,000, if the premium is \$10,000,000 or more, but less than \$25,000,000;
  - (f) \$22,500, if the premium is \$25,000,000 or more, but less than \$50,000,000;
  - (g) \$30,000, if the premium is \$50,000,000 or more, but less than \$100,000,000;
  - (h) \$37,500, if the premium is \$100,000,000 or more.
- (8) Beginning January 1, 1992, the financial regulation fees imposed under subsections (6) and (7) of this Section shall be paid by each company or domestic affiliated group annually. After January 1, 1994, the fee shall be billed by [Department](#) invoice based upon the company's premium income or admitted assets as shown in its annual statement for the preceding calendar year. The invoice is due upon receipt and must be paid no later than June 30 of each calendar year. All financial regulation fees collected by the Department shall be paid to the Insurance Financial Regulation Fund. The Department may not collect financial examiner per diem charges from companies subject to subsections (6) and (7) of this Section undergoing financial examination after June 30, 1992.
- (9) In addition to the financial regulation fee required by this Section, a company undergoing any financial examination authorized by law shall pay the following costs and expenses incurred by the [Department](#): electronic data processing costs, the expenses authorized under Section 131.21 and subsection (d) of Section 132.4 of this Code, and lodging and travel expenses.

Electronic data processing costs incurred by the [Department](#) in the performance of any examination shall be billed directly to the company undergoing examination for payment to the Statistical Services Revolving Fund. Except for direct reimbursements authorized by the [Director](#) or direct payments made under Section 131.21 or subsection (d) of Section 132.4 of this Code, all financial regulation fees and all financial examination charges collected by the Department shall be paid to the Insurance Financial Regulation Fund.

All lodging and travel expenses shall be in accordance with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132.1 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301- 7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon the authorization of the [Director](#).

In the case of an organization or person not subject to the financial regulation fee, the expenses incurred in any financial examination authorized by law shall be paid by the organization or person being examined. The charge shall be reasonably related to the cost of the examination including, but not limited to, compensation of examiners and other costs described in this subsection.

- (10)** Any company, person, or entity failing to make any payment of \$100 or more as required under this Section shall be subject to the penalty and interest provisions provided for in subsections (4) and (7) of Section 412.
- (11)** Unless otherwise specified, all of the fees collected under this Section shall be paid into the Insurance Financial Regulation Fund.
- (12)** For purposes of this Section:
  - (a)** "domestic company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of this State, and in addition includes a not-for-profit corporation authorized under the Dental, Vision, Pharmaceutical, or Voluntary Health Service Plan Acts, and a health maintenance organization and a limited health service organization;
  - (b)** "foreign company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any state of the United States other than this State and in addition includes a health maintenance organization which is incorporated or organized under the laws of any state of the United States other than this State;
  - (c)** "alien company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any country other than the United States;
  - (d)** "fraternal benefit society" means a corporation, society, order, lodge or voluntary association as defined in Section 282.1 of this Code;
  - (e)** "mutual benefit association" means a company, association or corporation authorized by the [Director](#) to do business in this State under the provisions of Article XVIII of this Code;
  - (f)** "burial society" means a person, firm, corporation, society or association of individuals authorized by the [Director](#) to do business in this State under the provisions of Article XIX of this Code; and

- (g) "farm mutual" means a district, county and township mutual insurance company authorized by the [Director](#) to do business in this State under the provisions of the Farm Mutual Insurance Company Act of 1986.

## **215 ILCS 5/412. Refunds; penalties; collection.**

- (1)
  - (a) Whenever it appears to the satisfaction of the [Director](#) that because of some mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, any authorized company has paid to him, pursuant to any provision of law, taxes, fees, or other charges in excess of the amount legally chargeable against it, during the 6 year period immediately preceding the discovery of such overpayment, he shall have power to refund to such company the amount of the excess or excesses by applying the amount or amounts thereof toward the payment of taxes, fees, or other charges already due, or which may thereafter become due from that company until such excess or excesses have been fully refunded, or upon a written request from the authorized company, the Director shall provide a cash refund within 120 days after receipt of the written request if all necessary information has been filed with the [Department](#) in order for it to perform an audit of the annual return for the year in which the overpayment occurred or within 120 days after the date the Department receives all the necessary information to perform such audit. The Director shall not provide a cash refund if there are insufficient funds in the Insurance Premium Tax Refund Fund to provide a cash refund, if the amount of the overpayment is less than \$100, or if the amount of the overpayment can be fully offset against the taxpayer's estimated liability for the year following the year of the cash refund request. Any cash refund shall be paid from the Insurance Premium Tax Refund Fund, a special fund hereby created in the State treasury.
  - (b) Beginning January 1, 2000 and thereafter, the [Department](#) shall deposit a percentage of the amounts collected under Sections 409, 444, and 444.1 of this Code into the Insurance Premium Tax Refund Fund. The percentage deposited into the Insurance Premium Tax Refund Fund shall be the annual percentage. The annual percentage shall be calculated as a fraction, the numerator of which shall be the amount of cash refunds approved by the Director for payment and paid during the preceding calendar year as a result of overpayment of tax liability under Sections 409, 444, and 444.1 of this Code and the denominator of which shall be the amounts collected pursuant to Sections 409, 444, and 444.1 of this Code during the preceding calendar year. However, if there were no cash refunds paid in a preceding calendar year, the Department shall deposit 5% of the amount collected in that preceding calendar year pursuant to Sections 409, 444, and 444.1 of this Code into the Insurance Premium Tax Refund Fund instead of an amount calculated by using the annual percentage.
  - (c) Beginning July 1, 1999, moneys in the Insurance Premium Tax Refund Fund shall be expended exclusively for the purpose of paying cash refunds

resulting from overpayment of tax liability under Sections 409, 444, and 444.1 of this Code as determined by the [Director](#) pursuant to subsection I(a) of this Section. Cash refunds made in accordance with this Section may be made from the Insurance Premium Tax Refund Fund only to the extent that amounts have been deposited and retained in the Insurance Premium Tax Refund Fund.

- (d) This Section shall constitute an irrevocable and continuing appropriation from the Insurance Premium Tax Refund Fund for the purpose of paying cash refunds pursuant to the provisions of this Section.
- (2) When any insurance company or any surplus line producer fails to file any tax return required under Sections 408.1, 409, 444, 444.1 and 445 of this Code or Section 12 of the Fire Investigation Act on the date prescribed, including any extensions, there shall be added as a penalty \$200 or 5% of the amount of such tax, whichever is greater, for each month or part of a month of failure to file, the entire penalty not to exceed \$1,000 or 25% of the tax due, whichever is greater.
- (3) (a) When any insurance company or any surplus line producer fails to pay the full amount due under the provisions of this Section, Sections 408.1, 409, 444, 444.1 or 445 of this Code, or Section 12 of the Fire Investigation Act, there shall be added to the amount due as a penalty an amount equal to 5% of the deficiency.

(b) If such failure to pay is determined by the [Director](#) to be willful, after a hearing under Sections 402 and 403, there shall be added to the tax as a penalty an amount equal to the greater of 25% of the deficiency or 5% of the amount due and unpaid for each month or part of a month that the deficiency remains unpaid commencing with the date that the amount becomes due. Such amount shall be in lieu of any determined under paragraph (a).
- (4) Any insurance company or any surplus line producer which fails to pay the full amount due under this Section or Sections 408.1, 409, 444, 444.1 or 445 of this Code, or Section 12 of the Fire Investigation Act is liable, in addition to the tax and any penalties, for interest on such deficiency at the rate of 12% per annum, or at such higher adjusted rates as are or may be established under subsection (b) of Section 6621 of the Internal Revenue Code, from the date that payment of any such tax was due, determined without regard to any extensions, to the date of payment of such amount.
- (5) The [Director](#), through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction, for the recovery of the amount of such taxes, fees, and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same.
- (6) In the event that the certificate of authority of a foreign or alien company is revoked for any cause or the company withdraws from this State prior to the renewal date of the certificate of authority as provided in Section 114, the company may recover the amount of any such tax paid in advance. Except as provided in this

subsection, no revocation or withdrawal excuses payment of or constitutes grounds for the recovery of any taxes or penalties imposed by this Code.

- (7) When an insurance company or domestic affiliated group fails to pay the full amount of any fee of \$100 or more due under Section 408 of this Code, there shall be added to the amount due as a penalty the greater of \$50 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid.

History.-Laws 1937, p. 696, § 412; Laws 1963, p. 2767, § 1; P.A. 76-363, § 1; P.A. 77-746, § 1; P.A. 81-603, § 1; P.A. 81- 1009, § 1; P.A. 81-1509, Art. I, § 48; P.A. 82-767, § 1; P.A. 83-43, § 1; P.A. 83-1300, § 1; P.A. 87-108, § 100.

## **APPENDIX 3**

### **425 ILCS 25/12. Payment of assessment; amount; annual reports.**

**Sec. 12.** Every fire insurance company, whether upon the stock or mutual plan, and every other personal or business entity doing any form of fire insurance business in the State of Illinois, shall pay to the [Department of Insurance](#) in the month of March, such amount as may be assessed by the Department of Insurance, which, may not exceed 1% of the gross fire, sprinkler leakage, riot, civil commotion, explosion and motor vehicle fire risk premium receipts of such company or other entity from such business done in the State of Illinois during the preceding year, and shall make an annual report or statement under oath to the Department specifying the amount of such premiums received during the preceding year. The Department of Insurance shall pay the money so received into the Fire Prevention Fund, to be used as specified in Section 13.1 of this Act.

(Source: P.A. 85-718.)

### **425 ILCS 25/13. Penalty and interest; court action; license revocation.**

**Sec. 13.** Every company, firm, co-partnership, association or aggregation of individuals, or body of persons insuring each other, or their agents, representatives, or attorneys in fact, who shall refuse or neglect to comply with the requirements of Section 12 of this Act, is liable, in addition to the amount due, for such penalty and interest charges as are provided for under Section 412 of the "Illinois Insurance Code". The Director through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction for the recovery of the amount of such taxes and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same. If such violation is by a company, association, co-partnership or aggregation of individuals licensed to do business in the State of Illinois, such license may be revoked by the [Department of Insurance](#).

(Source: P.A. 83-43.)

### **425 ILCS 25/13.1 Fire Prevention Fund.**

#### **Sec. 13.1**

- (a) There shall be a special fund in the State Treasury known as the Fire Prevention Fund.

- (b)** The following moneys shall be deposited into the Fund:
- (1)** Moneys received by the [Department of Insurance](#) under Section 12 of this Act.
  - (2)** All fees and reimbursements received by the Office of the State Fire Marshal.
  - (3)** All receipts from boiler and pressure vessel certification, as provided in Section 13 of the Boiler and Pressure Vessel Safety Act.
  - (4)** Such other moneys as may be provided by law.
- (c)** The moneys in the Fire Prevention Fund shall be used, subject to appropriation, for the following purposes:
- (1)** Of the moneys deposited into the fund under Section 12 of this Act, 12.5% shall be available for the maintenance of the Illinois Fire Service Institute and the expenses, facilities, and structures incident thereto and for making transfers into the General Obligation Bond Retirement and Interest Fund for debt service requirements on bonds issued by the State of Illinois after January 1, 1986 for the purpose of constructing a training facility for use by the Institute.
  - (2)** Of the moneys deposited into the Fund under Section 12 of this Act, 10% shall be available for the maintenance of the Chicago Fire Department Training Program and the expenses, facilities and structures incident thereto, in addition to any moneys payable from the Fund to the City of Chicago pursuant to the Illinois Fire Protection Training Act.
  - (3)** For making payments to local governmental agencies and individuals pursuant to Section 10 of the Illinois Fire Protection Training Act.
  - (4)** For the maintenance and operation of the Office of the State Fire Marshal, and the expenses incident thereto.
  - (5)** For any other purpose authorized by law.
- (d)** Any portion of the Fire Prevention Fund remaining unexpended at the end of any fiscal year which is not needed for the maintenance and expenses of the Office of the State Fire Marshal or the maintenance and expenses of the Illinois Fire Service Institute, shall be paid into the General Revenue Fund in the State Treasury.
- (e)** The Office of the State Fire Marshal shall keep on file an itemized statement of all expenses incurred which are payable from the Fund, other than expenses incurred by the Illinois Fire Service Institute, and shall approve all vouchers issued therefor before they are submitted to the State Comptroller for payment. Such vouchers shall be allowed and paid in the same manner as other claims against the State.

(Source: P.A. 85-718.)

## APPENDIX 4

### **215 ILCS 5/403A. Penalties for violations. Violations; notice of apparent liability; limitation of forfeiture liability.**

- (1) Any company or person, agent or broker, officer or director and any other person subject to this Code and as may be defined in Section 2 of this Code, who willfully or repeatedly fails to observe or who otherwise violates any of the provisions of this Code or any rule or regulation promulgated by the [Director](#) under authority of this Code or any final order of the Director entered under the authority of this Code shall by civil penalty forfeit to the State of Illinois a sum not to exceed \$1,000. Each day during which a violation occurs constitutes a separate offense. The civil penalty provided for in this Section shall apply only to those Sections of this Code or administrative regulations thereunder that do not otherwise provide for a monetary civil penalty.
- (2) No forfeiture liability under paragraph (1) of this Section may attach unless a written notice of apparent liability has been issued by the [Director](#) and received by the respondent, or the Director sends written notice of apparent liability by registered or certified mail, return receipt requested, to the last known address of the respondent. Any respondent so notified must be granted an opportunity to request a hearing within 10 days from receipt of notice, or to show in writing, why he should not be held liable. A notice issued under this Section must set forth the date, facts and nature of the act or omission with which the respondent is charged and must specifically identify the particular provision of the Code, rule, regulation or order of which a violation is charged.
- (3) No forfeiture liability under paragraph (1) of this Section may attach for any violation occurring more than 2 years prior to the date of issuance of the notice of apparent liability and in no event may the total civil penalty forfeiture imposed for the acts or omissions set forth in any one notice of apparent liability exceed \$250,000.
- (4) The civil penalty forfeitures provided for in this Section are payable to the General Revenue Fund of the State of Illinois, and may be recovered in a civil suit in the name of the State of Illinois brought in the Circuit Court in Sangamon County, or in the Circuit Court of the county where the respondent is domiciled or has its principal operating office.
- (5) In any case where the [Director](#) issues a notice of apparent liability looking toward the imposition of a civil penalty forfeiture under this Section, that fact may not be used in any other proceeding before the Director to the prejudice of the respondent to whom the notice was issued, unless (a) the civil penalty forfeiture has been paid, or (b) a court has ordered payment of the civil penalty forfeiture and that order has become final.

History.-Laws 1937, p. 696. § 403A, added by P.A. 79-682, § 1; P.A. 82-783, Art. XI, § 122; P.A. 84-989, § 8; P.A. 86-938, § 3.

## APPENDIX 5

### **215 ILCS 5/123. Unauthorized acts: director as agent for service of process. Service of process upon an unauthorized foreign or alien company.**

- (1) The purpose of this Section is to subject unauthorized foreign and alien companies to the jurisdiction of courts of this State in actions by or on behalf of insureds or beneficiaries under insurance contracts. The Legislature declares that it is a subject of concern that many residents of this State hold policies of insurance issued by companies not authorized to do business in this State, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such State interest, the Legislature herein provides a method of substituted service of process upon such companies and declares that in so doing it exercises its power to protect its residents and to define, for the purpose of this statute, what constitutes doing business in this State, and also exercises powers and privileges available to the State by virtue of Public Law 15, 79th Congress of the United States. Chapter 20, 1st Sess., S. 340, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.
- (2) Any of the following acts in this State, effected by mail or otherwise, by an unauthorized foreign or alien company: (a) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (b) the solicitation of applications for such contracts, (c) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (d) any other transaction of business, is equivalent to and shall constitute an appointment by such company, of the [Director](#) and his or her successor or successors in office, to be its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against it, arising out of such policy or contract of insurance, and the acts shall be a signification of its agreement that any such process against it which is so served shall be of the same legal force and validity as if served upon the company.
- (3) Service of such process shall be made by delivering and leaving with the [Director](#) a copy thereof and the payment to the Director of the fee prescribed by this Code. The Director shall keep a record of all process so served upon him or her. Such process shall be sufficient service upon such foreign or alien company provided notice of such service and a copy of the process are, within 10 days thereafter, sent by certified or registered mail by the plaintiff's attorney of record to the defendant at the last known principal place of business of the defendant, and the defendant's receipt and the plaintiff's attorney's affidavit of compliance herewith are filed with

the Clerk of the Court in which such action is pending on or before the return date of the process or within such further time as the court may allow.

- (4) Service of process in any such action against any such company shall in addition to the mode hereinabove described be valid and legal if served upon any person within this State who, in this State on behalf of such company, is
- (a) soliciting insurance, or
  - (b) making, issuing, or delivering any policies or contracts of insurance, or
  - (c) collecting or receiving any premium, membership fee, assessment or other consideration for insurance, or
  - (d) in any manner aiding or assisting in doing any of the things enumerated in clauses (a), (b), or (c) of this subsection; and a copy of such process is within 10 days thereafter sent by certified or registered mail by the plaintiff's attorney of record to the defendant at the last known principal place of business of the defendant and the defendant's receipt and the plaintiff's attorney's affidavit of compliance herewith are filed with the clerk of the court in which such action is pending on or before the return date of the process or within such further time as the court may allow.
- (5) Before any unauthorized foreign or alien company shall file or cause to be filed any pleading in any action or proceeding instituted against it, such unauthorized company shall either (1) deposit with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or (2) procure a certificate of authority to transact the business of insurance in this state.

The court in any action or proceeding, in which service is made in the manner provided in subsections (3) or (4) may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of this subsection and to defend such action.

Nothing in this Section is to be construed to prevent an unauthorized foreign or alien company from filing a motion to quash process or to set aside service thereof made in the manner provided in subsections (3) or (4) on the ground either (a) that such unauthorized company has not done any of the acts enumerated in subsection (2) or (b) that the person on whom service was made pursuant to subsection (4) was not doing any of the acts therein enumerated.

- (6) In any action against an unauthorized foreign or alien company upon a contract of insurance issued or delivered in this State to a resident thereof or to a corporation authorized to do business therein, if the company has failed for 30 days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered

in such action. Such fee shall not exceed 12, percent of the amount which the court or jury finds the plaintiff is entitled to recover against the insurer, but in no event shall such fee be less than \$25. Failure of a company to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

- (7) No plaintiff shall be entitled to a judgment by default under this Section until the expiration of 30 days from the date of the filing of the affidavit of compliance.
- (8) The provisions of this Section shall not apply to any action or proceeding against any unauthorized foreign or alien company arising out of any contract of reinsurance or arising out of any contract of insurance
  - (a) effected in accordance with Section 445 or
  - (b) covering ocean marine, aircraft, railway insurance risks, or
  - (c) against legal liability arising out of the ownership, operation or maintenance of any property having a permanent situs outside this state, or
  - (d) against loss of or damage to any property having a permanent situs outside this State, where such contract of insurance contains a provision designating the [Director](#) and his or her successor or successors in office or a bona fide resident of Illinois to be the true and lawful attorney of such nonadmitted insurer upon whom may be served all lawful process in any action or proceeding arising out of any such contract of insurance or where the insurer enters a general appearance in any such action or proceeding.
- (9) Nothing in this Section contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon any company in any other manner now or hereafter permitted by law.

History.-Laws 1937, p. 696, § 123; Laws 1949, p. 1066, § 1; PA. 83-345, § 40; P.A. 83-346, § 24; P.A. 83-598, § 7; PA- 83-1362, Art. II, § 78; PA. 86-1154, § 1; P.A. 86-1156, § 4; P.A. 86--1475, Art. 2, § 2-17.

### **215 ILCS 5/123.1 False advertising: director as agent for service of process. Service of process upon unauthorized insurers for false advertising.**

- (1) (a) The purpose of this Act is to subject to the jurisdiction of the [Director of Insurance](#) of this State and to the jurisdiction of the courts of this State insurers not authorized to transact business in this State which place in or send into this State any false advertising designed to induce residents of this State to purchase insurance from insurers not authorized to transact business in this State. The Legislature declares it is in the interest of the citizens of this State who purchase insurance from insurers which solicit insurance business in this State in the manner set forth in the preceding sentence that such insurers be subject to the provisions of this Act. In furtherance of such state interest, the Legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing, it exercises its power to protect its residents and also exercises powers and

privileges available to the State by virtue of Public Law 15, 79th Congress of the United States, Chapter 20, 1st Session, S. 340, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states; the authority provided herein to be in addition to any existing powers of this State.

**(b)** The provisions of this Section shall be liberally construed.

- (2)** No unauthorized foreign or alien insurer of the kind described in subsection (1) shall make, issue, circulate or cause to be made, issued or circulated, to residents of this State any estimate, illustration, circular, pamphlet, or letter, or cause to be made in any newspaper, magazine or other publication or over any radio or television station, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of Article XXVI, and whenever the [Director](#) shall have reason to believe that any such insurer is engaging in such unlawful advertising, it shall be his duty to give notice of such fact by certified or registered mail to such insurer and to the insurance supervisory official of the domiciliary state of such insurer. For the purpose of this Section, the domiciliary state of an alien insurer shall be deemed to be the state of entry or the state of the principal office in the United States.
- (3)** If after thirty days following the giving of the notice mentioned in subsection (2) such insurer has failed to cease making, issuing, or circulating such false misrepresentations or causing the same to be made, issued or circulated in this State, and if the [Director](#) has reason to believe that a proceeding by him in respect to such matters would be to the interest of the public, and that such insurer is issuing or delivering contracts of insurance to residents of this State or collecting premiums on such contracts or doing any of the acts enumerated in subsection (4), he shall take action against such insurer under Article XXVI.
- (4)**
- (a)** Any of the following acts in this State, effected by mail or otherwise, by any such unauthorized foreign or alien insurer:
    - (i)** the issuance or delivery of contracts or insurance to residents of this State; or
    - (ii)** the solicitation of applications for such contracts; or
    - (iii)** the collection of premiums, membership fees, assessments or other considerations for such contracts; or
    - (iv)** any other transaction of insurance business; is equivalent to and shall constitute an appointment by such insurer of the [Director](#) and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all statements of charges, notices and lawful process in any proceeding instituted in respect to the misrepresentations set forth in subsection (2) hereof under the provisions of Article XXVI, or in any action, suit or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its

agreement that such service of statement of charges, notices or process is of the same legal force and validity as personal service of such statement of charges, notices or process in this State, upon such insurer.

- (b) Service of a statement of charges and notices under Article XXVI shall be made by any deputy or employee of the [Department of Insurance](#) delivering to and leaving with the [Director](#) or some person in apparent charge of his office, two copies thereof. Service of process issued by any court in any action, suit or proceeding to collect any penalty under Article XXVI provided, shall be made by delivering and leaving with the Director, or some person in apparent charge of his office, two copies thereof. The Director shall forthwith cause to be mailed by certified or registered mail one of the copies of such statement of charges, notices or process to the defendant at its last known principal place of business, and shall keep a record of all statements of charges, notices and process served. Such service of statement of charges, notices or process shall be sufficient provided they shall have been so mailed and the defendant's receipt or receipt issued by the post office with which the letter is certified or registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing such letter showing a compliance herewith are filed with the Director in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed.
- (c) Service of statement of charges, notices and process in any such proceeding, action or suit shall in addition to the manner provided in paragraph (b) of this subsection be valid if served upon any person within this State who on behalf of such insurer is
- (i) soliciting insurance; or
  - (ii) making, issuing or delivering any policies or contracts of insurance; or
  - (iii) collecting or receiving in this State any premium, membership fee, assessment or other consideration for insurance; or
  - (iv) in any manner aiding or assisting in doing any of the things enumerated in clauses (i), (ii) or (iii) of this paragraph; and a copy of such statement of charges, notices or process is sent within ten days thereafter by certified or registered mail by or on behalf of the [Director](#) to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is certified or registered, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the Director in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow.

- (d) No cease or desist order or judgment by default under this section shall be entered until the expiration of thirty days from the date of the filing of the affidavit of compliance.
  - (e) Service of process and notice under the provisions of this section shall be in addition to all other methods of service provided by law, and nothing in this section shall limit or prohibit the right to serve any statement of charges, notices or process upon any insurer in any other manner now or hereafter permitted by law.
- (5) When used in this Act, "residents" shall mean and include person, partnership or corporation, domestic, alien or foreign.
- History.-Laws 1937, p. 696, § 123.1, added by Laws 1961, p. 2534, § 1; P.A. 83-598, § 7.

## APPENDIX 6

### Article XXIV DIRECTOR OF INSURANCE, HEARINGS AND REVIEW

#### 215 ILCS 5/401. Duties of director.

**General powers of the Director.** The [Director](#) is charged with the rights, powers and duties appertaining to the enforcement and execution of all the insurance laws of this State. He shall have the power:

- (a) to make reasonable rules and regulations as may be necessary for making effective such laws;
- (b) to conduct such investigations as may be necessary to determine whether any person has violated any provision of such insurance laws;
- (c) to conduct such examinations, investigations and hearings in addition to those specifically provided for, as may be necessary and proper for the efficient administration of the insurance laws of this State; and
- (d) to institute such actions or other lawful proceedings as he may deem necessary for the enforcement of the Illinois Insurance Code or of any Order or action made or taken by him under this Code. The Attorney General, upon request of the [Director](#), may proceed in the courts of this State to enforce an Order or decision in any court proceeding or in any administrative proceeding before the Director.

Whenever the [Director](#) is authorized or required by law to consider some aspect of criminal history record information for the purpose of carrying out his statutory powers and responsibilities, then, upon request and payment of fees in conformance with the requirements of subsection 22 of Section 55a of "The Civil Administrative Code of Illinois," the Department of State Police is authorized to furnish, pursuant to positive identification, such information contained in State files as is necessary to meet the requirements of such authorization or statutes.

History.-Laws 1937, p. 696, § 401; P.A. 77-1412, § 1; P.A. 86-610, § 4.

## 215 ILCS 5/401.1 Cease and desist orders.

- (1) This Section applies to all companies and persons subject to examination by the [Director](#), or purporting to do insurance business in this State, or in the process of organization with intent to do such business therein, or for whom a Certificate of Authority is required for the transaction of business, or whose Certificate of Authority is revoked or suspended.
- (2) Whenever it appears to the [Director](#) that any person or company subject to this Code is conducting its business and affairs in such a manner as to threaten to render it insolvent, or that it is in a hazardous condition, or is conducting its business and affairs in a manner which is hazardous to its policyholders, creditors or the public, or that it has committed or engaged in, or is committing or engaging in, any unlawful act, or any act, practice or transaction which under any provision of this Code would constitute ground rendering the person subject to conservation, liquidation or rehabilitation proceedings and that irreparable loss and injury to the property and business of a person or company has occurred or may occur unless the Director acts immediately, the Director may, without notice, and before hearing, issue, and cause to be served upon such person or company an order requiring such person or company to forthwith cease and desist from engaging further in the acts, practices or transactions which are causing such conduct, condition or ground to exist.
- (3) At the same time an order is served pursuant to paragraph (2) of this Section, the [Director](#) must issue and also serve upon the person or company a notice of hearing to be held at a time and place fixed therein which may not be less than 20 or more than 30 days after the service thereof. The notice must contain a statement of the conduct, condition or ground which the Director deems violative of the provisions of this Section.
- (4) If, after hearing as provided by paragraph (3) of this Section, any of the statements as to conduct, conditions or grounds in the notice are found to be true, the [Director](#) may make such order or orders as may be reasonably necessary to correct, eliminate or remedy such conduct, conditions or grounds.
- (5) Any person or company subject to an order pursuant to this Article is entitled to judicial review of the order in accordance with the provisions of the Administrative Review Law.
- (6) If any person or company violates or fails to comply with any order of the [Director](#) or any part thereof which as to such person has become final and is still in effect, the Director may, after a hearing and notice at which it is determined that a violation of such order has been committed, further order that:
  - (a) Such person shall forfeit and pay to the State of Illinois a sum not to exceed \$100 per day for each and every day that such violation or failure to comply shall continue, but in no event to exceed a maximum amount of \$5,000. Such liability shall be enforced in an action brought in any court of competent

jurisdiction by the [Director](#) in the name of the people of the State of Illinois;  
and

- (b) Proceedings be commenced to revoke or suspend any license or Certificate of Authority held by such person under this Code, in accordance with the procedures provided therefor.
- (7) The powers vested in the [Director](#) by this Section are additional to any and all other powers and remedies vested in the Director by law, and nothing herein shall be construed as requiring that the Director shall employ the powers conferred herein instead of or as a condition precedent to the exercise of any other power or remedy vested in the Director.
- (8) Any order or notice of the [Director](#) hereunder may be served on any person, in the same manner and with the same effect as provided for in civil actions in a Circuit Court of this State.

History.-Laws 1937, p. 696, § 401.1, added by P.A. 77-1560, § 1; P.A. 81-283, § 3; P.A. 82-783, Art. XI, § 122.

## **215 ILCS 5/401a. Repealed. P.A. 81-288, § 2**

## **215 ILCS 5/402. Examinations, investigations and hearings.**

### **Examinations, investigations and hearings.**

- (1) All examinations, investigations and hearings provided for by this Code may be conducted either by the [Director](#) personally, or by one or more of the actuaries, technical advisors, deputies, supervisors or examiners employed or retained by the [Department](#) and designated by the Director for such purpose. When necessary to supplement its examination procedures, the Department may retain independent actuaries deemed competent by the Director, independent certified public accountants, or qualified examiners of insurance companies deemed competent by the Director, or any combination of the foregoing, the cost of which shall be borne by the company or person being examined. The Director may compensate independent actuaries, certified public accountants and qualified examiners retained for supplementing examination procedures in amounts not to exceed the reasonable and customary charges for such services. The Director may also accept as a part of the Department's examination of any company or person (a) a report by an independent actuary, deemed competent by the Director or (b) a report of an audit made by an independent certified public accountant. Neither those persons so designated nor any members of their immediate families shall be officers of, connected with, or financially interested in any company other than as policyholders, nor shall they be financially interested in any other corporation or person affected by the examination, investigation or hearing.
- (2) All hearings provided for in this Code shall, unless otherwise specially provided, be held at such time and place as shall be designated in a notice which shall be given by the [Director](#) in writing to the person or company whose interests are affected, at least 10 days before the date designated therein. The notice shall state the subject of

inquiry and the specific charges, if any. The hearings shall be held in the City of Springfield, the City of Chicago, or in the county where the principal business address of the person or company affected is located.

History.-Laws 1937, p. 696, § 402; Laws 1965, p. 1108, § 1; Laws 1967, p. 1815, § 1; P.A. 82-108, § 1; P.A. 85-131, § 1; P.A. 87-757, § 1.

## **215 ILCS 5/403. Subpoena power; testimony and evidence.**

### **Power to subpoena and examine witnesses.**

- (1) In the conduct of any examination, investigation or hearing provided for by this Code, the [Director](#) or other officer designated by him or her to conduct the same, shall have power to compel the attendance of any person by subpoena, to administer oaths and to examine any person under oath concerning the business, conduct or affairs of any company or person subject to the provisions of this Code, and in connection therewith to require the production of any books, records or papers relevant to the inquiry.
- (2) If a person subpoenaed to attend such inquiry fails to obey the command of the subpoena without reasonable excuse, or if a person in attendance upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or paper when ordered to do so by any officer conducting such inquiry, or if any person fails to perform any act required hereunder to be performed, he or she shall be required to pay a penalty of not more than \$1,000 to be recovered in the name of the People of the State of Illinois by the State's Attorney of the county in which the violation occurs, and the penalty so recovered shall be paid into the county treasury.
- (3) When any person neglects or refuses without reasonable cause to obey a subpoena issued by the [Director](#), or refuses without reasonable cause to testify, to be sworn or to produce any book or paper described in the subpoena, the Director may file a petition against such person in the circuit court of the county in which the testimony is desired to be or has been taken or has been attempted to be taken, briefly setting forth the fact of such refusal or neglect and attaching a copy of the subpoena and the return of service thereon and applying for an order requiring such person to attend, testify or produce the books or papers before the Director or his or her actuary, supervisor, deputy or examiner, at such time or place as may be specified in such order. Any circuit court of this State, upon the filing of such petition, either before or after notice to such person, may, in the judicial discretion of such court order the attendance of such person, the production of books and papers and the giving of testimony before the Director or any of his or her actuaries, supervisors, deputies or examiners. If such person shall fail or refuse to obey the order of the court and it shall appear to the court that the failure or refusal of such person to obey its order is wilful, and without lawful excuse, the court shall punish such person by fine or imprisonment in the county jail, or both, as the nature of the case may require, as is now, or as may hereafter be lawful for the court to do in cases of contempt of court.

- (4) The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this State. When a witness is subpoenaed by or testifies at the instance of the [Director](#) or other officer designated by him or her, such fees shall be paid in the same manner as other expenses of the [Department](#). When a witness is subpoenaed or testifies at the instance of any other party to any such proceeding, the cost of the subpoena or subpoenas duces tecum and the fee of the witness shall be borne by the party at whose instance a witness is summoned. In such case, the Department in its discretion, may require a deposit to cover the cost of such service and witness fees.

History.-Laws 1937, p. 696, § 403; Laws 1961, p. 3039, § 1; Laws 1965, p. 3563, § 1; Laws 1967, p. 3911, § 1; P.A. 83-334, § 51.

## **215 ILCS 5/403A. Penalties for violations.**

### **Violations; notice of apparent liability, limitation of forfeiture liability.**

- (1) Any company or person, agent or broker, officer or director and any other person subject to this Code and as may be defined in Section 2 of this Code, who willfully or repeatedly fails to observe or who otherwise violates any of the provisions of this Code or any rule or regulation promulgated by the [Director](#) under authority of this Code or any final order of the Director entered under the authority of this Code shall by civil penalty forfeit to the State of Illinois a sum not to exceed \$1,000. Each day during which a violation occurs constitutes a separate offense. The civil penalty provided for in this Section shall apply only to those Sections of this Code or administrative regulations thereunder that do not otherwise provide for a monetary civil penalty.
- (2) No forfeiture liability under paragraph (1) of this Section may attach unless a written notice of apparent liability has been issued by the [Director](#) and received by the respondent, or the Director sends written notice of apparent liability by registered or certified mail, return receipt requested, to the last known address of the respondent. Any respondent so notified must be granted an opportunity to request a hearing, within 10 days from receipt of notice, or to show in writing why he should not be held liable. A notice issued under this Section must set forth the date, facts and nature of the act or omission with which the respondent is charged and must specifically identify the particular provision of the Code, rule, regulation or order of which a violation is charged.
- (3) No forfeiture liability under paragraph (1) of this Section may attach for any violation occurring more than 2 years prior to the date of issuance of the notice of apparent liability and in no event may the total civil penalty forfeiture imposed for the acts or omissions set forth in any one notice of apparent liability exceed \$250,000.
- (4) The civil penalty forfeitures provided for in this Section are payable to the General Revenue Fund of the State of Illinois, and may be recovered in a civil suit in the name of the State of Illinois brought in the Circuit Court in Sangamon County, or in the Circuit Court of the county where the respondent is domiciled or has its principal operating office.

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

History.-Laws 1937, p. 696, § 403A, added by P.A. 79-682, § 1; P.A. 82-783, Art. XI, § 122; P.A. 84-989, § 8; P.A. 86-938, § 3.

## APPENDIX 7

### Article XXXI INSURANCE PRODUCERS, LIMITED INSURANCE REPRESENTATIVES AND REGISTERED FIRMS

The Regulatory Agency Sunset Act, as amended by P.A. 85-1246 § 5, P.A. 87-261, § 4.14 and P.A. 88-364, § 4.8a provides for the repeal of Article XXXI, effective December 31, 1996, unless the General Assembly enacts legislation providing for its continuation.

#### **215 ILCS 5/489, 5/490. Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/490.1 Scope of provisions.**

Scope of Article. This Article applies to all persons and insurance companies as defined in this Code.

History.-Laws 1937, p. 696, § 490.1, added by PA. 83401, § 1.

#### **215 ILCS 5/491. Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/491.1 Definitions.**

**Definitions.** In addition to the definitions in Section 2, the following definitions apply to this Article.

- (a) **Insurance.** Insurance is any of the classes of insurance found in Section 4.
- (b) **Insurance Producer.** An insurance producer is an individual who solicits, negotiates, effects, procures, renews, continues or binds policies of insurance covering property or risks located in Illinois.
- (c) **License.** A license is a document authorizing an individual to act as an insurance producer, limited insurance representative or temporary insurance producer, as specified in such document.
- (d) **Limited Insurance Representative.** A limited insurance representative is an individual appointed by an insurance company to represent that company regarding the types of insurance set forth in Section 495.1.

(e) **Registered Firm.** A registered firm is a corporation or partnership which transacts the business of insurance as an insurance agency.

History.-Laws 1937, p. 696, § 491.1, added by P.A. 83-801, § 1; P.A. 85-334, § 1.

### **215 ILCS 5/492, 5/492.1 Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/492.2 License required.**

##### **License required.**

- (a) No person shall act as or hold himself out to be an insurance producer unless duly licensed in accordance with this Article for the class or classes of insurance as to which he acts or holds himself out as an insurance producer.
- (b) No person shall, for a fee, engage in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any policy of insurance that could be issued in Illinois, unless that person is
  - (1) engaged or employed as an attorney licensed to practice law;
  - (2) a licensed insurance producer, limited insurance representative or temporary insurance producer offering advice concerning a class of insurance as to which he is licensed to transact business;
  - (3) a trust officer of a bank performing duties incidental to his position;
  - (4) an actuary or a certified public accountant engaged or employed in a consulting capacity, performing duties incidental to that position; or
  - (5) a licensed public adjuster acting within the scope of his license.
- (c) In addition to any other penalty set forth in this Article, any individual violating paragraph (a) or (b) is guilty of a Class A misdemeanor. Any individual violating paragraph (a) or (b) and misappropriating or converting any monies collected in conjunction with such violation is guilty of a Class 4 felony.

History.-Laws 1937, p. 696, § 492.2, added by P.A. 83-801, § 1.

### **215 ILCS 5/493. Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/493.1 Single case appointment of agents.**

Single case appointment of agents by insurers. Until January 1, 1985, a duly licensed agent shall be permitted to place insurance with an insurer for which he does not hold a license only if:

- (1) The agent has procured, negotiated or placed a policy for a line of insurance for which he currently holds a certificate of authority; and
- (2) The company with which the insurance is to be placed accepts an application and mails to the [Director](#) notice of acceptance and the single case appointment of the agent, on a form and in a manner prescribed by the Director, together with a \$5 processing fee. In the event the company's notice of acceptance and single case

appointment are not accompanied by the processing fee, an additional billing fee of \$5 shall be charged by the Director.

History.-Laws 1937, p. 696, § 493.1, added by P.A. 83-749, § 1.

### **215 ILCS 5/493.2 Disclosure.**

**Disclosure.** All policies the solicitation of which involves an insurance producer, limited insurance representative, temporary insurance producer or registered firm shall identify the name of such producer, representative or firm. All individual life or accident and health applications and master policy applications for life or accident and health group coverages shall bear the name and signature of the licensee who solicited and wrote the application.

History.-Laws 1937, P. 696, § 493.1, added by P.A. 83-801, § 1; renumbered from § 493.1, P.A. 83-1362, Art. II, § 78; P.A. 85-334, § 1.

### **215 ILCS 5/494. Repealed. P.A. 83-801, § 3**

## 215 ILCS 5/494.1 License applications; form and content.

### Insurance producer license - application and examination.

- (a) Each application for an insurance producer license shall be made on a form specified by the [Director](#), and shall be signed by the applicant declaring under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the Director shall satisfy himself that the applicant (1) is at least 18 years of age; (2) is competent, trustworthy and of good business reputation; (3) has completed a pre-licensing course of study; (4) has, pursuant to Section 508.2, filed a bond which is in force and effect or is exempt from the requirement of filing such bond; and (5) has paid the fees required by Section 509.1. A pre-licensing course of study for each class of insurance for which an insurance producer license is requested shall be established in accordance with rules and regulations prescribed by the Director and shall consist of the following minimum hours:

Class of Insurance	Number Of Hours
Life (Class 1(a))	15
Accident/Health (Class 1(b) or 2(a))	15
Fire (Class 3)	15
Casualty (Class 2)	15
Motor Vehicle (Class 2(b) or 3(e))	7

- (b) Applicants for an insurance producer license shall pass a written examination unless exempt pursuant to Section 498.1. The examination shall reasonably test the knowledge of the applicant concerning the class or classes of insurance for which a license is applied, the duties and responsibilities of an insurance producer and the

insurance laws and rules of Illinois. The examinations provided for by this Section shall be conducted under rules and regulations prescribed by the [Director](#). The Director may make arrangements, including contracting with an outside testing service, for administering such examinations and collecting the non-refundable application fee provided for by Section 509.1.

Each applicant required to take an examination shall, at the time of request for examination, enclose with the application a non-refundable application fee payable to the [Director](#), as provided for in Section 509.1, plus a separate remittance payable to the designated testing service for the total fees the testing service charges for each of the various services being requested by the applicant. An applicant who fails to appear for the examination as scheduled, or appears but fails to pass, shall not be entitled to any refund, and shall be required to submit a new request for examination together with all of the requisite fees before being rescheduled for another examination at a later date.

- (c) During each of the first 4 12-month periods following the date of his originally being issued an insurance producer license, the insurance producer shall satisfactorily complete at least 25 hours of course study in courses, programs of instruction or seminars established in accordance with rules and regulations prescribed by the [Director](#). Any hours in excess of 25 accumulated during any 12-month period may be carried forward to the next such period. This paragraph shall not apply to any individual holding a Certificate of Authority or license issued prior to the effective date of this Article.
- (d) An insurance producer license shall automatically terminate when an insurance producer fails to successfully meet the requirements of paragraph (c) of this Section.
- (e) The holder of an insurance producer license shall inform the [Director](#) in writing of a change in his residential address within 30 days of such change.
- (f) Each provider of a prelicensing or continuing education course required by this Section shall pay a registration fee and a course certification fee for each course being certified as provided by Section 509.1.

For a period of 30 days beginning on January 1, 1990, any person who held an insurance agent and broker license from a period commencing in 1978 continuous through December 13, 1982, but who did not hold such licenses on or after January 1, 1985, may apply for an insurance producer license without completing the prelicensing education and without taking the examination provided for in subsections (a) and (b) of this Section.

History.-Laws 1937, p. 696, § 494.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 84-583, § 1; P.A. 85-834, § 1; P.A. 86-753, § 1; P.A. 86-1021, § 1; P.A. 86-1475, Art. 2, § 2-17.

## 215 ILCS 5/494.2 Examinations.

### Insurance producers; examination statistics.

(a) The use of examinations for the purpose of determining qualifications of persons to be licensed as insurance producers has a direct and far-reaching effect on persons seeking such licenses, on insurance companies, and on the public. It is in the public interest and it will further the public welfare to insure that such examinations for licensing not have the effect of unlawfully discriminating against applicants for licensing as insurance producers on the basis of race, color, national origin, or sex.

(b) As used in this Section, the following words have the meanings ascribed herein.

**Examination.** "Examination" means the examination in each line of insurance administered pursuant to Section 494.1 of this Code.

**Examinee.** "Examinee" means each person who takes an examination.

**Part.** "Part" means each portion of an examination for which a score is calculated.

**Operational item.** "Operational item" means a test question considered in determining an examinee's score.

**Test form.** "Test form" means the test booklet or instrument used for each part of each examination.

**Pretest item.** "Pretest item" means a prospective test question which is included in a test form in order to assess its performance, but which is not considered in determining an examinee's score.

**Minority group or examinees.** "Minority group" or "minority examinees" means African American, American Indian, Asian, and Hispanic examinees.

**Correct-answer rate.** "Correct-answer rate" for an item means the number of examinees who provided the correct answer on an item divided by the number of examinees who answered the item.

**Correlation.** "Correlation" means a statistical measure of the relationship between performance on an item and performance on a part of the examination.

(c) The [Director](#) shall ask each examinee to self-report on a voluntary basis on the answer sheet, application form, or by other appropriate means, the following information:

(1) race or ethnicity (African American; white; American Indian; Asian; Hispanic; or other);

(2) education (8th grade or less; less than 12th grade; high school diploma or G.E.D.; some college, but no 4 year degree; or 4 year degree or more); and

(3) sex (male or female).

The [Director](#) shall advise all examinees that they are not required to provide such information, that they will not be penalized for not doing so, and that the Director will use the information provided exclusively for research and statistical purposes and to improve the quality and fairness of the examinations.

- (d) No later than May 1, 1993, and no later than May 1 of each year thereafter, the [Director](#) shall prepare, publicly announce, and publish an Examination Report of summary statistical information relating to each examination administered during the preceding calendar year. Each Examination Report shall show with respect to each examination:
- (1) For all examinees combined and separately by race or ethnicity, by educational level, by sex, by educational level within race or ethnicity, by education level within sex, and by race or ethnicity within sex:
    - (A) number of examinees;
    - (B) percentage and number of examinees who passed each part;
    - (C) percentage and number of examinees who passed all parts;
    - (D) mean scaled scores on each part; and
    - (E) standard deviation of scaled scores on each part.
  - (2) For male examinees, female examinees, African American examinees, white examinees, American Indian examinees, Asian examinees, and Hispanic examinees, respectively, with a high school diploma or G.E.D., the distribution of scaled scores on each part.

No later than May 1, 1993, and no later than May 1 of each year thereafter, the [Director](#) shall prepare and make available on request an Item Report of summary statistical information relating to each operational item on each test form administered during the preceding calendar year. Each Item Report shall show, for each operational item, for all examinees combined and separately for African American examinees, white examinees, American Indian examinees, Asian examinees, Hispanic examinees, and other examinees, the correct-answer rates and correlations.

The [Director](#) shall not be required to report separate statistical information for any group or subgroup comprising fewer than 50 examinees.

- (e) The [Director](#) shall obtain a regular analysis of the data collected under this Section, and any other relevant information, for purposes of the development of new test forms. Any such analysis shall continue the implementation of the item selection methodology as recommended in the Final Report of the Illinois Insurance Producer's Licensing Examination Advisory Committee dated November 19, 1991, and filed with the [Department](#) unless some other methodology is determined by the Director to be as effective in minimizing differences between white and minority examinee pass-fail rates.
- (f) The [Director](#) has the discretion to set cutoff scores for the examinations, provided that scaled scores on test forms administered after July 1, 1993, shall be made comparable to scaled scores on test forms administered in 1991 by use of

professionally acceptable methods so as to minimize changes in passing rates related to the presence or absence of or changes in equating or scaling equations or methods or content outlines. Each calendar year, the scaled cutoff score for each part of each examination shall fluctuate by no more than the standard error of measurement from the scaled cutoff score employed during the preceding year.

- (g) No later than May 1, 1995, and no later than May 1 of every fourth year thereafter, the [Director](#) shall release to the public and make generally available one representative test form and set of answer keys for each part of each examination.
- (h) The [Director](#) shall maintain, for a period of 3 years after then are prepared or used, all registration forms, test forms, answer sheets, operational items and pretest items, item analyses, and other statistical analyses relating to the examinations. All personal identifying information regarding examinees and the content of test items shall be maintained confidentially as necessary for purposes of protecting the personal privacy of examinees and the maintenance of test security.
- (i) In administering the examinations, the [Director](#) shall make such accommodations for disabled examinees as are reasonably warranted by the particular disability involved, including the provision of additional time if necessary to complete an examination or special assistance in taking an examination.

History.-Laws 1937, p. 696, § 494.2, added by P.A. 87-1216, § 10.

## **215 ILCS 5/495. Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/495.1 Limited licenses.**

#### **Limited insurance representative.**

- (a) An individual who is at least 18 years of age and whom the [Director](#) considers to be competent, trustworthy and of good business reputation may obtain a limited insurance representative license, without obtaining an insurance producer license, for one or more of the following classes:
  - (1) Insurance on baggage or limited travel health, accident or trip cancellation insurance sold in connection with transportation provided by a common carrier;
  - (2) Industrial life insurance, as defined in Section 228;
  - (3) Industrial accident and health insurance, as defined in Section 368;
  - (4) Insurance issued by a company organized under "An Act relating to local mutual district, county and township insurance companies," approved March 13, 1936;
  - (5) Legal expense insurance;
  - (6) Enrollment of recipients of public aid or medicare in a health maintenance organization;
  - (7) Limited health care plan issued by an organization having a certificate of authority under the Limited Health Service Organization Act, enacted by the Eighty-Sixth General Assembly.

- (b) The application for a limited insurance representative license shall be submitted on a form prescribed by the [Director](#), by a designee of the insurance company, health maintenance organization or limited health service organization appointing the limited insurance representative. The insurance company, health maintenance organization or limited health service organization shall pay the fee required by Section 509.1.
- (c) A limited insurance representative may represent more than one insurance company, health maintenance organization or limited health service organization. History.-Laws 1937, p. 696, § 495.1, added by P.A. 83-801, § 1; PA 84-1431, Art. 26, § 1; P.A. 85-1246, § 2; PA. 86-600, Art. 5, § 5005.

### **215 ILCS 5/496, 5/496.1 Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/496.2 License renewal.**

##### **License.**

##### **(a) Insurance producer.**

- (1) An applicant who has met the requirements of Section 494.1 shall be issued a perpetual insurance producer license.
- (2) Each insurance producer license shall remain in effect as long as the holder of the license maintains in force and effect the bond required by Section 508.2 and pays the annual fee required by Section 509.1 by the date due, unless the license is revoked or suspended pursuant to Section 505.1. The annual fee required by Section 509.1 shall not be required of a licensed insurance producer who enters the military service of the United States. This waiver shall continue in effect until such time as the insurance producer is discharged from the military service.
- (3) An insurance producer who does not maintain his insurance producer license in effect pursuant to paragraph (a)(2) of this Section may, within 36 months from the due date of the unpaid annual fee, make application for the same license without the necessity of passing a written examination. Payment of the annual fee and proof a bond is in force must accompany the application. In addition, proof of compliance with Section 494.1(c) must accompany the application, where applicable.

If an insurance producer fails to pay the annual fee by the due date but applies for reinstatement of the license within 36 months of the due date, then the producer shall pay the reinstatement fee required by Section 509.1 of this Code and either:

- A. The annual license fee which will cause a license to be issued with a current effective date; or
- B. The annual license fee which will cause a license to be dated the expiration date of the last active license, provided the producer applies for reinstatement within 2 months of the due date.

If a license is issued pursuant to option A of this paragraph with a lapse in licensing, the producer must sign a statement attesting that he has not been active as an insurance producer during the period since the last active license.

**(b) Limited insurance representative.**

- (1) An applicant who has met the requirements of Section 495.1 shall be issued a perpetual limited insurance representative license.
- (2) Each limited insurance representative license shall remain in effect as long as the appointing insurance company pays the respective fee required by Section 509.1 prior to January 1 of each year, unless the license is revoked or suspended pursuant to Section 505.1. Failure of the insurance company to pay the license fee or to submit the required documents shall cause immediate termination of the limited insurance representative license regarding which such failure occurs.
- (3) Each limited insurance representative license may be terminated by the insurance company or the licensee.

**(c) License content.** Each license shall contain the name, residential address and personal identification number of the licensee, the date the license was issued, general conditions relative to the license's expiration or termination, the class or classes of insurance covered by the license, and any other information the [Director](#) considers proper. Each limited insurance representative license shall also contain the name and address of the appointing insurance company.

History.-Laws 1937, p. 696, § 496.2, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 84-989, § 8; P.A. 85-334, § 1; P.A. 85-1139, § 1; P.A. 88-313, § 10.

## **215 ILCS 5/497. Repealed. PA. 83-801, § 3**

### **215 ILCS 5/497.1 Nonresident licenses.**

#### **Nonresident licensing.**

- (a)** A nonresident may apply for an insurance producer license or limited insurance representative license if
- (1) the applicant holds a similar license from his state of residence and
  - (2) the applicant's state of residence accepts Illinois residents for licensing.

Each nonresident applicant shall be in compliance with the requirements of paragraph (a) of Section 494.1, except that requirement (3) of paragraph (a) shall not be applicable to nonresident applicants.

- (b)** The requirements of paragraph (c) of Section 494.1 shall not apply to nonresident applicants if the state in which the applicant resides requires no similar requirements of Illinois applicants or licensees. A nonresident applicant may be licensed without written examination if (1) the state in which the applicant resides requires no similar examination or (2) the public official having supervision of insurance in the applicant's state of residence certifies that the applicant has passed

a written examination for the classes of insurance applied for or was licensed prior to the time a written examination was required.

- (c) A nonresident applicant shall file with the [Director](#) an affidavit appointing the Director and his or her successor in office as such applicant's agent upon whom all lawful process in any action, suit or legal proceeding against the applicant may be served, and shall agree that any such lawful process is of the same legal force and validity as personal service of process upon such applicant. The Director shall, within 10 days after receiving process, forward a copy of such process by registered or certified mail to the individual for whom he has received such process at the individual's address of record.
- (d) Whenever, by the laws or regulations of any other state, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this State who are nonresident applicants or licensees of such other state in addition to, or in excess of, those imposed on nonresidents under this Chapter, the same such requirements shall be imposed upon such residents of such other state.

History.-Laws 1937, p. 696, § 497.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1.

### **215 ILCS 5/497.2 Repealed.**

### **215 ILCS 5/498. Repealed. PA. 83-801, § 3**

#### **215 ILCS 5/498.1 Licensure examinations.**

##### **Exemption from examination and pre-licensing requirements.**

- (a) Any individual holding a valid Certificate of Authority or license issued prior to January 1, 1985, is exempt from the examination requirements regarding the classes of insurance for which his Certificate of Authority or license is held, and from the pre-licensing requirements regarding all subsequent classes of insurance as to which the individual may apply for a license.
- (b) An applicant who becomes a resident of this State and who has filed with the [Director](#) certification by a public official having supervision of insurance in the applicant's prior state of residence evidencing that the applicant from the date of application has had an insurance license in good standing in that state during the prior 12 months shall be required by the Director to take only that portion of the examination pertaining to Illinois law and any classes of insurance as to which the applicant has applied for a license, which classes are not covered under the license he held in the other state.
- (c) Any individual who held an insurance producer license which was surrendered to the [Director](#) due to a determination of the Director that the individual involved would have been placed in a prejudicial position through the holding of a license is exempt from the examination requirements regarding the class or classes of

insurance covered by the surrendered insurance producer license, as long as such individual's competency has not been affected.

History.-Laws 1937, p. 696, § 498.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 88-313, § 10.

## **215 ILCS 5/499, 5/499a. Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/449.1 Registered firms.**

#### **Registered firms.**

- (a) Any corporation or partnership transacting insurance business as an insurance agency shall register with the [Director](#) before transacting insurance business in this State. Such registration shall remain in effect as long as the firm pays the annual fee required by Section 509.1 of this Code by the date due, unless the registration is revoked or suspended pursuant to Section 505.1 of this Code.
- (b) Each firm required to register before acting as a registered firm pursuant to this Article shall appoint one or more licensed insurance producers to be responsible for the firm's compliance with the insurance laws and Title 50 of the Illinois Administrative Code. Such individual or individuals shall submit to the [Director](#) a registration form and the fees required by Section 509.1. The Director shall prescribe the registration form and may require any documents reasonably necessary to verify the information contained in the registration form.
- (c) The registered firm shall inform the [Director](#) in writing of a change in its business address within 30 days of such change.
- (d) Each registered firm shall disclose its members, officers or directors who are authorized to act as insurance producers, and report any changes in such personnel to the [Director](#) within 30 days of such changes.
- (e) A registered firm may not be a national bank located in a city, village or incorporated town with a population exceeding 5,000 according to the last federal census, a State bank or a trust company, or a subsidiary, affiliate, officer or employee of any such national or State bank or trust company contributing directly or indirectly to the income of such bank or trust company any profit or fees or part thereof derived from the solicitation, negotiation or effecting of insurance.

History.-Laws 1937, p. 696, § 499.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 84-583, § 1; P.A. 85-334, § 1; P.A. 85-1139, § 1.

## **215 ILCS 5/500. Repealed. P.A. 78-637, § 2**

### **215 ILCS 5/500.1 Temporary licenses.**

#### **Temporary insurance producer license.**

- (a) The [Director](#) may grant a temporary insurance producer license to an applicant for an insurance producer license, without requiring an examination, for a period of 90 days, where such applicant otherwise meets the requirements of this Article. During

that 90-day period, the applicant shall be enrolled in a training course or training program conducted by or on behalf of the appointing insurance company and be in the process of fulfilling the pre-licensing requirements of Section 494.1.

- (b) No individual applicant may hold more than one temporary insurance producer license during his or her lifetime.
- (c) The [Director](#) may refuse to grant temporary insurance producer licenses to applicants from an insurance company when during a 6-month period more than 50% of that company's temporary insurance producer license holders have failed to obtain insurance producer licenses prior to the expiration of their temporary insurance producer licenses.
- (d) Before any temporary insurance producer license may be approved by the [Director](#), there shall be filed with the Director an application and the fee required by Section 509.1, from the insurance company requesting such license, on such form and in such manner as the Director may require.

History.-Laws 1937, p. 696, § 500.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 85-334, § 1.

### **215 ILCS 5/501, 5/501.1 Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/501.2 Conditions for issuance of temporary license.**

#### **Temporary insurance producer license in case of death.**

- (a) The [Director](#) may issue a temporary insurance producer license, without following the requirements of Section 494.1 or requiring the applicant to pass a written examination, to the following persons:
  - (1) The executor or administrator of the estate of a deceased person who at the time of death was a licensed insurance producer under this Article;
  - (2) A surviving spouse, next of kin, or legal guardian of a deceased person who at the time of death was a licensed insurance producer under this Article, if no administrator or executor has been appointed, on the condition that any license issued under this subparagraph shall be terminated upon issuance of a temporary insurance producer license to an executor or administrator under subparagraph (1);
  - (3) The surviving spouse, next of kin, legal guardian, administrator, executor, or employee of a person who was a licensed insurance producer under this Article for the purposes of the continuation of a registered firm, on the condition that, if an officer, director, member or employee of the registered firm is a licensed insurance producer, that licensee shall be identified and held responsible for the registered firm.
- (b) Before any temporary insurance producer license is issued, there shall be filed with the [Director](#) a written application by the person desiring such license in such form, with such supplements and containing such information as the Director may prescribe. License fees, as provided for in Section 509.1, shall be paid upon the

issuance of the original temporary insurance producer license, but not for any renewal thereof.

- (c) A temporary insurance producer license issued under this Section authorizes the person named therein to renew any business of the deceased insurance producer or the registered firm whose business is being conducted thereunder which would expire during the term of such license, to collect premiums due and payable to the estate or to such registered firm, and to perform such other acts of an insurance producer as are incidental to the continuance of any insurance business of the deceased producer or such registered firm in force at the time of the insurance producer's death.
- (d) Temporary insurance producer licenses may be issued under this Section for terms not exceeding 90 days from the death of the insurance producer and, at the discretion of the [Director](#), may be renewed for additional terms of 90 days each, not exceeding, in the aggregate, 15 months.

The [Director](#) may issue renewal licenses for additional terms of 90 days to any person serving in the Armed Forces of the United States. No person so licensed shall, by virtue of such license, be authorized to solicit, negotiate or procure new insurance.

History.-Laws 1937, p. 696, § 501.2, added by P.A. 83-801, § 1.

**215 ILCS 5/502. Repealed. P.A. 83-801, § 3; P.A. 84-1308, Art. II, § 86**

**215 ILCS 5/502.1 Repealed. P.A. 83-801, § 3**

**215 ILCS 5/502.2 Notice of appointment termination.**

**Termination reports.**

- (a) **Insurance producer.** Any insurance company which terminates an agency contract or agreement with an insurance producer, shall, if the cause for such termination is any of the causes for revocation or suspension of a license listed in Section 505.1, notify the [Director](#) of such termination within 30 days thereafter. The insurance company shall provide the Director with information, documents, records or statements pertaining to the termination which may be used by the Director in any action taken pursuant to Section 505.1. There shall be no liability on the part of, nor shall a cause of action of any nature arise against, the Director, the insurance company or an authorized representative of either for any information, documents, records or statements provided pursuant to this Section.
- (b) **Limited insurance representative.**
  - (1) If an appointment of a limited insurance representative is terminated, the terminating insurance company shall, within 30 days after the date of termination, give to the [Director](#) written notice of such termination, including the date and the reasons and circumstances behind the termination.

- (2) If the termination is for any of the causes listed in Section 505.1, the insurance company shall provide to the [Director](#) any information, documents, records or statements pertaining to the termination which may be used by the Director in any action taken pursuant to Section 505.1. There shall be no liability on the part of, nor shall a cause of action of any nature arise against the Director, the insurance company or an authorized representative of either for any information, documents, records or statements provided pursuant to this Section.
  - (3) The [Director](#) shall terminate forthwith the license of a limited insurance representative whose terminated appointment has been duly reported by the terminating insurance company under this Section.
- (c) Failure of any insurance company to comply with the requirements of paragraph (a) or (b) results in a civil penalty of \$1,000 for each violation, in addition to such other penalties as may be provided by this Code.
- History.-Laws 1937, p. 696, § 502.2, added by P.A. 83-801, § 1.

### **215 ILCS 5/503. Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/503.1 Reporting of criminal convictions.**

**Felony convictions.** Any individual who, while licensed as an insurance producer, limited insurance representative or temporary insurance producer, is convicted of a felony, shall report such conviction to the [Director](#) within 30 days of the entry date of the judgment. Within that 30-day period, the individual shall also provide the Director with a copy of the judgment, the probation or commitment order and any other relevant documents.

History.-Laws 1937, p. 696, § 503.1, added by P.A. 83-801, § 1.

#### **215 ILCS 5/504. Conflicts of interest.**

- (1) Any person, partnership, association or corporation licensed by the [Department](#) who due to employment with any unit of government which would cause a conflict of interest with the holding of that license, who notifies the [Director](#) in writing on forms prescribed by the Department, and subject to rules of the Department, makes payment of applicable licensing renewal fees, may elect to place such license on an inactive status.
- (2) Any licensee whose license is on inactive status may have such license restored by making application to the [Department](#) on such form as may be prescribed by the Department. Such application shall be accompanied with a fee of \$50 plus the current applicable license fee.
- (3) All requests for inactive status shall be valid for a 2 year period. They may be renewed for successive 2 year periods not to exceed a cumulative 4 year inactive period. After a license has been inactive for 4 years or more, the licensee must meet all of the standards of a new applicant before the license may be restored to active status.

- (4) If requests for inactive status are not renewed as set forth in (3) above, the license will be taken off the inactive status and the license will lapse immediately.
- (5) Any former holder of an agent's or broker's license that does not hold such license on the effective date of this Act because of a previous nonrenewal resulting from a conflict of interest, may renew such license without taking an agent's or broker's examination only if, on or before September 1, 1983, he or she pays a fee of \$50 plus the applicable license fee and files an affidavit that the previous reason for nonrenewal has ceased to exist.

History.-Laws 1937, p. 696, § 504, added by P.A. 83-1007, § 1.

Note.-A former 5/504 was repealed by P.A. 77-1396, § 2.

## **215 ILCS 5/504.1 License qualifications.**

### **Controlled business.**

- (a) No insurance producer license shall be granted or extended to any person, if the [Director](#) has reasonable cause to believe:
  - (1) that during either of the 2 calendar years immediately preceding the extension date of any such license the aggregate amount of premiums on insurance represented by controlled business exceeded the aggregate amount of premiums on all other insurance business of the licensee; or
  - (2) that during the 12 month period immediately following the issuance or extension of the license, if so issued or extended, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee.
- (b) Controlled business means insurance procured or to be procured by or through such person upon:
  - (1) His own life, person, property or risks, or those of his spouse.
  - (2) The life, person, property or risks of his employer or his own business.

History.-Laws 1937, p. 696, § 504.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1.

## **215 ILCS 5/505. Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/505.1 Suspension, revocation or denial of license.**

License suspension, revocation or denial.

- (a) Any license issued under this Article may be suspended or revoked, and any application for a license may be denied, if the [Director](#) finds that the licensee or applicant
  - (1) has wilfully violated any provision of this Code or any rule or regulation promulgated by the [Director](#);
  - (2) has intentionally made a material misstatement in his application for a license;
  - (3) has obtained or attempted to obtain a license through misrepresentation or fraud;

- (4) has misappropriated or converted to his own use, or improperly withheld, money required to be held in a fiduciary capacity;
  - (5) has intentionally misrepresented the terms of any actual or proposed insurance policy;
  - (6) has, in the transaction of business under his license, used fraudulent, coercive or dishonest practices, or has demonstrated incompetence, untrustworthiness or financial irresponsibility;
  - (7) has been, within the past 3 years, convicted of a felony, unless the individual demonstrates to the [Director](#) sufficient rehabilitation to warrant the public trust;
  - (8) has knowingly accepted insurance business from an individual who is not licensed;
  - (9) has failed to appear without reasonable cause or excuse in response to a subpoena lawfully issued by the [Director](#);
  - (10) has had his license suspended or revoked or his application denied in any other State, district, territory or province on grounds similar to those stated in this Section;
  - (11) has violated any of the provisions of Section 504.1;
  - (12) has failed to meet the education requirements of paragraph (c) of Section 494.1;
  - (13) has failed to report a felony conviction, as required by Section 503.1;
  - (14) has knowingly employed, contracted or engaged in any insurance related capacity any person whose license as an insurance producer or limited insurance representative has been revoked within the previous three years or whose request for a license has been refused or suspended pursuant to this Section at the time of such employment, engaging or contracting; or
  - (15) has failed to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted student loan.
- (b) Suspension or revocation of a license or the denial of an application pursuant to this Section shall be by written order sent to the licensee or applicant by certified or registered mail at the address specified in the records of the [Department](#). The licensee or applicant may in writing request a hearing within 30 days from the date of mailing. If no written request is made, such order shall be final upon the expiration of said 30 days.
- (c) If the licensee or applicant requests a hearing pursuant to this Section the [Director](#) shall issue a written notice of hearing sent to the licensee or applicant by certified or registered mail at his address, as specified in the records of the [Department](#), and stating:
- (1) the grounds, charges or conduct which justifies suspension or revocation or denial under this Section;
  - (2) a specific time for the hearing, which may not be less than 20 nor more than 30 days after the mailing of the notice of hearing; and

- (3) a specific place for the hearing, which may be either in the City of Springfield or in the county where the licensee's principal place of business is located.
- (d) Upon the suspension or revocation of a license, the licensee or other person having possession or custody of such license shall promptly deliver it to the [Director](#) in person or by mail. The Director shall publish all suspensions and revocations after such suspensions or revocations become final in a manner designed to notify interested insurance companies and other persons.
- (e) Any individual whose license is revoked or whose application is denied pursuant to this Section shall be ineligible to apply for any license for 3 years. No person whose license as an insurance producer or limited representative has been revoked, suspended or denied shall be employed, contracted or engaged in any insurance related capacity during the time the revocation, suspension or denial is in effect. A suspension pursuant to this Section may be for a period of up to 2 years.
- (f) In addition to or instead of a denial, suspension or revocation of a license pursuant to this Section, the licensee may be subjected to a civil penalty of up to \$1,000 for each cause for denial, suspension or revocation. Such penalty is enforceable under Section 403A(5) of this Code.

History.- Laws 1937, p. 696, § 505.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 85-334, § 1; P.A. 86-753, § 1; P.A. 86-1249, § 1.

### **215 ILCS 5/505.2 Suspension or denial of license.**

In addition to other grounds specified in this Act, the [Director](#) may refuse to issue or may suspend the license of any person who has failed to file a return; or to pay the tax, penalty or interest shown on a filed return; or to pay any final assessment of any tax due to the Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

History.-Laws 1937, p. 696, § 505.2, added by P.A. 86-905, Art. 2, § 2.

### **215 ILCS 5/506. Repealed. P.A. 83-801, § 3**

#### **215 ILCS 5/506.1 Examination.**

##### **Examinations.**

- (a) The [Director](#) may examine any applicant for or holder of an insurance producer license, limited insurance representative license or temporary insurance producer license or any registered firm.
- (b) All persons being examined, as well as their officers, directors, insurance producers, limited insurance representatives and temporary insurance producers shall provide to the [Director](#) convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to such persons' insurance business affairs. The officers, directors, insurance producers, limited insurance representatives, temporary insurance producers and employees

shall facilitate and aid the Director in such examinations as much as it is in their power to do so.

- (c) The [Director](#) may designate an examiner or examiners to conduct any examination pursuant to this Section. The Director or his designee may administer oaths and examine under oath any individual relative to the business of the person being examined.
- (d) The examiners designated by the [Director](#) pursuant to this Section may make reports to the Director. Any report alleging substantive violations of this Act or any rules or regulations prescribed by the Director shall be in writing and be based upon facts ascertained from the books, records, documents, papers and other evidence obtained by the examiners, or from sworn or affirmed testimony or from written affidavits from the person's officers, directors, insurance producers, limited insurance representatives, temporary insurance producers or employees or other individuals, as given to the examiners. The report of an examination shall be verified by the examiners.
- (e) If a report is made, the [Director](#) shall either deliver a duplicate thereof to the person being examined or send such duplicate by certified or registered mail to the person's address of record. The Director shall afford the person an opportunity to demand a hearing with reference to the facts and other evidence contained in the report. The person may request a hearing within 14 calendar days after he receives the duplicate of the examination report by giving the Director written notice of such request, together with a written statement of such person's objections to the report. The Director shall, if requested to do so, conduct a hearing in accordance with Sections 402 and 403. The Director shall issue a written order based upon the examination report and upon the hearing, if a hearing is held, within 90 days after the report is filed, or within 90 days after the hearing if a hearing is held. If the report is refused or otherwise undeliverable, or a hearing is not requested in a timely fashion, the right to a hearing is waived. After the hearing or the expiration of the time period in which a person may request a hearing, if the examination reveals that the person is operating in violation of any law, regulation or prior order, the Director in the written order may require the person to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. The order is subject to review under the Administrative Review Law.
- (f) The [Director](#) may adopt reasonable rules or regulations to further the purposes of this Section.
- (g) Any person who violates or aids and abets any violation of a written order issued under this Section shall be guilty of a business offense and his license may be revoked or suspended pursuant to Section 505.1 of this Article and he may be fined not more than \$5,000.

History.-Laws 1937, p. 696, § 506.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1.

## **215 ILCS 5/507. Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/507.1 Commissions to unlicensed representatives.**

**Commissions and compensation.** No insurance company, insurance producer, limited insurance representative or registered firm shall pay, directly or indirectly, any commission, service fee, brokerage or other valuable consideration to any person for services as an insurance producer, temporary insurance producer or limited insurance representative, or for such services by the person's members, officers, directors or employees, unless the person, and any member, officer, director or employee performing such service held a valid license regarding the class of insurance as to which such service was rendered, or unless the person was a properly registered firm at the time such service was performed. No person, other than a person properly licensed or registered in accordance with this Article at the time he performs services as an insurance producer, temporary insurance producer or limited insurance representative shall accept any commission, service fee, brokerage or other valuable consideration for such services. This Section shall not prevent payment or receipt of renewal or other deferred commissions to or by any person entitled thereto under this Section.

Except as to commissions deductible from premiums on insurance policies or contracts for insurance, no insurance producer, limited insurance representative or registered firm has any right to compensation from any insured or prospective insured for or on account of the transaction of insurance business unless such right to compensation is stated on a separate written memorandum that is signed by the applicant or insured, which clearly specifies the amount or extent of such service fee and is provided to the applicant or insured prior to the performance of such service or the issuance of such policy, whichever is first. A copy of the signed memorandum must be maintained by each producer who collects or receives the service fee or any portion of the service fee.

History.-Laws 1937, p. 696, § 507.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 88-313, § 10.

## **215 ILCS 5/508. Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/508.1 Fiduciary duty.**

**Financial responsibilities.** Any money which an insurance producer, limited insurance representative, temporary insurance producer, registered firm or surplus line producer receives for soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance shall be held in a fiduciary capacity, and shall not be misappropriated, converted or improperly withheld. Any insurance company which delivers to any insurance producer in this State a policy or contract for insurance pursuant to the application or request of an insurance producer, authorizes such producer to collect or receive on its behalf payment of any premium which is due on such policy or contract for insurance at the time of its issuance or delivery and any premium which becomes due on such policy or contract not more than 90 days thereafter.

Any insurer which issues a policy of insurance shall be deemed to have received payment of the premium if the insured paid any insurance producer requesting such coverage. The insurer shall be responsible to the insured for any return premium.

In the case of open accounts receivable with the balance payable to an insurance producer within a specified period of 90 days or less, where the balance is not fully paid within such period, a late charge not exceeding 1, % per month may be added by the insurance producer to the unpaid balance to induce payment of the premium.

Whenever an insurance producer or surplus line producer knowingly misappropriates or converts to his own use or illegally withholds fiduciary monies in the amount of \$150 or less, he is guilty of a Class A misdemeanor and a Class 4 felony for subsequent conversions, misappropriations and withholdings of that nature. When an insurance producer or surplus line producer knowingly misappropriates or converts to his own use or illegally withholds premiums in excess of \$150, he is guilty of a Class 3 felony.

History.-Laws 1937, p. 696, § 508.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 83-1300, § 1; P.A. 83-1528, Art. II, § 19; P.A. 85-334, § 1.

## **215 ILCS 5/508.2 Surety bonds.**

### **Bond required of insurance producers.**

- (1) Each producer and registered firm who places insurance either directly or indirectly with an insurer with which the producer or registered firm does not have an agent contact shall maintain in force while licensed a bond in favor of the people of the State of Illinois executed by an authorized surety company and payable to any party injured under the terms of the bond. The bond shall be continuous in form and in the amount of \$2,500 or 5% of the premiums brokered in the previous calendar year, whichever is greater, but not to exceed \$50,000 total aggregate liability. The bond shall be conditioned upon full accounting and due payment to the person or company entitled thereto, of funds coming into the insurance producer's possession as an incident to insurance transactions under his license or surplus line insurance transactions under his license as a surplus line producer.
- (2) Authorized insurance producers of a registered firm may meet the requirements of this Section with a bond in the name of the registered firm, continuous in form and in the amounts set forth in subsection (1) of this Section.
- (3) Such bond shall remain in force and effect until the surety is released from liability by the [Director](#) or until the bond is canceled by the surety. The surety may cancel the bond and be released from further liability thereunder upon 30 days' written notice in advance to the Director. Such cancellation shall not affect any liability incurred or accrued thereunder before the termination of the 30-day period. Upon receipt of any notice of cancellation, the Director shall immediately notify the licensee.
- (4) Such license shall automatically terminate upon there being no bond in force, or if the producer acts without a bond which is required pursuant to this Section, and the license shall be returned by its lawful custodian to the [Director](#) for cancellation.

History.-Laws 1937, p. 696, § 508.2, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 83-1300, § 1; P.A. 84-583, § 1; P.A. 85-334, § 1; P.A. 88-313, § 10.

## **215 ILCS 5/509. Repealed. PA. 83-801, § 3**

### **215 ILCS 5/509.1 License fees.**

#### **Fees.**

- (a) The fees required by this Article are as follows:
- (1) An annual fee of \$75 for an insurance producer license;
  - (2) A fee of \$25 for the issuance of a temporary insurance producer license;
  - (3) An annual registration fee of \$25 for a business firm to register;
  - (4) An annual \$25 fee for a limited insurance representative license;
  - (5) A \$25 application fee for the processing of each request to take the written examination for an insurance producer license;
  - (6) An annual registration fee of \$50 for an education provider to register;
  - (7) A certification fee of \$25 for each certified prelicensing or continuing education course and an annual fee of \$10 for renewing the certification of each such course; and
  - (8) A license reinstatement fee of \$50 for reinstating a license which lapsed because the annual fee was not received by the due date.
- (b) Except as otherwise provided, all fees paid to and collected by the [Director](#) under this Section shall be paid promptly after receipt thereof, together with a detailed statement of such fees, into a special fund in the State Treasury to be known as the Insurance Producer Administration Fund. The monies deposited into the Insurance Producer Administrative Fund shall be used only for payment of the expenses of the [Department](#) in the execution, administration and enforcement of the insurance laws of this State, and shall be appropriated as otherwise provided by law for the payment of such expenses with first priority being any expenses incident to or associated with the administration and enforcement of this Article.

In addition to any other permitted use of moneys in the Fund, and notwithstanding any restriction on the use of the Fund, moneys in the Insurance Producer Administration Fund may be transferred to the General Revenue Fund as authorized by this amendatory Act of 1992. The General Assembly finds that an excess of moneys exists in the Fund. On February 1, 1992, the Comptroller shall order transferred and the Treasurer shall transfer \$1,500,000 (or such lesser amount as may be on deposit in the Fund and unexpended and unobligated on that date) from the Fund to the General Revenue Fund.

History.-Laws 1937, p. 696, § 509.1, added by P.A. 83-801, § 1; P.A. 83-1299, § 1; P.A. 85-334, § 1; P.A. 85-1139, § 1; P.A. 87-838, § 140.

## **215 ILCS 5/510, 5/510.1 Repealed. PA. 83-801, § 3**

### **215 ILCS 5/510.2 Exemptions from license requirement.**

**Exemptions from licensing requirements.** The provisions of Sections 492.2, 494.1, 495.1, 496.2, 497.1, 498.1, 499.1, 500.1 and 501.2 shall not apply to

- (a) any regularly salaried officer or employee of an insurance company, who is engaged in the performance of usual and customary executive, administrative or clerical duties;
- (b) salaried employees in the office of an insurance producer, limited insurance representative or registered firm, who devote their full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of their employer, as long as such employees do not receive any commissions on such applications and their compensation is not varied by the volume of applications or premiums taken or received;
- (c) persons who secure and furnish information for the purpose of group life insurance, annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under such plans, issuing certificates under such plans or otherwise assisting in administering such plans, where no commission is paid for such service;
- (d) advisory organizations, according to Article VIIA of this Code, or persons who furnish information for the purpose of life or accident and health insurance distributed on a mass merchandise basis and administered by group methods;
- (e) employers or their officers or employees, or the trustees of any employee trust plan, to the extent that such employers, officers, employees or trustees are engaged in the administration or operation of any program of employee benefits for their own employees or the employees of their subsidiaries or affiliates, which program involves the use of insurance issued by an insurance company, as long as such employers, officers, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts; or
- (f) employees of insurance companies or organizations employed by insurance companies who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers, limited insurance representatives or temporary insurance producers, and who are not individually engaged in the solicitation or negotiation of policies or contracts for insurance.

History.-Laws 1937, p. 696, § 510.2, added by P.A. 83-801, § 1; P.A. 83-1299, § 1.

## **215 ILCS 5/511. Repealed. P.A. 83-801, § 3**

### **215 ILCS 5/511.1 Injunctions.**

**Injunctive relief.** Any person who acts as or holds himself out as an insurance producer, limited insurance representative or temporary insurance producer without holding a valid

and current license under this Article constitutes a public nuisance. The [Director](#) may report such holding out to the Attorney General, whose duty it is to apply forthwith by complaint on relation of the Director in the name of the people of the State of Illinois, for injunctive relief in the circuit court of the county where such holding out occurred to enjoin that person from engaging in such holding out. Upon the filing of a verified petition in such court, the court, if satisfied by affidavit or otherwise that such person has been engaged in such holding out without a valid and current license to do so, may enter a temporary restraining order without notice or bond, enjoining the defendant from further engaging in such practice. A copy of the verified complaint shall be served upon the defendant, and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been, or is engaged in any such unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further engaging in such practice. In all proceedings brought under this Section, the court, in its discretion, may apportion the costs among the parties, including the cost of filing the complaint, service of process, witness fees and expenses, court reporter charges and reasonable attorney fees. In case of the violation of any injunctive order entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. The injunctive relief available under this Section is in addition to and not in lieu of all other penalties and remedies provided in this Code.  
History.- Laws 1937, p. 696, §511.1, added by P.A. 83-801, § 1; P.A. 84-548, §4.

## **APPENDIX 8**

### **215 ILCS 5/121-2.08 Industrial insurance policies exempt.**

Transactions in this State involving contracts of insurance issued to one or more industrial insureds. For purposes of this Section, "industrial insured" is an insured:

- (a) which procures the insurance of any risk or risks other than life and annuity contracts by 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;
- (b) whose aggregate and annual premiums for insurance on all risks, except for life and accident and health insurance, total at least \$100,000; and
- (c) which either (i) has at least 25 full time employees, (ii) has gross assets in excess of \$3,000,000, or (iii) has annual gross revenues in excess of \$5,000,000.

History.-Laws 1937, p. 696, § 121-2.08, added by P.A. 77-1565, § 1; P.A. 85-131, § 1.