



Sen. William R. Haine

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LRB098 05470 RPM 44938 a

1 AMENDMENT TO HOUSE BILL 2962

2 AMENDMENT NO. _____. Amend House Bill 2962 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Sections 131.1, 131.2, 131.3, 131.4, 131.5, 131.6,
6 131.8, 131.8a, 131.11, 131.12, 131.12a, 131.13, 131.14,
7 131.16, 131.17, 131.18, 131.19, 131.20, 131.20a, 131.20b,
8 131.21, 131.22, 131.23, 131.24, 131.26, and 131.27 and by
9 adding Sections 131.9a, 131.14a, 131.14b, 131.14c, 131.14d,
10 131.20c, 131.29, and 131.30 as follows:

11 (215 ILCS 5/131.1) (from Ch. 73, par. 743.1)

12 Sec. 131.1. Definitions. As used in this Article, the
13 following terms have the respective meanings set forth in this
14 Section unless the context requires otherwise:

15 (a) An "affiliate" of, or person "affiliated" with, a
16 specific person, is a person that directly, or indirectly

1 through one or more intermediaries, controls, or is controlled
2 by, or is under common control with, the person specified.

3 (a-5) "Acquiring party" means such person by whom or on
4 whose behalf the merger or other acquisition of control
5 referred to in Section 131.4 is to be affected and any person
6 that controls such person or persons.

7 (a-10) "Associated person" means, with respect to an
8 acquiring party, (1) any beneficial owner of shares of the
9 company to be acquired, owned, directly or indirectly, of
10 record or beneficially by the acquiring party, (2) any
11 affiliate of the acquiring party or beneficial owner, and (3)
12 any other person acting in concert, directly or indirectly,
13 pursuant to any agreement, arrangement, or understanding,
14 whether written or oral, with the acquiring party or beneficial
15 owner, or any of their respective affiliates, in connection
16 with the merger, consolidation, or other acquisition of control
17 referred to in Section 131.4 of this Code.

18 (a-15) "Company" has the same meaning as "company" as
19 defined in Section 2 of this Code, except that it does not
20 include agencies, authorities, or instrumentalities of the
21 United States, its possessions and territories, the
22 Commonwealth of Puerto Rico, the District of Columbia, or a
23 state or political subdivision of a state.

24 (b) "Control" (including the terms "controlling",
25 "controlled by" and "under common control with") means the
26 possession, direct or indirect, of the power to direct or cause

1 the direction of the management and policies of a person,
2 whether through the ownership of voting securities, the holding
3 of shareholders' or policyholders' proxies by contract other
4 than a commercial contract for goods or non-management
5 services, or otherwise, unless the power is solely the result
6 of an official position with or corporate office held by the
7 person. Control is presumed to exist if any person, directly or
8 indirectly, owns, controls, holds with the power to vote, or
9 holds shareholders' proxies representing 10% or more of the
10 voting securities of any other person, or holds or controls
11 sufficient policyholders' proxies to elect the majority of the
12 board of directors of the domestic company. This presumption
13 may be rebutted by a showing made in the manner as the Director
14 may provide by rule. The Director may determine, after
15 furnishing all persons in interest notice and opportunity to be
16 heard and making specific findings of fact to support such
17 determination, that control exists in fact, notwithstanding
18 the absence of a presumption to that effect.

19 (b-5) "Enterprise risk" means any activity, circumstance,
20 event, or series of events involving one or more affiliates of
21 a company that, if not remedied promptly, is likely to have a
22 material adverse effect upon the financial condition or
23 liquidity of the company or its insurance holding company
24 system as a whole, including, but not limited to, anything that
25 would cause the company's risk-based capital to fall into
26 company action level as set forth in Article IIA of this Code

1 or would cause the company to be in hazardous financial
2 condition as set forth in Article XII 1/2 of this Code.

3 (b-10) "Exchange Act" means the Securities Exchange Act of
4 1934, as amended, together with the rules and regulations
5 promulgated thereunder.

6 (c) "Insurance holding company system" means two or more
7 affiliated persons, one or more of which is an insurance
8 company as defined in paragraph (e) of Section 2 of this Code.

9 (d) (Blank). "Company" has the same meaning as "Company" as
10 defined in Section 2 of this Code, except that it does not
11 include agencies, authorities or instrumentalities of the
12 United States, its possessions and territories, the
13 Commonwealth of Puerto Rico, the District of Columbia or a
14 State or political subdivision of a State.

15 (d-5) "Non-operating holding company" is a general
16 business corporation functioning solely for the purpose of
17 forming, owning, acquiring, and managing subsidiary business
18 entities and having no other business operations not related
19 thereto.

20 (d-10) "Own", "owned," or "owning" means shares (1) with
21 respect to which a person has title or to which a person's
22 nominee, custodian, or other agent has title and which such
23 nominee, custodian, or other agent is holding on behalf of the
24 person or (2) with respect to which a person (A) has purchased
25 or has entered into an unconditional contract, binding on both
26 parties, to purchase the shares, but has not yet received the

1 shares, (B) owns a security convertible into or exchangeable
2 for the shares and has tendered the security for conversion or
3 exchange, (C) has an option to purchase or acquire, or rights
4 or warrants to subscribe to, the shares and has exercised such
5 option, rights, or warrants, or (D) holds a securities futures
6 contract to purchase the shares and has received notice that
7 the position will be physically settled and is irrevocably
8 bound to receive the underlying shares. To the extent that any
9 affiliates of the stockholder or beneficial owner are acting in
10 concert with the stockholder or beneficial owner, the
11 determination of shares owned may include the effect of
12 aggregating the shares owned by the affiliate or affiliates.
13 Whether shares constitute shares owned shall be decided by the
14 Director in his or her reasonable determination.

15 (e) "Person" means an individual, a corporation, a limited
16 liability company, a partnership, an association, a joint stock
17 company, a trust, an unincorporated organization, any similar
18 entity or any combination of the foregoing acting in concert,
19 but does not include any securities broker performing no more
20 than the usual and customary broker's function or joint venture
21 partnership exclusively engaged in owning, managing, leasing
22 or developing real or tangible personal property other than
23 capital stock.

24 (e-5) "Policyholders' proxies" are proxies that give the
25 holder the right to vote for the election of the directors and
26 other corporate actions not in the day to day operations of the

1 company.

2 (f) (Blank). ~~"Securityholder" of a specified person is one~~
3 ~~who owns any security of such person, including common stock,~~
4 ~~preferred stock, debt obligations, and any other security~~
5 ~~convertible into or evidencing the right to acquire any of the~~
6 ~~foregoing.~~

7 (g) "Subsidiary" of a specified person is an affiliate
8 controlled by such person directly, or indirectly through one
9 or more intermediaries.

10 (h) "Voting Security" is a security which gives to the
11 holder thereof the right to vote for the election of directors
12 and includes any security convertible into or evidencing a
13 right to acquire a voting security.

14 (i) (Blank). ~~"Acquiring Party" means such person by whom or~~
15 ~~on whose behalf the merger or other acquisition of control~~
16 ~~referred to in Section 131.4 is to be affected and any person~~
17 ~~that controls such person or persons.~~

18 (j) (Blank). ~~"Policyholders' Proxies" are proxies which~~
19 ~~give the holder the right to vote for the election of the~~
20 ~~directors and other corporate actions not in the day to day~~
21 ~~operations of the company.~~

22 (k) (Blank). ~~"Non-operating Holding Company" is a general~~
23 ~~business corporation functioning solely for the purpose of~~
24 ~~forming, owning, acquiring and managing subsidiary business~~
25 ~~entities and having no other business operations not related~~
26 ~~thereto.~~

1 (Source: P.A. 84-805.)

2 (215 ILCS 5/131.2) (from Ch. 73, par. 743.2)

3 Sec. 131.2. Subsidiaries. A domestic company, either by
4 itself or in cooperation with one or more persons, may organize
5 or acquire one or more subsidiaries. The subsidiaries may
6 conduct any kind of business or businesses and their authority
7 to do so shall not be limited by reason of the fact that they
8 are subsidiaries of a domestic company. In addition to
9 investments in common stock, preferred stock, debt obligations
10 and other securities of subsidiaries permitted under all other
11 sections of this Code, a domestic company, other than a company
12 subject to Articles XVIII or XIX, may also:

13 (a) invest, in common stock, preferred stock, debt
14 obligations, and other securities of one or more
15 subsidiaries, amounts which do not exceed the lesser of 10%
16 of the company's assets or 50% of the company's surplus as
17 regards policyholders, but after such investments the
18 company's surplus as regards policyholders must be
19 reasonable in relation to the company's outstanding
20 liabilities and adequate to its financial needs. In
21 calculating the amount of such investments, there must be
22 included (i) total net monies or other consideration
23 expended and obligations assumed in the acquisition or
24 formation of a subsidiary, including all organizational
25 expenses and contributions to capital and surplus of the

1 subsidiary whether or not represented by the purchase of
2 capital stock or issuance of other securities, and (ii) all
3 amounts expended in acquiring additional common stock,
4 preferred stock, debt obligations, and other securities,
5 and all contributions to the capital or surplus of a
6 subsidiary subsequent to its acquisition or formation;

7 (b) invest any amount in common stock, preferred stock,
8 debt obligations and other securities of one or more direct
9 subsidiaries acting only as a non-operating holding
10 company or engaged or organized exclusively for the
11 ownership and management of assets authorized as
12 investments for the company, provided that each subsidiary
13 agrees to limit its investments in any asset so that such
14 investments will not cause the amount of the total
15 investment of the company to exceed the amount the company
16 could have invested in such asset. For the purpose of this
17 clause, "the total investment of the company" will include
18 (i) any direct investment by the company in an asset and
19 (ii) the company's proportionate share of any investment in
20 such asset by any ~~direct~~ subsidiary of the company, which
21 must be calculated by multiplying the amount of the
22 subsidiary's investment by the percentage of the company's
23 ownership of such subsidiary;

24 (c) invest in common stock of one or more insurance
25 corporation subsidiaries any amount by which the investing
26 company's capital and surplus exceeds the minimum capital

1 and surplus required of a new company under Section 13 to
2 qualify for a certificate of authority to write the kind or
3 kinds of insurance which the company is authorized to
4 write, if the company is a stock company, and if the
5 company is other than a stock company, the company may
6 invest the amount by which the company's surplus exceeds
7 the minimum surplus required of a new company under Section
8 43 or 66 to qualify for a certificate of authority to write
9 the kind or kinds of insurance which the company is
10 authorized to write;

11 (d) with the approval of the Director, invest any
12 greater amount in common stock, preferred stock, debt
13 obligations, or other securities of one or more
14 subsidiaries, but after such investment the company's
15 surplus as regards policyholders must be reasonable in
16 relation to the company's outstanding liabilities and
17 adequate to its financial needs.

18 (Source: P.A. 85-1186.)

19 (215 ILCS 5/131.3) (from Ch. 73, par. 743.3)

20 Sec. 131.3. (1) Investments in common stock, preferred
21 stock, debt obligations or other securities of subsidiaries
22 made under Section 131.2 of this Article are subject to
23 Sections 126.3, 126.4, 126.5, 126.6, 126.7, and 133 of this
24 Code but are not subject to any other of the otherwise
25 applicable restrictions or prohibitions contained in this Code

1 applicable to such investments of a domestic company subject to
2 this Code.

3 (2) If a company ceases to control a subsidiary, it must
4 dispose of any investment therein made under this section
5 within 3 years from the time of the cessation of control or
6 within such further time as the Director may prescribe, unless
7 at any time after the investment is made, the investment meets
8 the requirements for investment under any other section of this
9 Code, and the company has notified the Director thereof.

10 (3) Whether any investment made pursuant to this Section
11 meets the applicable requirements of this Section is to be
12 determined before the investment is made by calculating the
13 applicable investment limitations as though the investment had
14 already been made, taking into account the then outstanding
15 principal balance on all previous investments in debt
16 obligations, and the value of all previous investments in
17 equity securities as of the day they were made, net of any
18 return of capital invested, not including dividends.

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

20 (215 ILCS 5/131.4) (from Ch. 73, par. 743.4)

21 Sec. 131.4. Acquisition of control of or merger with
22 domestic company.

23 (a) No person other than the issuer may make a tender for
24 or a request or invitation for tenders of, or enter into an
25 agreement to exchange securities for, or seek to acquire or

1 acquire shareholders' proxies to vote or seek to acquire or
2 acquire in the open market, or otherwise, any voting security
3 of a domestic company or acquire policyholders' proxies of a
4 domestic company or any entity that controls a domestic
5 company, for consideration if, after the consummation thereof,
6 that person would, directly or indirectly, (or by conversion or
7 by exercise of any right to acquire) be in control of the
8 company, and no person may enter into an agreement to merge or
9 consolidate with or otherwise to acquire control of a domestic
10 company, unless the offer, request, invitation, or agreement is
11 conditioned on receiving the approval of the Director based on
12 Section 131.8 of this Article and no such acquisition of
13 control or a merger with a domestic company may be consummated
14 unless the person has filed with the Director and has sent to
15 the company a statement containing the information required by
16 Section 131.5 and the Director has approved the transaction or
17 granted an exemption. ~~For purposes of this Section a domestic~~
18 ~~company includes any other person which controls a domestic~~
19 ~~company or holds or controls sufficient policyholders' proxies~~
20 ~~to elect the majority of the board of directors of the domestic~~
21 ~~company.~~ Prior to the acquisition, the Director may conclude
22 that a statement need not be filed by the acquiring party if
23 the acquiring party demonstrates to the satisfaction of the
24 Director that:

- 25 (1) such transaction will not result in the change of
26 control of the domestic company; or

1 (2) (blank); ~~the person which is subject to the~~
2 ~~acquisition has assets in excess of \$1,000,000 and~~
3 ~~shareholders of record of 500 or more and its insurance~~
4 ~~business either directly or through its affiliates is an~~
5 ~~insignificant portion of its total business; or~~

6 (3) the acquisition of, or attempt to acquire control
7 of, such other person is subject to requirements in the
8 jurisdiction of its domicile which are substantially
9 similar to those contained in this Section and Sections
10 131.5 through 131.12; or

11 (4) the control of the policyholders' proxies is being
12 acquired solely by virtue of the holders official office
13 and not as the result of any agreement or for any
14 consideration.

15 The purpose of this Section is to afford to the
16 Director the opportunity to review acquisitions in order to
17 determine whether or not the acquisition would be adverse
18 to the interests of the existing and future policyholders
19 of the company.

20 (b) For purposes of this Section, any controlling person of
21 a domestic company seeking to divest its controlling interest
22 in the domestic company in any manner shall file with the
23 Director, with a copy to the company, confidential notice of
24 its proposed divestiture at least 30 days prior to the
25 cessation of control. The Director shall determine those
26 instances in which the party or parties seeking to divest or to

1 acquire a controlling interest in a company shall be required
2 to file for and obtain approval of the transaction. The
3 information shall remain confidential until the conclusion of
4 the transaction unless the Director, in his or her discretion,
5 determines that confidential treatment shall interfere with
6 enforcement of this Section. If the statement referred to in
7 subsection (a) of this Section is otherwise filed in connection
8 with the proposed divesture or related acquisition, this
9 subsection (b) shall not apply.

10 (c) For purposes of this Section, a domestic company shall
11 include any person controlling a domestic company unless the
12 person, as determined by the Director, is either directly or
13 through its affiliates primarily engaged in business other than
14 the business of insurance. For the purposes of this Section,
15 "person" shall not include any securities broker holding, in
16 the usual and customary broker's function, less than 20% of the
17 voting securities of an insurance company or of any person that
18 controls an insurance company.

19 (Source: P.A. 86-784.)

20 (215 ILCS 5/131.5) (from Ch. 73, par. 743.5)

21 Sec. 131.5. Statement; contents ~~Statement-Contents~~. In
22 order to seek the approval of the Director pursuant to Section
23 131.8, the applicant must file a statement with the Director
24 under oath or affirmation which contains as a minimum the
25 following information:

1 (1) The name and address of each acquiring party, and

2 (a) if such person is an individual, his principal
3 occupation and all offices and positions held during the past 5
4 years, and any conviction of crimes, other than minor traffic
5 violations, during the past 10 years;

6 (b) if such person is not an individual, a report of the
7 nature of its business operations during the past 5 years or
8 for such lesser period as the person and any predecessors
9 thereof has been in existence; an informative description of
10 the business intended to be conducted by the person and the
11 person's subsidiaries; and a list of all individuals who are or
12 who have been selected to become directors or executive
13 officers of the person, or who perform or will perform
14 functions appropriate to such positions. The list must include
15 for each individual the information required by subsection
16 (1) (a).

17 (2) The source, nature and amount of the consideration used
18 or to be used in effecting the merger, consolidation or other
19 acquisition of control, a description of any transaction
20 wherein funds were or are to be obtained for any such purpose,
21 including any pledge of the company's own securities or the
22 securities of any of its subsidiaries or affiliates, and the
23 identity of persons furnishing such consideration. However,
24 where a source of such consideration is a loan made in the
25 lender's ordinary course of business, the identity of the
26 lender must remain confidential, if the person filing the

1 statement so requests.

2 (3) Financial information as to the earnings and financial
3 condition of each acquiring party for the preceding 5 fiscal
4 years of each acquiring party (or for such lesser period as the
5 acquiring party and any predecessors thereof have been in
6 existence) audited by an independent certified public
7 accountant in accordance with generally accepted auditing
8 standards and similar unaudited information ~~for the second and~~
9 ~~third preceding fiscal years and~~ as of a date not earlier than
10 90 days prior to the filing of the statement. ~~If an acquiring~~
11 ~~party is an insurer which has been actively engaged in the~~
12 ~~business of insurance for 10 years, the financial information~~
13 ~~need not be audited, provided it is based on the annual~~
14 ~~statements of such acquiring person filed with the insurance~~
15 ~~department of the person's domiciliary state and is in~~
16 ~~accordance with the requirement of insurance or other~~
17 ~~accounting principles prescribed or permitted under the laws~~
18 ~~and regulations of such state.~~

19 ~~(a) When an applicant is controlled by an individual,~~
20 ~~financial information for that individual will not be required~~
21 ~~if the applicant is currently subject to the registration and~~
22 ~~reporting requirements of Section 12(g) of the Securities~~
23 ~~Exchange Act of 1934 or is an insurer which has been actively~~
24 ~~engaged in the business of insurance for a period in excess of~~
25 ~~10 years;~~

26 ~~(b) When an individual as an acquiring party must file~~

1 ~~financial information under this paragraph such information~~
2 ~~need not be delivered to the company. However, such information~~
3 ~~shall be available if the Director holds a hearing pursuant to~~
4 ~~Section 131.8.~~

5 (4) Any plans or proposals which each acquiring party may
6 have to liquidate such company, to sell its assets or merge or
7 consolidate it with any person, or to make any other material
8 change in its business or corporate structure or management.

9 (5) The number of shares of any security referred to in
10 Section 131.4 which each acquiring party proposes to acquire,
11 ~~and~~ the terms of the offer, request, invitation, agreement, or
12 acquisition referred to in Section 131.4, and a statement as to
13 the method by which the fairness of the proposal was arrived.

14 (6) The amount of each class of any security referred to in
15 Section 131.4 which is beneficially owned or concerning which
16 there is a right to acquire beneficial ownership by each
17 acquiring party.

18 (7) A full description of any existing contracts,
19 arrangements or understandings with respect to any security
20 referred to in Section 131.4 in which any acquiring party is
21 involved, including but not limited to transfer of any of the
22 securities, joint ventures, loan or option arrangements, puts
23 or calls, guarantees of loans, guarantees against loss or
24 guarantees of profits, division of losses or profits, or the
25 giving or withholding of proxies. The description must identify
26 the persons with whom such contracts, arrangements or

1 understandings have been entered into.

2 (8) A description of the acquisition of any security or
3 policyholders' proxy referred to in Section 131.4 during the 12
4 calendar months preceding the filing of the statement, by any
5 acquiring party, including the dates of acquisition, names of
6 the acquiring parties ~~acquirers~~, and consideration paid or
7 agreed to be paid therefor.

8 (9) A description of any recommendations to acquire any
9 security referred to in Section 131.4 made during the 12
10 calendar months preceding the filing of the statement, by any
11 acquiring party, or by anyone based upon interviews or at the
12 suggestion of such acquiring party.

13 (10) Copies of all tender offers for, requests or
14 invitations for tenders of, exchange offers for, and agreements
15 to acquire or exchange any securities referred to in Section
16 131.4, and (if distributed) of additional soliciting material
17 relating thereto.

18 (11) The terms of any agreement, contract or understanding
19 made with, or proposed to be made with, any broker-dealer as to
20 solicitation of securities referred to in Section 131.4 for
21 tender, and the amount of any fees, commissions or other
22 compensation to be paid to broker-dealers with regard thereto.

23 (12) Beginning July 1, 2014, an agreement by the person
24 required to file the statement referred to in this Section
25 131.5 that the person will provide the annual report specified
26 in Section 131.14b for so long as control exists.

1 (13) Beginning July 1, 2014, an acknowledgement by the
2 person required to file the statement referred to in this
3 Section 131.5 that the person and all subsidiaries within its
4 control in the insurance holding company system shall provide
5 information to the Director upon request as necessary to
6 evaluate enterprise risk to the company.

7 (14) Any additional information as the Director may by rule
8 or regulation prescribe as necessary or appropriate for the
9 protection of policyholders or in the public interest.

10 (15) With respect to each acquiring party, the following
11 information:

12 (A) the name and address of all associated persons and
13 a detailed description of every agreement, arrangement,
14 and understanding between the acquiring party and all
15 associated persons in connection with the merger,
16 consolidation, or other acquisition of control;

17 (B) the class or series and number of shares of
18 securities of the company that are directly or indirectly
19 owned beneficially and of record by the acquiring party or
20 the associated persons or both; and

21 (C) a detailed description of each proxy, contract,
22 arrangement, understanding, or relationship pursuant to
23 which the acquiring party or the associated persons, or
24 both, have a right to vote, or cause or direct the vote of,
25 any securities of the company.

26 (Source: P.A. 84-805.)

1 (215 ILCS 5/131.6) (from Ch. 73, par. 743.6)

2 Sec. 131.6. (1) If the person required to file the
3 statement referred to in Section 131.5 is a partnership,
4 limited partnership, syndicate or other group, the Director may
5 require that the information be given with respect to each
6 partner of such partnership or limited partnership, each member
7 of such syndicate or group, and each person who controls such
8 partner or member. If any partner, member or person is a
9 corporation or the person required to file the statement
10 referred to in Section 131.5 is a corporation, the Director may
11 require that the information be given with respect to the
12 corporation, each officer and director of the corporation, and
13 each person who is directly or indirectly the beneficial owner
14 of more than 10% of the outstanding voting securities of the
15 corporation.

16 (2) If any material change occurs in the facts set forth in
17 the statement filed with the Director and sent to the company
18 under Section 131.5 ~~131.9~~, an amendment setting forth the
19 change, together with copies of all documents and other
20 material relevant to the change, must be filed with the
21 Director and sent to the company within 2 business days after
22 the person learns of the change.

23 (Source: P.A. 84-805.)

24 (215 ILCS 5/131.8) (from Ch. 73, par. 743.8)

1 Sec. 131.8. (1) After the statement required by Section
2 131.5 has been filed, the Director shall approve ~~must~~
3 ~~disapprove~~ any merger, consolidation or other acquisition of
4 control referred to in Section 131.4 unless ~~the acquiring party~~
5 ~~demonstrates to~~ the Director finds that:

6 (a) after the ~~After~~ change of control, the domestic
7 company referred to in Section 131.4 would not be able to
8 satisfy the requirements for the issuance of a license to
9 write the line or lines of insurance for which it is
10 presently licensed;

11 (b) the effect of the merger, consolidation or other
12 acquisition of control would be not substantially to lessen
13 competition in insurance in this State or ~~not~~ tend to
14 create a monopoly therein. In applying the competitive
15 standard in this paragraph:

16 (i) the informational requirements of subsection
17 (3)(a) and the standards of subsection (4)(b) of
18 Section 131.12a shall apply,

19 (ii) the merger or other acquisition shall not be
20 found substantially to lessen competition in insurance
21 in this State or tend to create a monopoly therein
22 ~~disapproved~~ if the Director finds ~~acquiring party~~
23 ~~demonstrates~~ that any of the situations meeting the
24 criteria provided by subsection (4)(c) of Section
25 131.12a exist, and

26 (iii) the Director may condition the approval of

1 the merger or other acquisition on the removal of the
2 basis of disapproval within a specified period of time;

3 (c) the financial condition of any acquiring party is
4 such as might ~~to not~~ jeopardize the financial stability of
5 the domestic company or ~~not~~ jeopardize the interests of its
6 policyholders;

7 (d) the plans or proposals which the acquiring party
8 has to liquidate the domestic company, sell its assets or
9 consolidate or merge it with any person, or to make any
10 other material change in its business or corporate
11 structure or management, are unfair ~~fair~~ and unreasonable
12 ~~reasonable~~ to policyholders of such company and not in the
13 public interest; or

14 (e) the competence, experience and integrity of those
15 persons who would control the operation of the domestic
16 company are such that it would be in the best interests of
17 policyholders of such company and of the insurance buying
18 public to permit the merger, consolidation or other
19 acquisition of control.

20 (2) The Director may hold a public hearing on any merger,
21 consolidation or other acquisition of control referred to in
22 Section 131.4 if the Director determines that the statement
23 filed as required by Section 131.5 does not demonstrate
24 compliance with the standards referred to in subsection (1), of
25 this Section, or if he determines that such acquisition of
26 control is likely to be hazardous or prejudicial to the ~~will~~

1 ~~adversely affect policyholders or the~~ insurance buying public.

2 (3) The public hearing referred to in subsection (2) must
3 be held within 60 days after the statement required by Section
4 131.5 is filed, and at least 20 days' notice thereof must be
5 given by the Director to the person filing the statement and to
6 the domestic company. Not less than 7 ~~12~~ days' notice of such
7 hearing must be given by the person filing the statement to
8 such other persons as may be designated by the Director and by
9 the company to its shareholders ~~securityholders~~. The Director
10 must make a determination within 60 ~~30~~ days after the
11 conclusion of the hearing. At the hearing, the person filing
12 the statement, the domestic company, any person to whom notice
13 of the hearing was sent, and any other person whose interests
14 may be affected thereby has the right to present evidence,
15 examine and cross-examine witnesses, and offer oral and written
16 arguments and in connection therewith is entitled to conduct
17 discovery proceedings in the same manner as is presently
18 allowed in the Circuit Courts of this State. All discovery
19 proceedings must be concluded not later than 3 days prior to
20 the commencement of the public hearing.

21 (4) If the proposed acquisition of control will require the
22 approval of more than one state insurance commissioner, the
23 public hearing referred to in subsection (2) of this Section
24 may be held on a consolidated basis upon request of the person
25 filing the statement referred to in Section 131.5 of this Code.
26 Such person shall file the statement referred to in Section

1 131.5 of this Code with the National Association of Insurance
2 Commissioners (NAIC) within 5 days after making the request for
3 a public hearing. A commissioner may opt out of a consolidated
4 hearing and shall provide notice to the applicant of the opt
5 out within 10 days after the receipt of the statement referred
6 to in Section 131.5 of this Code. A hearing conducted on a
7 consolidated basis shall be public and shall be held within the
8 United States before the commissioners of the states in which
9 the companies are domiciled. Such commissioners shall hear and
10 receive evidence. A commissioner may attend such hearing in
11 person or by telecommunication.

12 (5) In connection with a change of control of a domestic
13 company, any determination by the Director that the person
14 acquiring control of the company shall be required to maintain
15 or restore the capital of the company to the level required by
16 the laws and regulations of this State shall be made not later
17 than 60 days after the filing of the statement required by
18 Section 131.5 of this Code.

19 (Source: P.A. 84-805.)

20 (215 ILCS 5/131.8a) (from Ch. 73, par. 743.8a)

21 Sec. 131.8a. The Director may retain at the applicant's
22 expense any attorneys, actuaries, accountants and other
23 experts not otherwise a part of the Director's staff as may be
24 reasonably necessary to assist in reviewing ~~the conduct of~~
25 ~~financial or character examinations in conjunction with an~~

1 acquisition proposed under Section 131.4. ~~The applicant shall~~
2 ~~deposit with the Director cash, bonds or securities, acceptable~~
3 ~~to the Director, in a reasonable amount not to exceed \$100,000,~~
4 ~~for purpose of securing the payment of any expert's cost.~~

5 (Source: P.A. 86-753.)

6 (215 ILCS 5/131.9a new)

7 Sec. 131.9a. Exemptions. Sections 131.4 through 131.12 do
8 not apply to:

9 (1) any transaction that is subject to Article X of
10 this Code dealing with merger, consolidation, or plans of
11 exchange; or

12 (2) any offer, request, invitation, agreement, or
13 acquisition that the Director by order exempts therefrom as
14 (A) not having been made or entered into for the purpose
15 and not having the effect of changing or influencing the
16 control of a domestic company or (B) otherwise not
17 comprehended within the purposes of Sections 131.4 through
18 131.12.

19 (215 ILCS 5/131.11) (from Ch. 73, par. 743.11)

20 Sec. 131.11. The following are violations of Sections 131.4
21 through 131.12:

22 (1) the failure to file any statement, amendment, or other
23 material required to be filed under Sections 131.4 or 131.5; or

24 (2) the effectuation or any attempt to effectuate an

1 acquisition of control of, divestiture of, or merger or
2 consolidation with, a domestic company unless the Director has
3 given his approval ~~thereto~~.

4 (Source: P.A. 77-673.)

5 (215 ILCS 5/131.12) (from Ch. 73, par. 743.12)

6 Sec. 131.12. The courts of this State are hereby vested
7 with jurisdiction over every person not resident, domiciled, or
8 authorized to do business in this State who files a statement
9 with the Director under Section 131.4, and over all actions
10 involving such person arising out of violations of Sections
11 131.4, 131.5, 131.6, ~~131.9~~ or 131.11, and each such person is
12 deemed to have performed acts equivalent to and constituting an
13 appointment by such a person of the Director to be his true and
14 lawful attorney upon whom may be served all lawful process in
15 any action, suit or proceeding arising out of violations of
16 Sections 131.4, 131.5, 131.6, ~~131.9~~ or 131.11. Copies of all
17 such lawful process must be served on the Director and
18 transmitted by registered or certified mail by the Director to
19 such person at his last known address.

20 (Source: P.A. 77-673.)

21 (215 ILCS 5/131.12a) (from Ch. 73, par. 743.12a)

22 Sec. 131.12a. Acquisitions involving companies ~~insurers~~
23 not otherwise covered.

24 (1) Definitions. The following definitions shall apply for

1 the purposes of this Section only:

2 (a) "Acquisition" means any agreement, arrangement or
3 activity the consummation of which results in a person
4 acquiring directly or indirectly the control of another person
5 or control of the insurance in force of another person, and
6 includes but is not limited to the acquisition of voting
7 securities, the acquisition of assets, the transaction of bulk
8 reinsurance and the act of merging or consolidating.

9 (b) An "involved company insurer" includes a company an
10 ~~insurer~~ which either acquires or is acquired, is affiliated
11 with an acquirer or acquired or is the result of a merger.

12 (2) Scope.

13 (a) Except as exempted in paragraph (b) of this subsection
14 (2), this Section applies to any acquisition in which there is
15 a change in control of a company an insurer authorized to do
16 business in this State.

17 (b) This Section shall not apply to the following:

18 (i) an acquisition subject to approval or disapproval
19 by the Director pursuant to Section 131.8;

20 (ii) a purchase of securities solely for investment
21 purposes so long as such securities are not used by voting
22 or otherwise to cause or attempt to cause the substantial
23 lessening of competition in any insurance market in this
24 State. If a purchase of securities results in a presumption
25 of control under subsection (b) of Section 131.1, it is not

1 solely for investment purposes unless the commissioner of
2 the company's ~~insurer's~~ state of domicile accepts a
3 disclaimer of control or affirmatively finds that control
4 does not exist and such disclaimer action or affirmative
5 finding is communicated by the domiciliary commissioner to
6 the Director of this State;

7 (iii) the acquisition of a person by another person
8 when both persons are neither directly nor through
9 affiliates primarily engaged in the business of insurance,
10 if pre-acquisition notification is filed with the Director
11 in accordance with subsection (3)(a) of this Section, 30
12 days prior to the proposed effective date of the
13 acquisition. However, such pre-acquisition notification is
14 not required for exclusion from this Section if the
15 acquisition would otherwise be excluded from this Section
16 by any other subparagraph of subsection (2)(b);

17 (iv) the acquisition of already affiliated persons;

18 (v) an acquisition if, as an immediate result of the
19 acquisition,

20 (A) in no market would the combined market share of
21 the involved companies ~~insurers~~ exceed 5% of the total
22 market,

23 (B) there would be no increase in any market share,
24 or

25 (C) in no market would the combined market share of
26 the involved companies ~~insurers~~ exceed 12% of the total

1 market, and the market share increase by more than 2%
2 of the total market.

3 For the purpose of this subparagraph (b)(v), "market"
4 means direct written insurance premium in this State for a
5 line of business as contained in the annual statement
6 required to be filed by companies ~~insurers~~ licensed to do
7 business in this State;

8 (vi) an acquisition for which a pre-acquisition
9 notification would be required pursuant to this Section due
10 solely to the resulting effect on the ocean marine
11 insurance line of business;

12 (vii) an acquisition of a company ~~an insurer~~ whose
13 domiciliary commissioner affirmatively finds that such
14 company ~~insurer~~ is in failing condition; there is a lack of
15 feasible alternative to improving such condition; the
16 public benefits of improving such company's ~~insurer's~~
17 condition through the acquisition exceed the public
18 benefits that would arise from not lessening competition;
19 and such findings are communicated by the domiciliary
20 commissioner to the Director of this State.

21 (3) Pre-acquisition Notification; Waiting Period. An
22 acquisition covered by subsection (2) may be subject to an
23 order pursuant to subsection (5) unless the acquiring person
24 files a pre-acquisition notification and the waiting period has
25 expired. The acquired person may file a pre-acquisition

1 notification. The Director shall give confidential treatment
2 to information submitted under this subsection in the same
3 manner as provided in Section 131.22 of this Article.

4 (a) The pre-acquisition notification shall be in such form
5 and contain such information as prescribed by the Director,
6 which shall conform substantially to the form of notification
7 adopted by the National Association of Insurance Commissioners
8 relating to those markets which, under subsection (b)(v) of
9 Section (2), cause the acquisition not to be exempted from the
10 provisions of this Section. The Director may require such
11 additional material and information as he deems necessary to
12 determine whether the proposed acquisition, if consummated,
13 would violate the competitive standard of subsection (4). The
14 required information may include an opinion of an economist as
15 to the competitive impact of the acquisition in this State
16 accompanied by a summary of the education and experience of
17 such person indicating his or her ability to render an informed
18 opinion.

19 (b) The waiting period required shall begin on the date of
20 the receipt by the Director of a pre-acquisition notification
21 and shall end on the earlier of the 30th day after the date of
22 such receipt, or termination of the waiting period by the
23 Director. Prior to the end of the waiting period, the Director
24 on a one time basis may require the submission of additional
25 needed information relevant to the proposed acquisition, in
26 which event the waiting period shall end on the earlier of the

1 30th day after the receipt of such additional information by
 2 the Director or termination of the waiting period by the
 3 Director.

4 (4) Competitive Standard.

5 (a) The Director may enter an order under subsection (5) (a)
 6 with respect to an acquisition if there is substantial evidence
 7 that the effect of the acquisition may be substantially to
 8 lessen competition in any line of insurance in this State or
 9 tend to create a monopoly therein or if the company insurer
 10 fails to file adequate information in compliance with
 11 subsection (3).

12 (b) In determining whether a proposed acquisition would
 13 violate the competitive standard of paragraph (a) of this
 14 subsection the Director shall consider the following:

15 (i) any acquisition covered under subsection (2)
 16 involving 2 or more companies insurers competing in the
 17 same market is prima facie evidence of violation of the
 18 competitive standards:

19 (A) if the market is highly concentrated and the
 20 involved companies insurers possess the following
 21 shares of the market:

22	<u>Company Insurer</u> A	<u>Company Insurer</u> B
23	4%	4% or more
24	10%	2% or more
25	15%	1% or more

1 (B) if the market is not highly concentrated and
 2 the involved companies ~~insurers~~ possess the following
 3 shares of the market:

4	<u>Company</u> Insurer A	<u>Company</u> Insurer B
5	5%	5% or more
6	10%	4% or more
7	15%	3% or more
8	19%	1% or more

9 A highly concentrated market is one in which the share
 10 of the 4 largest companies ~~insurers~~ is 75% or more of the
 11 market. Percentages not shown in the tables are to be
 12 interpolated proportionately to the percentages that are
 13 shown. If more than 2 companies ~~insurers~~ are involved,
 14 exceeding the total of the 2 columns in the table is prima
 15 facie evidence of violation of the competitive standard in
 16 paragraph (a) of this subsection. For the purpose of this
 17 subparagraph, the company ~~insurer~~ with the largest share of
 18 the market shall be deemed to be Company ~~Insurer~~ A.

19 (ii) There is a significant trend toward increased
 20 concentration when the aggregate market share of any
 21 grouping of the largest companies ~~insurers~~ in the market
 22 from the 2 largest to the 8 largest has increased by 7% or
 23 more of the market over a period of time extending from any
 24 base year 5-10 years prior to the acquisition up to the
 25 time of the acquisition. Any acquisition covered under
 26 subsection (2) involving 2 or more companies ~~insurers~~

1 competing in the same market is prima facie evidence of
2 violation of the competitive standard in paragraph (a) of
3 this subsection if:

4 (A) there is a significant trend toward increased
5 concentration in the market,

6 (B) one of the companies ~~insurers~~ involved is one
7 of the companies ~~insurers~~ in a grouping of such large
8 companies ~~insurers~~ showing the requisite increase in
9 the market share, and

10 (C) another involved company's ~~insurer's~~ market is
11 2% or more.

12 (iii) For the purpose of subsection (4) (b):

13 (A) The term "company" ~~"insurer"~~ includes any
14 company or group of companies under common management,
15 ownership or control.

16 (B) The term "market" means the relevant product
17 and geographic markets. In determining the relevant
18 product and geographical markets, the Director shall
19 give due consideration to, among other things, the
20 definitions or guidelines, if any, promulgated by the
21 National Association of Insurance Commissioners and to
22 information, if any, submitted by parties to the
23 acquisition. In the absence of sufficient information
24 to the contrary, the relevant product market is assumed
25 to be the direct written insurance premium for a line
26 of business with such line being that used in the

1 annual statement required to be filed by companies
2 ~~insurers~~ doing business in this State and the relevant
3 geographical market is assumed to be this State.

4 (C) The burden of showing prima facie evidence of
5 violation of the competitive standard rests upon the
6 Director.

7 (iv) Even though an acquisition is not prima facie
8 violative of the competitive standard under subparagraph
9 (b) (i) and (b) (ii) of this subsection the Director may
10 establish the requisite anticompetitive effect based upon
11 other substantial evidence. Even though an acquisition is
12 prima facie violative of the competitive standard under
13 subparagraphs (b) (i) and (b) (ii) of this subsection (4), a
14 party may establish the absence of the requisite
15 anticompetitive effect based upon other substantial
16 evidence. Relevant factors in making a determination under
17 this paragraph include, but are not limited to, the
18 following: market shares, volatility of ranking of market
19 leaders, number of competitors, concentration, trend of
20 concentration in the industry, and ease of entry and exit
21 into the market.

22 (c) An order may not be entered under subsection (5) (a) if:

23 (i) the acquisition will yield substantial economies
24 of scale or economies in resource utilization that cannot
25 be feasibly achieved in any other way, and the public
26 benefits which would arise from such economies exceed the

1 public benefits which would arise from not lessening
2 competition; or

3 (ii) the acquisition will substantially increase the
4 availability of insurance, and the public benefits of such
5 increase exceed the public benefits which would arise from
6 not lessening competition.

7 (5) Orders and Penalties:

8 (a) (i) If an acquisition violates the standard of this
9 Section, the Director may enter an order

10 (A) requiring an involved company insurer to cease
11 and desist from doing business in this State with
12 respect to the line or lines of insurance involved in
13 the violation, or

14 (B) denying the application of an acquired or
15 acquiring company insurer for a license to do business
16 in this State.

17 (ii) Such an order shall not be entered unless there is
18 a hearing, notice of such hearing is issued prior to the
19 end of the waiting period ~~and not less than 15 days prior~~
20 ~~to the end of the waiting period~~ and not less than 15 days
21 prior to the hearing, and the hearing is concluded and the
22 order is issued no later than 60 days after the end of the
23 waiting period. Every order shall be accompanied by a
24 written decision of the Director setting forth his findings
25 of fact and conclusions of law.

1 (iii) (Blank). ~~An order entered under this paragraph~~
2 ~~shall not become final earlier than 30 days after it is~~
3 ~~issued, during which time the involved insurer may submit a~~
4 ~~plan to remedy the anticompetitive impact of the~~
5 ~~acquisition within a reasonable time. Based upon such plan~~
6 ~~or other information, the Director shall specify, if any,~~
7 ~~the conditions under and the time period during which the~~
8 ~~aspects of the acquisition causing a violation of the~~
9 ~~standards of this Section would be remedied and the order~~
10 ~~vacated or modified.~~

11 (iv) An order pursuant to this paragraph shall not
12 apply if the acquisition is not consummated.

13 (b) Any person who violates a cease and desist order of the
14 Director under paragraph (a) and while such order is in effect
15 may after notice and hearing and upon order of the Director be
16 subject at the discretion of the Director to any one or more of
17 the following:

18 (i) a monetary penalty of not more than \$10,000 for
19 every day of violation or

20 (ii) suspension or revocation of such person's license
21 ~~or both.~~

22 (c) Any company insurer or other person who fails to make
23 any filing required by this Section and who also fails to
24 demonstrate a good faith effort to comply with any such filing
25 requirement shall be subject to a civil penalty of not more
26 than \$50,000.

1 (6) Inapplicable Provisions. Subsections (2) and (3) of
2 Section 131.23 and Section 131.25 do not apply to acquisitions
3 covered under subsection (2).

4 (Source: P.A. 92-16, eff. 6-28-01.)

5 (215 ILCS 5/131.13) (from Ch. 73, par. 743.13)

6 Sec. 131.13. Registration of companies. Every company
7 which is authorized to do business in this State and which is a
8 member of an insurance holding company system must register
9 with the Director, except a foreign or alien company subject to
10 registration requirements and standards adopted by statute or
11 regulation in the jurisdiction of its domicile which are
12 substantially similar to those contained in this section and
13 Sections 131.14 through 131.20a ~~131.19~~. Any company which is
14 subject to registration under this section must register within
15 60 days after the effective date of this Article or 15 days
16 after it becomes subject to registration, whichever is later,
17 unless the Director for good cause shown extends the time for
18 registration, and then within such extended time. The Director
19 may require any authorized company which is a member of a
20 holding company system which is not subject to registration
21 under this section to furnish a copy of the registration
22 statement or other information filed by such company with the
23 insurance regulatory authority of its domiciliary
24 jurisdiction.

1 ~~If upon review of the information filed pursuant to this~~
2 ~~Section and the information included in the annual statement~~
3 ~~filed pursuant to Section 136, the Director determines there is~~
4 ~~a potential for adverse economic impact due to substantial~~
5 ~~ownership of companies authorized to do business in this State~~
6 ~~by persons who are not citizens or residents of the United~~
7 ~~States or entities which are not organized or created under the~~
8 ~~laws of any state or territory of the United States, he shall~~
9 ~~report such determination along with any legislative~~
10 ~~recommendations to the General Assembly.~~

11 (Source: P.A. 84-805.)

12 (215 ILCS 5/131.14) (from Ch. 73, par. 743.14)

13 Sec. 131.14. Every company subject to registration must
14 file a registration statement on a in the form and in a format
15 prescribed designated by the Director, which shall contain the
16 following contains current information ~~about~~:

17 (1) the capital structure, general financial condition,
18 ownership and management of the company and any person
19 controlling the company;

20 (2) the identity and relationship of every member of the
21 insurance holding company system;

22 (3) the following agreements in force, relationships
23 subsisting, and transactions currently outstanding or that
24 have occurred during the last calendar year between such
25 company and its affiliates:

1 (a) loans, other investments, or purchases, sales or
2 exchanges of ~~or~~ securities of the affiliates by the company or
3 of the company by its affiliates;

4 (b) purchases, sales, or exchanges of assets;

5 (c) transactions not in the ordinary course of business;

6 (d) guarantees or undertakings for the benefit of an
7 affiliate which result in an actual contingent exposure of the
8 company's assets to liability, other than insurance contracts
9 entered into in the ordinary course of the company's business;

10 (e) all management agreements, ~~and~~ service contracts, and
11 ~~all~~ cost-sharing arrangements, ~~other than cost allocation~~
12 ~~arrangements based upon generally accepted accounting~~
13 ~~principles; and~~

14 (f) reinsurance agreements;

15 (f-5) dividends and other distributions to shareholders;

16 (g) any pledge of the company's own securities, securities
17 of any subsidiary or controlling affiliate, to secure a loan
18 made to any member of the insurance holding company system; and

19 (h) consolidated tax allocation agreements;~~:-~~

20 (4) (blank); ~~other matters concerning transactions between~~
21 ~~registered companies and any affiliates as may be included from~~
22 ~~time to time in any registration forms adopted or approved by~~
23 ~~the Director.~~

24 (5) financial statements of or within an insurance holding
25 company system, including all affiliates, if requested by the
26 Director; financial statements may include, but are not limited

1 to, annual audited financial statements filed with the U.S.
2 Securities and Exchange Commission (SEC) pursuant to the
3 Securities Act of 1933, as amended, or the Securities Exchange
4 Act of 1934, as amended; a company required to file financial
5 statements pursuant to this paragraph (5) may satisfy the
6 request by providing the Director with the most recently filed
7 parent corporation financial statements that have been filed
8 with the SEC;

9 (6) statements that the company's or its parent company's
10 board of directors or a committee thereof oversees corporate
11 governance and internal controls and that the company's
12 officers or senior management have approved and implemented and
13 continue to maintain and monitor corporate governance and
14 internal controls; and

15 (7) other matters concerning transactions between
16 registered companies and any affiliates as may be included from
17 time to time in any registration forms adopted or approved by
18 the Director.

19 (Source: P.A. 84-805.)

20 (215 ILCS 5/131.14a new)

21 Sec. 131.14a. Summary filing. Every company subject to
22 registration must file a summary outlining all items in the
23 current registration statement representing changes from the
24 prior registration statement.

1 (215 ILCS 5/131.14b new)

2 Sec. 131.14b. Enterprise risk filing. The ultimate
3 controlling person of every company subject to registration
4 shall also file an annual enterprise risk report. The report
5 shall, to the best of the ultimate controlling person's
6 knowledge and belief, identify the material risks within the
7 insurance holding company system that could pose enterprise
8 risk to the company. The report shall be filed with the lead
9 state commissioner of the insurance holding company system as
10 determined by the procedures within the Financial Analysis
11 Handbook adopted by the National Association of Insurance
12 Commissioners.

13 (215 ILCS 5/131.14c new)

14 Sec. 131.14c. Violations. The failure to file a
15 registration statement or any summary of the registration
16 statement or enterprise risk filing required by this Article
17 within the time specified for filing shall be a violation of
18 this Article.

19 (215 ILCS 5/131.14d new)

20 Sec. 131.14d. Confidentiality.

21 (a) Documents, materials, or other information in the
22 possession or control of the Director that are obtained by,
23 created by, or disclosed to the Director or any other person
24 pursuant to Section 131.14b are recognized as being proprietary

1 and to contain trade secrets. Disclosure of such documents,
2 materials, or other information is recognized as damaging to
3 the competitive position of the insurer whose confidential
4 information is in the possession or control of the Director.
5 All such documents, materials, or other information shall be
6 confidential by law and privileged, shall not be subject to the
7 Freedom of Information Act, shall not be subject to subpoena,
8 and shall not be subject to discovery or admissible in evidence
9 in any private civil action. However, the Director is
10 authorized to use such documents, materials, or other
11 information in the furtherance of any regulatory or legal
12 action brought as a part of the Director's official duties. The
13 Director shall not otherwise disclose or make such documents,
14 materials, or other information public without the prior
15 written consent of the insurer.

16 (b) An insurer whose documents, materials, or other
17 information is in the possession or control of the Director or
18 any other person pursuant to Section 131.14b of this Code and
19 who is aggrieved by an actual or threatened disclosure of such
20 documents, materials, or other information or by any violation
21 of this Section, may commence proceedings, subject in the case
22 of the Director to Article III of the Code of Civil Procedure,
23 in any court of competent jurisdiction to prevent such
24 disclosure or to enforce the provisions of this Section.

25 (c) Neither the Director nor any person who received
26 documents, materials, or other information relating to the

1 report required by Section 131.14b of this Code, through
2 examination or otherwise, while acting under the authority of
3 the Director or with whom such documents, materials, or other
4 information are shared pursuant to this Section, Section
5 131.14b or Section 131.20c of this Code shall be permitted or
6 required to testify in any private civil action concerning any
7 confidential documents, materials, or information subject to
8 subsection (a) of this Section.

9 (d) Solely to assist in the performance of the Director's
10 regulatory duties, the Director may do the following:

11 (1) upon request, share documents, materials, or other
12 information relating to the report required by Section
13 131.14b of this Code, including the confidential and
14 privileged documents, materials, or information subject to
15 subsection (a) of this Section, including proprietary and
16 trade secret documents and materials with other state,
17 federal, and international financial regulatory agencies,
18 including members of any supervisory college as provided
19 for in Section 131.20c of this Code, with the NAIC and with
20 any third-party consultants designated by the Director,
21 provided that the recipient agrees in writing to maintain
22 the confidentiality and privileged status of the
23 documents, materials, or other information relating to the
24 report required by Section 131.14b of this Code and has
25 verified in writing the legal authority to maintain
26 confidentiality; and

1 (2) receive documents, materials, or other information
2 relating to the report required by Section 131.14b of this
3 Code, including otherwise confidential and privileged
4 documents, materials, or information, including
5 proprietary and trade secret information or documents,
6 from regulatory officials of other foreign or domestic
7 jurisdictions, including members of any supervisory
8 college as defined in Section 131.20c of this Code, and
9 from the NAIC, and shall maintain as confidential or
10 privileged any documents, materials, or information
11 received with notice or the understanding that it is
12 confidential or privileged under the laws of the
13 jurisdiction that is the source of the document, material,
14 or information.

15 (e) The Director shall enter into a written agreement with
16 any member of a supervisory college as provided for in Section
17 131.20c of this Code, the International Association of
18 Insurance Supervisors (IAIS), the NAIC, or any third-party
19 consultant governing sharing and use of information provided
20 pursuant to this Section. The agreement shall do the following:

21 (1) specify procedures and protocols regarding the
22 confidentiality and security of information shared with
23 the member of a supervisory college, the IAIS, the NAIC, or
24 the third-party consultant pursuant to this Section,
25 including procedures and protocols for sharing by the
26 member of a supervisory college, the IAIS, or the NAIC with

1 international, federal, or state regulators;

2 (2) specify that ownership of information shared with
3 the member of a supervisory college, the IAIS, the NAIC, or
4 the third-party consultant pursuant to this Section
5 remains with the Director and that the member of a
6 supervisory college's, the IAIS's , the NAIC's, or the
7 third-party consultant's use of the information is subject
8 to the direction of the Director;

9 (3) restrict the member of a supervisory college, the
10 IAIS, the NAIC, or the third-party consultant from storing
11 the information shared pursuant to this Section in a
12 permanent database;

13 (4) require notice to be given within 5 business days
14 to an insurer whose confidential information, in the
15 possession of the member of a supervisory college, the
16 IAIS, the NAIC, or the third-party consultant pursuant to
17 this Section, is subject to a request or subpoena to the
18 member of a supervisory college, the IAIS, the NAIC, or the
19 third-party consultant for disclosure or production;

20 (5) require the member of a supervisory college, the
21 IAIS, the NAIC, or the third-party consultant to consent to
22 intervention by an insurer in any judicial or
23 administrative action in which the member of a supervisory
24 college, the IAIS, the NAIC, or the third-party consultant
25 may be required to disclose confidential information about
26 the insurer shared with the member of a supervisory

1 college, the IAIS, the NAIC, or the third-party consultant
2 pursuant to this Section; and

3 (6) in the case of an agreement involving a third-party
4 consultant, provide for the insurer's prior written
5 consent to the sharing of information with that third-party
6 consultant.

7 (f) The sharing of information and documents by the
8 Director pursuant to this Section shall not constitute a
9 delegation of regulatory authority or rulemaking, and the
10 Director is solely responsible for the administration and
11 execution of the provisions of this Section. An insurer whose
12 confidential information is in the possession of the member of
13 a supervisory college, the IAIS, the NAIC, or third-party
14 consultant pursuant to this Section and who is aggrieved by an
15 actual or threatened disclosure of confidential information,
16 or by any violation of this Section, may commence proceedings
17 in any court of competent jurisdiction to prevent such
18 disclosure or to enforce the provisions of this Section.

19 (g) No waiver of any applicable privilege or claim of
20 confidentiality in the documents, proprietary and trade secret
21 materials, or other information relating to the report required
22 by Section 131.14b of this Section, shall occur as a result of
23 disclosure of such documents, materials, or other information
24 relating to the report required by Section 131.14b of this
25 Section to the Director or as a result of sharing as authorized
26 in this Section.

1 (h) Documents, materials, or other information in the
2 possession or control of a member of a supervisory college, the
3 IAIS, the NAIC, or a third-party consultant pursuant to this
4 Section shall be confidential by law and privileged, shall not
5 be subject to Freedom of Information Act, shall not be subject
6 to subpoena, and shall not be subject to discovery or
7 admissible in evidence in any private civil action.

8 (215 ILCS 5/131.16) (from Ch. 73, par. 743.16)

9 Sec. 131.16. Reporting material changes or additions;
10 penalty for late registration statement.

11 (1) Each registered company must keep current the
12 information required to be included in its registration
13 statement by reporting all material changes or additions on
14 amendment forms designated by the Director within 15 days after
15 the end of the month in which it learns of each change or
16 addition, or within a longer time thereafter as the Director
17 may establish. Any transaction which has been submitted to the
18 Director pursuant to Section 131.20a need not be reported to
19 the Director under this subsection; except each registered
20 company must report all dividends and other distributions to
21 shareholders within 15 ~~5~~ business days following the
22 declaration ~~and no less than 10 business days prior to payment~~
23 ~~thereof.~~

24 (2) On or before May 1 each year, each company subject to
25 registration under this Article shall file a statement in a

1 format as designated by the Director. This statement shall
2 include information previously included in an amendment under
3 subsection (1) of this Section, transactions and agreements
4 submitted under Section 131.20a, and any other material
5 transactions which are required to be reported.

6 (2.5) Any person within an insurance holding company system
7 subject to registration shall be required to provide complete
8 and accurate information to a company where the information is
9 reasonably necessary to enable the company to comply with the
10 provisions of this Article.

11 (3) Any company failing, without just cause, to file any
12 registration statement, any summary of changes to a
13 registration statement, or any Enterprise Risk Filing or any
14 person within an insurance holding company system who fails to
15 provide complete and accurate information to a company as
16 required in this Code shall be required, after notice and
17 hearing, to pay a penalty of up to \$1,000 for each day's delay,
18 to be recovered by the Director of Insurance of the State of
19 Illinois and the penalty so recovered shall be paid into the
20 General Revenue Fund of the State of Illinois. The maximum
21 penalty under this section is \$50,000. The Director may reduce
22 the penalty if the company demonstrates to the Director that
23 the imposition of the penalty would constitute a financial
24 hardship to the company.

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

1 (215 ILCS 5/131.17) (from Ch. 73, par. 743.17)

2 Sec. 131.17. (1) The Director must terminate the
3 registration of any company which demonstrates that it no
4 longer is a member of an insurance holding company system.

5 (2) The Director may require or allow 2 or more affiliated
6 companies subject to registration to file a consolidated
7 registration statement. ~~Two or more affiliated companies~~
8 ~~subject to registration hereunder may file a consolidated~~
9 ~~registration statement or consolidated reports amending their~~
10 ~~consolidated registration statement or their individual~~
11 ~~registration statements unless the Director requires a~~
12 ~~separate registration statement or report from each registered~~
13 ~~company.~~

14 (3) A company which is authorized to do business in this
15 State and which is part of an insurance holding company system
16 may register on behalf of any affiliated company which is
17 required to register under Section 131.13 and to file all
18 information and material required to be filed under this
19 Article unless the Director requires a separate registration by
20 the affiliated company.

21 (Source: P.A. 77-673.)

22 (215 ILCS 5/131.18) (from Ch. 73, par. 743.18)

23 Sec. 131.18. Sections 131.13 through 131.19 do not apply to
24 any company, information, or transaction if and to the extent
25 that the Director by rule, regulation, or order may exempt the

1 same from Sections 131.13 through 131.19.

2 ~~Any requirement for the furnishing of financial statements~~
3 ~~of the insurance holding company system, or any member thereof,~~
4 ~~as part of or in connection with the registration statement~~
5 ~~filed under Section 131.14 shall not apply to any company which~~
6 ~~submits and maintains in effect in lieu thereof a guarantee or~~
7 ~~a bond acceptable to the Director in an amount equal to the~~
8 ~~capital and surplus of the company as shown on its most recent~~
9 ~~audited financial statements, payable to the Director for the~~
10 ~~benefit of the creditors, policyholders and stockholders of the~~
11 ~~company as their interests may appear. Such guarantee, if~~
12 ~~issued by a national bank, and such a bond, if issued by a~~
13 ~~licensed insurance company which is not a member of the~~
14 ~~insurance holding company system, in each case having capital~~
15 ~~and surplus in excess of \$25,000,000, shall be deemed~~
16 ~~acceptable.~~

17 (Source: P.A. 77-673.)

18 (215 ILCS 5/131.19) (from Ch. 73, par. 743.19)

19 Sec. 131.19. Disclaimer of affiliation. Any person may file
20 with the Director a disclaimer of affiliation with any
21 authorized company or a disclaimer may be filed by the a
22 company or any member of an insurance holding company system.
23 The disclaimer shall ~~must~~ fully disclose all material
24 relationships and bases ~~basis~~ for affiliation between the
25 person and the company as well as the basis for disclaiming the

1 affiliation. A disclaimer of affiliation shall be deemed to
2 have been granted unless the Director, within 30 days following
3 receipt of a complete disclaimer, notifies the filing party
4 that the disclaimer is disallowed. In the event of
5 disallowance, the disclaiming party may request an
6 administrative hearing, which shall be granted. The
7 disclaiming party shall be relieved of its duty to register
8 under Section 131.13 of this Code if approval of the disclaimer
9 has been granted by the Director or if the disclaimer is deemed
10 to have been approved. After a disclaimer is filed, the company
11 is relieved of any duty to register or report under Section
12 131.13 which may arise out of the company's relationship with
13 the person unless and until the Director disallows the
14 disclaimer. The Director may disallow such a disclaimer only
15 after furnishing all parties in interest with notice and
16 opportunity to be heard and after making specific findings of
17 fact to support the disallowance.

18 (Source: P.A. 84-805.)

19 (215 ILCS 5/131.20) (from Ch. 73, par. 743.20)

20 Sec. 131.20. Standards for transactions with affiliates;
21 adequacy of surplus.

22 (1) Transactions ~~Material transactions~~ with their
23 affiliates by companies subject to registration are subject to
24 the following standards:

25 (a) the terms are fair and reasonable;

1 (a-5) agreements for cost sharing services and
2 management shall include such provisions as may be required
3 by rules and regulations issued by the Director;

4 (b) charges or fees for services performed are
5 reasonable;

6 (c) expenses incurred and payment received must be
7 allocated to the company ~~insurer~~ in conformity with
8 customary insurance accounting practices consistently
9 applied;

10 (d) the books, accounts, and records of each party must
11 be so maintained as to clearly and accurately disclose the
12 precise nature and details of the transactions, including
13 accounting information necessary to support the
14 reasonableness of the charges or fees to the respective
15 parties; and

16 (e) the company's surplus as regards policyholders
17 following any transactions with affiliates or dividends or
18 distributions to securityholders or affiliates must be
19 reasonable in relation to the company's outstanding
20 liabilities and adequate to meet its financial needs.

21 (2) For purposes of this Article, in determining whether a
22 company's surplus as regards policyholders is reasonable in
23 relation to the company's outstanding liabilities and adequate
24 to meet its needs, the following factors, among others, may be
25 considered:

26 (a) the size of the company as measured by its assets,

1 capital and surplus, reserves, premium writings, insurance
2 in force and other appropriate criteria;

3 (b) the extent to which the company's business is
4 diversified among ~~the~~ several lines of insurance;

5 (c) the number and size of risks insured in each line
6 of business;

7 (d) the extent of the geographical dispersion of the
8 company's insured risks;

9 (e) the nature and extent of the company's reinsurance
10 program;

11 (f) the quality, diversification, and liquidity of the
12 company's investment portfolio;

13 (g) the recent past and projected future trend in the
14 size of the company's investment portfolio ~~surplus as~~
15 ~~regards policyholders;~~

16 (h) the surplus as regards policyholders maintained by
17 companies comparable to the registrant in respect of the
18 factors enumerated in this paragraph;

19 (i) the adequacy of the company's reserves;

20 (j) the quality of the company's earnings and the
21 extent to which the reported earnings include
22 extraordinary items; and

23 (k) the quality and liquidity of investments in
24 affiliates ~~subsidiaries made under Section 131.2 or 131.3.~~

25 The Director may discount any such investment or treat any
26 such investment as a non-admitted asset for purposes of

1 determining the adequacy of surplus as regards
2 policyholders whenever the investment so warrants.

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

4 (215 ILCS 5/131.20a) (from Ch. 73, par. 743.20a)
5 Sec. 131.20a. Prior notification of transactions;
6 dividends and distributions.

7 (1) (a) The following transactions listed in items (i)
8 through (vii) involving ~~between~~ a domestic company and any
9 person in its insurance holding company system, including
10 amendments or modifications (other than termination) of
11 affiliate agreements previously filed pursuant to this
12 Section, which are subject to any materiality standards
13 contained in this Section, may not be entered into unless the
14 company has notified the Director in writing of its intention
15 to enter into such transaction at least 30 days prior thereto,
16 or such shorter period as the Director may permit, and the
17 Director has not disapproved it within such period. The notice
18 for amendments or modifications (other than termination) shall
19 include the reasons for the change and the financial impact on
20 the domestic company. Informal notice shall be reported, within
21 30 days after a termination of a previously filed agreement, to
22 the Director for determination of the type of filing required,
23 if any.÷

24 (i) Sales, purchases, exchanges of assets, loans or
25 extensions of credit, guarantees, investments, or any

1 other transaction, except dividends, ~~(A)~~ that involves the
2 transfer of assets from or liabilities to a company (A)
3 equal to or exceeding the lesser of 3% of the company's
4 admitted assets or 25% of its surplus as regards
5 policyholders as of the 31st day of December next preceding
6 or (B) that is proposed when the domestic company is not
7 eligible to declare and pay a dividend or other
8 distribution pursuant to the provisions of Section 27.

9 (ii) Loans or extensions of credit to any person that
10 is not an affiliate (A) that involve the lesser of 3% of
11 the company's admitted assets or 25% of the company's
12 surplus, each as of the 31st day of December next
13 preceding, made with the agreement or understanding that
14 the proceeds of such transactions, in whole or in
15 substantial part, are to be used to make loans or
16 extensions of credit to, to purchase assets of, or to make
17 investments in, any affiliate of the company making such
18 loans or extensions of credit or (B) that are proposed when
19 the domestic company is not eligible to declare and pay a
20 dividend or other distribution pursuant to the provisions
21 of Section 27.

22 (iii) Reinsurance agreements or modifications thereto,
23 including all reinsurance pooling agreements, reinsurance
24 agreements in which the reinsurance premium or a change in
25 the company's liabilities, or the projected reinsurance
26 premium or a change in the company's liabilities in any of

1 the next 3 years, equals or exceeds 5% of the company's
2 surplus as regards policyholders, as of the 31st day of
3 December next preceding, including those agreements that
4 may require as consideration the transfer of assets from a
5 company ~~an insurer~~ to a nonaffiliate, if an agreement or
6 understanding exists between the company ~~insurer~~ and
7 nonaffiliate that any portion of those assets will be
8 transferred to one or more affiliates of the company
9 ~~insurer~~.

10 (iv) All management agreements; ~~;~~ service contracts,
11 other than agency contracts; tax allocation agreements;
12 all reinsurance allocation agreements related to
13 reinsurance agreements required to be filed under this
14 Section; and all cost-sharing arrangements, ~~and any other~~
15 ~~contracts providing for the rendering of services on a~~
16 ~~regular systematic basis.~~

17 (v) Direct or indirect acquisitions or investments in a
18 person that controls the company, or in an affiliate of the
19 company, in an amount which, together with its present
20 holdings in such investments, exceeds 2.5% of the company's
21 surplus as regards policyholders. Direct or indirect
22 acquisitions or investments in subsidiaries acquired
23 pursuant to Section 131.2 of this Article (or authorized
24 under any other Section of this Code), or in non-subsidiary
25 insurance affiliates that are subject to the provisions of
26 this Article, are exempt from this requirement.

1 (vi) Any series of the previously described
2 transactions that are substantially similar to each other,
3 that take place within any 180 day period, and that in
4 total are equal to or exceed the lesser of 3% of the
5 domestic company's ~~insurer's~~ admitted assets or 25% of its
6 policyholders surplus, as of the 31st day of the December
7 next preceding.

8 (vii) ~~(vi)~~ Any other material transaction that the
9 Director by rule determines might render the company's
10 surplus as regards policyholders unreasonable in relation
11 to the company's outstanding liabilities and inadequate to
12 its financial needs or may otherwise adversely affect the
13 interests of the company's policyholders or shareholders.

14 Nothing herein contained shall be deemed to authorize or
15 permit any transactions that, in the case of a company ~~an~~
16 ~~insurer~~ not a member of the same holding company system, would
17 be otherwise contrary to law.

18 (b) Any transaction or contract otherwise described in
19 paragraph (a) of this subsection that is between a domestic
20 company ~~insurer~~ and any person that is not its affiliate and
21 that precedes or follows within 180 days or is concurrent with
22 a similar transaction between that nonaffiliate and an
23 affiliate of the domestic company and that involves amounts
24 that are equal to or exceed the lesser of 3% of the domestic
25 company's ~~insurer's~~ admitted assets or 25% of its surplus as
26 regards policyholders at the end of the prior year may not be

1 entered into unless the company has notified the Director in
2 writing of its intention to enter into the transaction at least
3 30 days prior thereto or such shorter period as the Director
4 may permit, and the Director has not disapproved it within such
5 period.

6 (c) A company may not enter into transactions which are
7 part of a plan or series of like transactions with any person
8 within the holding company system if the purpose of those
9 separate transactions is to avoid the statutory threshold
10 amount and thus avoid the review that would occur otherwise. If
11 the Director determines that such separate transactions were
12 entered into for such purpose, he may exercise his authority
13 under subsection (2) of Section 131.24.

14 (d) The Director, in reviewing transactions pursuant to
15 paragraph (a), shall consider whether the transactions comply
16 with the standards set forth in Section 131.20 and whether they
17 may adversely affect the interests of policyholders.

18 (e) The Director shall be notified within 30 days of any
19 investment of the domestic company ~~insurer~~ in any one
20 corporation if the total investment in that corporation by the
21 insurance holding company system exceeds 10% of that
22 corporation's voting securities.

23 (f) Except for those transactions subject to approval under
24 other Sections of this Code, any such transaction or agreements
25 which are not disapproved by the Director may be effective as
26 of the date set forth in the notice required under this

1 Section.

2 (g) If a domestic company insurer enters into a transaction
3 described in this subsection without having given the required
4 notification, the Director may cause the company insurer to pay
5 a civil forfeiture of not more than \$250,000. Each transaction
6 so entered shall be considered a separate offense.

7 (2) No domestic company subject to registration under
8 Section 131.13 may pay any extraordinary dividend or make any
9 other extraordinary distribution to its shareholders
10 ~~securityholders~~ until: (a) 30 days after the Director has
11 received notice of the declaration thereof and has not within
12 such period disapproved the payment, or (b) the Director
13 approves such payment within the 30-day period. For purposes of
14 this subsection, an extraordinary dividend or distribution is
15 any dividend or distribution of cash or other property whose
16 fair market value, together with that of other dividends or
17 distributions, made within the period of 12 consecutive months
18 ending on the date on which the proposed dividend is scheduled
19 for payment or distribution exceeds the greater of: (a) 10% of
20 the company's surplus as regards policyholders as of the 31st
21 day of December next preceding, or (b) the net income of the
22 company for the 12-month period ending the 31st day of December
23 next preceding, but does not include pro rata distributions of
24 any class of the company's own securities.

25 Notwithstanding any other provision of law, the company may
26 declare an extraordinary dividend or distribution which is

1 conditional upon the Director's approval, and such a
2 declaration confers no rights upon security holders until: (a)
3 the Director has approved the payment of the dividend or
4 distribution, or (b) the Director has not disapproved the
5 payment within the 30-day period referred to above.

6 (Source: P.A. 92-140, eff. 7-24-01.)

7 (215 ILCS 5/131.20b)

8 Sec. 131.20b. Controlled companies ~~insurers~~; management;
9 directors.

10 (1) Notwithstanding the control of a domestic company
11 ~~insurer~~ by any person, the officers and directors of the
12 company ~~insurer~~ shall not thereby be relieved of any obligation
13 or liability to which they would otherwise be subject by law,
14 and the company ~~insurer~~ shall be managed so as to assure its
15 separate operating identity consistent with this Article ~~VIII~~
16 ~~1/2 of this Code~~.

17 (2) Nothing in this Section shall preclude a domestic
18 company ~~insurer~~ from having or sharing a common management or a
19 cooperative or joint use of personnel, property, or services
20 with one or more affiliated persons under arrangements meeting
21 the standards and requirements of Sections 131.20 and 131.20a.

22 (3) ~~Not After June 30, 2002, not~~ less than one-third of the
23 directors of a domestic company, and not less than one-third of
24 the members of each committee of the board of directors of any
25 domestic company, ~~insurer~~ that is a member of an insurance

1 holding company system shall be persons who are not officers or
2 employees of the company insurer or of any entity controlling,
3 controlled by, or under common control with the company insurer
4 and who are not beneficial owners of a controlling interest in
5 the voting stock of the company insurer or any such entity. At
6 least one such person shall be included in any quorum for the
7 transaction of business at any meeting of the board of
8 directors or any committee thereof.

9 (3.5) The board of directors of a domestic company or
10 ultimate controlling company shall establish one or more
11 committees comprised solely of directors who are not officers
12 or employees of the company or of any entity controlling,
13 controlled by, or under common control with the company and who
14 are not beneficial owners of a controlling interest in the
15 voting stock of the company or any such entity. The committee
16 or committees shall have responsibility for nominating
17 candidates for director for election by shareholders or
18 policyholders, evaluating the performance of officers deemed
19 to be principal officers of the company, and recommending to
20 the board of directors the selection and compensation of the
21 principal officers.

22 (4) Subsections ~~Subsection~~ (3) and (3.5) of this Section do
23 ~~does~~ not apply to a domestic company insurer if the ultimate
24 controlling company or the person ~~entity~~ controlling the
25 company, such as a company, a mutual insurance holding company,
26 or a publicly held corporation, has a board of directors and

1 committees thereof that meet the requirements of subsections
2 (3) and (3.5) with respect to such controlling entity or are
3 subject to and meet the requirements of the corporate
4 governance rules of a national securities exchange, such as the
5 New York Stock Exchange, or an inter-dealer quotation system,
6 such as the National Association of Securities Dealers
7 Automatic Quotation ~~the insurer, whether directly or through an~~
8 ~~intermediate subsidiary, has a board of directors composed in~~
9 ~~accordance with that subsection.~~

10 (5) (Blank). ~~Subsection (3) of this Section does not apply~~
11 ~~to a domestic insurer if the ultimate controlling party of the~~
12 ~~domestic insurer is a corporation whose equity securities or~~
13 ~~equivalent instruments are listed on the New York Stock~~
14 ~~Exchange.~~

15 (6) A company may make application to the Director for a
16 waiver from the requirements of this Section, if the company's
17 annual direct written and assumed premium, excluding premiums
18 reinsured with the Federal Crop Insurance Corporation and
19 Federal Flood Program, is less than \$300,000,000. A company may
20 also make application to the Director for a waiver from the
21 requirements of this Section based upon unique circumstances.
22 The Director may consider various factors, including, but not
23 limited to, the type of business entity, volume of business
24 written, availability of qualified board members, or the
25 ownership or organizational structure of the entity.

26 (Source: P.A. 92-140, eff. 7-24-01.)

1 (215 ILCS 5/131.20c new)

2 Sec. 131.20c. Supervisory colleges.

3 (a) With respect to any company registered under Section
4 131.13 of this Code, and in accordance with subsection (c) of
5 this Section, the Director shall also have the power to
6 participate in a supervisory college for any domestic company
7 that is part of an insurance holding company system with
8 international operations in order to determine compliance by
9 the company with this Article. The powers of the Director with
10 respect to supervisory colleges include, but are not limited
11 to:

12 (1) initiating the establishment of a supervisory
13 college;

14 (2) clarifying the membership and participation of
15 other supervisors in the supervisory college;

16 (3) clarifying the functions of the supervisory
17 college and the role of other regulators, including the
18 establishment of a group-wide supervisor;

19 (4) coordinating the ongoing activities of the
20 supervisory college, including planning meetings,
21 supervisory activities, and processes for information
22 sharing; and

23 (5) establishing a crisis management plan.

24 (b) Each registered company subject to this Section shall
25 be liable for and shall pay the reasonable expenses of the

1 Director's participation in a supervisory college in
2 accordance with subsection (c) of this Section, including
3 reasonable travel expenses. For purposes of this Section, a
4 supervisory college may be convened as either a temporary or
5 permanent forum for communication and cooperation between the
6 regulators charged with the supervision of the company or its
7 affiliates, and the Director may establish a regular assessment
8 to the company for the payment of these expenses.

9 (c) In order to assess the business strategy, financial
10 position, legal and regulatory position, risk exposure, risk
11 management, and governance processes, and as part of the
12 examination of individual companies in accordance with Section
13 131.21 of this Code, the Director may participate in a
14 supervisory college with other regulators charged with
15 supervision of the company or its affiliates, including other
16 state, federal, and international regulatory agencies. The
17 Director may enter into agreements in accordance with Section
18 131.22 of this Code providing the basis for cooperation between
19 the Director and the other regulatory agencies and the
20 activities of the supervisory college. Nothing in this Section
21 shall delegate to the supervisory college the authority of the
22 Director to regulate or supervise the company or its affiliates
23 within its jurisdiction.

24 (215 ILCS 5/131.21) (from Ch. 73, par. 743.21)

25 Sec. 131.21. Examination.

1 (1) Subject to the limitation contained in this section and
2 in addition to the powers which the Director has under Sections
3 132 through 132.7 and 401 through 403 of this Code relating to
4 the examination of companies, the Director shall have the power
5 to examine any company registered under Section 131.13 of this
6 Code and its affiliates to ascertain the financial condition of
7 the company, including the enterprise risk to the company by
8 the ultimate controlling party, or by any entity or combination
9 of entities within the insurance holding company system, or by
10 the insurance holding company system on a consolidated basis.
11 ~~also has the power to order any company registered under~~
12 ~~Section 131.13 to produce such records, books, or other~~
13 ~~information papers in the possession of the company or its~~
14 ~~affiliates as are reasonably necessary to ascertain the~~
15 ~~financial condition of such company or to determine compliance~~
16 ~~with this Article. In the event the company fails to comply~~
17 ~~with the order, the Director has the power to examine the~~
18 ~~affiliates to obtain such information.~~

19 (1.5) The Director may order any company registered under
20 Section 131.13 of this Code to produce such records, books, or
21 other information papers in the possession of the company or
22 its affiliates as are reasonably necessary to determine
23 compliance with this Article. To determine compliance with this
24 Article, the Director may order any company registered under
25 Section 131.13 of this Code to produce information not in the
26 possession of the company if the company can obtain access to

1 such information pursuant to contractual relationships,
2 statutory obligations, or other methods. In the event the
3 company cannot obtain the information requested by the
4 Director, the company shall provide the Director a detailed
5 explanation of the reason that the company cannot obtain the
6 information and the identity of the holder of the information.
7 Whenever the Director determines that the detailed explanation
8 is without merit, the Director may require, after notice and
9 hearing, the company to pay a penalty of up to \$1,000 for each
10 day's delay, or may suspend or revoke the company's license.

11 (2) The Director may retain at the registered company's
12 expense any attorneys, actuaries, accountants and other
13 experts not otherwise a part of the Director's staff as may be
14 reasonably necessary to assist in the conduct of the
15 examination under subsection (1). Any persons so retained are
16 under the direction and control of the Director and may act in
17 a purely advisory capacity.

18 (3) Each registered company producing for examination
19 records, books and papers under subsection (1.5) ~~(1)~~ is liable
20 for and must pay the expense of the examination in accordance
21 with Section 408 of this Code.

22 (4) The Director may retain at the registered company's
23 expense any attorneys, actuaries, accountants, and other
24 experts not otherwise a part of the Director's staff as may be
25 reasonably necessary to assist in the conduct of the
26 examination under subsection (1) of this Section. Any persons

1 so retained are under the direction and control of the Director
2 and may act in a purely advisory capacity.

3 (5) In the event the company fails to comply with an order,
4 the Director shall have the power to examine the affiliates to
5 obtain the information. The Director shall also have the power
6 to issue subpoenas, to administer oaths, and to examine under
7 oath any person for purposes of determining compliance with
8 this Section. Upon the failure or refusal of any person to obey
9 a subpoena, the Director may petition a court of competent
10 jurisdiction and, upon proper showing, the court may enter an
11 order compelling the witness to appear and testify or produce
12 documentary evidence. Failure to obey the court order shall be
13 punishable as contempt of court. Every person shall be obliged
14 to attend as a witness at the place specified in the subpoena,
15 when subpoenaed, anywhere within the State. He or she shall be
16 entitled to the same fees and mileage, if claimed, as a witness
17 in the Circuit Court, which fees, mileage, and actual expense,
18 if any, necessarily incurred in securing the attendance of
19 witnesses, and their testimony, shall be itemized and charged
20 against, and be paid by, the company being examined.

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

22 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

23 Sec. 131.22. Confidential treatment.

24 (a) Documents, materials, or other information in the
25 possession or control of the Department that are obtained by or

1 disclosed to the Director or any other person in the course of
2 an examination or investigation made pursuant to this Article
3 and all information reported pursuant to this Article shall be
4 confidential by law and privileged, shall not be subject to the
5 Illinois Freedom of Information Act, shall not be subject to
6 subpoena, and shall not be subject to discovery or admissible
7 in evidence in any private civil action. However, the Director
8 is authorized to use the documents, materials, or other
9 information in the furtherance of any regulatory or legal
10 action brought as a part of the Director's official duties. The
11 Director shall not otherwise make the documents, materials, or
12 other information public without the prior written consent of
13 the company to which it pertains unless the Director, after
14 giving the company and its affiliates who would be affected
15 thereby prior written notice and an opportunity to be heard,
16 determines that the interest of policyholders, shareholders,
17 or the public shall be served by the publication thereof, in
18 which event the Director may publish all or any part in such
19 manner as may be deemed appropriate.

20 (b) Neither the Director nor any person who received
21 documents, materials, or other information while acting under
22 the authority of the Director or with whom such documents,
23 materials, or other information are shared pursuant to this
24 Article shall be permitted or required to testify in any
25 private civil action concerning any confidential documents,
26 materials, or information subject to subsection (a) of this

1 Section.

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

4 (1) may share documents, materials, or other
5 information, including the confidential and privileged
6 documents, materials, or information subject to subsection
7 (a) of this Section, with other state, federal, and
8 international regulatory agencies, with the NAIC and its
9 affiliates and subsidiaries, and with state, federal, and
10 international law enforcement authorities, including
11 members of any supervisory college allowed by this Article,
12 provided that the recipient agrees in writing to maintain
13 the confidentiality and privileged status of the document,
14 material, or other information, and has verified in writing
15 the legal authority to maintain confidentiality;

16 (1.5) notwithstanding paragraph (1) of this subsection
17 (c), may only share confidential and privileged documents,
18 material, or information reported pursuant to Section
19 131.14b with commissioners of states having statutes or
20 regulations substantially similar to subsection (a) of
21 this Section and who have agreed in writing not to disclose
22 such information;

23 (2) may receive documents, materials, or information,
24 including otherwise confidential and privileged documents,
25 materials, or information from the NAIC and its affiliates
26 and subsidiaries and from regulatory and law enforcement

1 officials of other foreign or domestic jurisdictions, and
2 shall maintain as confidential or privileged any document,
3 material, or information received with notice or the
4 understanding that it is confidential or privileged under
5 the laws of the jurisdiction that is the source of the
6 document, material, or information; any such documents,
7 materials, or information, while in the Director's
8 possession, shall not be subject to the Illinois Freedom of
9 Information Act and shall not be subject to subpoena; and

10 (3) shall enter into written agreements with the NAIC
11 governing sharing and use of information provided pursuant
12 to this Article consistent with this subsection (c) that
13 shall (i) specify procedures and protocols regarding the
14 confidentiality and security of information shared with
15 the NAIC and its affiliates and subsidiaries pursuant to
16 this Article, including procedures and protocols for
17 sharing by the NAIC with other state, federal, or
18 international regulators; (ii) specify that ownership of
19 information shared with the NAIC and its affiliates and
20 subsidiaries pursuant to this Article remains with the
21 Director and the NAIC's use of the information is subject
22 to the direction of the Director; (iii) require prompt
23 notice to be given to a company whose confidential
24 information in the possession of the NAIC pursuant to this
25 Article is subject to a request or subpoena to the NAIC for
26 disclosure or production; and (iv) require the NAIC and its

1 affiliates and subsidiaries to consent to intervention by a
2 company in any judicial or administrative action in which
3 the NAIC and its affiliates and subsidiaries may be
4 required to disclose confidential information about the
5 company shared with the NAIC and its affiliates and
6 subsidiaries pursuant to this Article.

7 (d) The sharing of documents, materials, or information by
8 the Director pursuant to this Article shall not constitute a
9 delegation of regulatory authority or rulemaking, and the
10 Director is solely responsible for the administration,
11 execution, and enforcement of the provisions of this Article.

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

17 (f) Documents, materials, or other information in the
18 possession or control of the NAIC pursuant to this Article
19 shall be confidential by law and privileged, shall not be
20 subject to the Illinois Freedom of Information Act, shall not
21 be subject to subpoena, and shall not be subject to discovery
22 or admissible in evidence in any private civil action. All
23 information, documents, and copies thereof obtained by or
24 disclosed to the Director or any other person in the course of
25 an examination or investigation made under Section 131.21 and
26 all information submitted under Sections 131.13 or 131.20a and

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

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

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

21 (215 ILCS 5/131.23) (from Ch. 73, par. 743.23)

22 Sec. 131.23. Injunctions; prohibitions against voting
23 securities; sequestration of voting securities. (1) Whenever
24 it appears to the Director that any company or any director,
25 officer, employee or agent thereof has committed or is about to

1 commit a violation of this Article or of any rule, regulation,
2 or order issued by the Director hereunder, the Director may
3 apply to the Circuit Court for the county in which the
4 principal office of the company is located or to the Circuit
5 Court for Sangamon County for an order enjoining the company or
6 the director, officer, employee or agent thereof from violating
7 or continuing to violate this Article or any rule, regulation
8 or order, and for any other equitable relief as the nature of
9 the case and the interests of the company's policyholders,
10 creditors or the public may require. In any proceeding, the
11 validity of the rule, regulation or order alleged to have been
12 violated may be determined by the Court.

13 (2) No security or shareholder's or policyholder's proxy
14 which is the subject of any agreement or arrangement regarding
15 acquisition, or which is acquired or to be acquired, in
16 contravention of this Article or of any rule, regulation or
17 order issued by the Director hereunder may be voted at any
18 shareholders' ~~securityholders'~~ meeting, or may be counted for
19 quorum purposes, and any action of shareholders
20 ~~securityholders'~~ requiring the affirmative vote of a
21 percentage of securities shall ~~may~~ be taken as though such
22 securities (including securities that may be voted pursuant to
23 such proxies) were not issued and outstanding; but no action
24 taken at any such meeting may be invalidated by the voting of
25 such securities or proxies, unless the action would materially
26 affect control of the company or unless any court of this State

1 has so ordered. If the Director has reason to believe that any
2 security or shareholder's or policyholder's proxy of the
3 company has been or is about to be acquired in contravention of
4 this Article or of any rule, regulation or order issued by the
5 Director hereunder the company or the Director may apply to the
6 Circuit Court for Sangamon County or to the Circuit Court for
7 the county in which the company has its principal place of
8 business (a) to enjoin the further pursuit or use of any offer,
9 request, invitation, agreement or acquisition made in
10 contravention of Sections 131.4 through 131.12 or any rule,
11 regulation, or order issued by the Director thereunder; (b) to
12 enjoin the voting of any security or proxy so acquired; (c) to
13 void any vote of such security or proxy already cast at any
14 meeting of shareholders ~~securityholders~~; and (d) for any other
15 equitable relief as the nature of the case and the interests of
16 the company's policyholders, creditors, or the public may
17 require.

18 (3) In any case where a person has acquired or is proposing
19 to acquire any voting securities or shareholder's or
20 policyholder's proxy in violation of this Article or any rule,
21 regulation or order issued by the Director hereunder, the
22 Circuit Court for Sangamon County or the Circuit Court for the
23 county in which the company has its principal place of business
24 may, on such notice as the court deems appropriate, upon the
25 application of the company or the Director seize or sequester
26 any voting securities or shareholder's or policyholder's proxy

1 of the company owned directly or indirectly by such person, and
2 issue any orders with respect thereto as may be appropriate to
3 effectuate this Article. Notwithstanding any other provisions
4 of law, for the purposes of this Article, the situs of the
5 ownership of the securities of domestic companies is deemed to
6 be in this State.

7 (4) If the Director has reason to believe that any
8 shareholders' or policyholders' proxies have been or are about
9 to be acquired in contravention of this Article or of any rule,
10 regulations or order issued by the Director hereunder, the
11 Director may apply to the Circuit Court for Sangamon County or
12 to the Circuit Court for the county in which the company has
13 its principal place of business (a) to enjoin further pursuit
14 or use of any offer, request, invitation, agreement or
15 acquisition made in contravention of Section 131.4 through
16 131.12 and (b) for any other equitable relief as the nature of
17 the case and the interests of the company's policyholders,
18 creditors or the public may require.

19 (Source: P.A. 84-805.)

20 (215 ILCS 5/131.24) (from Ch. 73, par. 743.24)

21 Sec. 131.24. Sanctions.

22 (1) Every director or officer of an insurance holding
23 company system who knowingly violates, participates in, or
24 assents to, or who knowingly permits any of the officers or
25 agents of the company to engage in transactions or make

1 investments which have not been properly filed or approved or
2 which violate this Article, shall pay, in their individual
3 capacity, a civil forfeiture of not more than \$100,000 per
4 violation, after notice and hearing before the Director. In
5 determining the amount of the civil forfeiture, the Director
6 shall take into account the appropriateness of the forfeiture
7 with respect to the gravity of the violation, the history of
8 previous violations, and such other matters as justice may
9 require.

10 (2) Whenever ~~it appears to~~ the Director determines that any
11 company subject to this Article or any director, officer,
12 employee or agent thereof has engaged in any transaction or
13 entered into a contract which is subject to Section 131.20, and
14 any one of Sections 131.16, 131.20a, 141, 141.1, or 174 of this
15 Code and which would not have been approved had such approval
16 been requested or would have been disapproved had required
17 notice been given, the Director may order the company to cease
18 and desist immediately any further activity under that
19 transaction or contract. After notice and hearing the Director
20 may also order (a) the company to void any such contracts and
21 restore the status quo if such action is in the best interest
22 of the policyholders or the public, and (b) any affiliate of
23 the company, which has received from the company dividends,
24 distributions, assets, loans, extensions of credit,
25 guarantees, or investments in violation of any such Section, to
26 immediately repay, refund or restore to the company such

1 dividends, distributions, assets, extensions of credit,
2 guarantees or investments.

3 (3) Whenever ~~it appears to~~ the Director determines that any
4 company or any director, officer, employee or agent thereof has
5 committed a willful violation of this Article, the Director may
6 cause criminal proceedings to be instituted in the Circuit
7 Court for the county in which the principal office of the
8 company is located or in the Circuit Court of Sangamon or Cook
9 County against such company or the responsible director,
10 officer, employee or agent thereof. Any company which willfully
11 violates this Article commits a business offense and may be
12 fined up to \$500,000. Any individual who willfully violates
13 this Article commits a Class 4 felony and may be fined in his
14 individual capacity not more than \$500,000 or be imprisoned for
15 not less than one year nor more than 3 years, or both.

16 (4) Any officer, director, or employee of an insurance
17 holding company system who willfully and knowingly subscribes
18 to or makes or causes to be made any false statements or false
19 reports or false filings with the intent to deceive the
20 Director in the performance of his duties under this Article,
21 commits a Class 3 felony and upon conviction thereof, shall be
22 imprisoned for not less than 2 years nor more than 5 years or
23 fined \$500,000 or both. Any fines imposed shall be paid by the
24 officer, Director, or employee in his individual capacity.

25 (5) Whenever the Director determines that any person has
26 committed a violation of Section 131.14b of this Code which

1 prevents the full understanding of the enterprise risk to the
2 company by affiliates or by the insurance holding company
3 system, the violation may serve as an independent basis, after
4 an opportunity for a hearing, for disapproving dividends or
5 distributions and for placing the company under an order of
6 supervision in accordance with Article XII 1/2 of this Code.

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

8 (215 ILCS 5/131.26) (from Ch. 73, par. 743.26)

9 Sec. 131.26. Revocation, suspension, or non-renewal of
10 company's license. Whenever ~~it appears to~~ the Director
11 determines that any person has committed a violation of this
12 Article which makes the continued operation of a company
13 contrary to the interests of policyholders or the public, the
14 Director may, after notice and hearing suspend, revoke or
15 refuse to renew the company's license or authority to do
16 business in this State for such a period as the Director ~~he~~
17 finds is required for the protection of policyholders or the
18 public. Any such determination must be accompanied by specific
19 findings of fact and conclusions of law.

20 (Source: P.A. 77-673.)

21 (215 ILCS 5/131.27) (from Ch. 73, par. 743.27)

22 Sec. 131.27. Judicial review.

23 (1) Any order or decision made, issued or executed by the
24 Director under this Article whereby any person or company is

1 aggrieved is subject to review by the Circuit Court of Sangamon
2 County or the Circuit Court of Cook County.

3 The Administrative Review Law, as now or hereafter amended,
4 and the rules adopted pursuant thereto, applies to and governs
5 all proceedings for review of final administrative decisions of
6 the Director provided for in this Section. The term
7 "administrative decision" is defined as in Section 3-101 of the
8 Code of Civil Procedure.

9 (2) The filing of an appeal pursuant to this Section shall
10 stay the application of any rule, regulation, order, or other
11 action of the Director to the appealing party unless the court,
12 after giving the party notice and an opportunity to be heard,
13 determines that a stay would be detrimental to the interest of
14 policyholders, shareholders, creditors, or the public.

15 (3) Any person aggrieved by any failure of the Director to
16 act or make a determination required by this Article may
17 petition the circuit courts of Sangamon County or Cook County
18 for a writ in the nature of a mandamus or a peremptory mandamus
19 directing the Director to act or make a determination.

20 (Source: P.A. 82-783.)

21 (215 ILCS 5/131.29 new)

22 Sec. 131.29. Rulemaking power. The Director may adopt such
23 administrative rules as are necessary to implement the
24 provisions of this Article.

1 (215 ILCS 5/131.30 new)

2 Sec. 131.30. Conflict with other laws. This Article
3 supersedes all laws and parts of laws of this State
4 inconsistent with this Code with respect to matters covered by
5 this Code.

6 Section 97. Severability. The provisions of this Act are
7 severable under Section 1.31 of the Statute on Statutes.

8 Section 99. Effective date. This Act takes effect January
9 1, 2014, except that Section 131.14b of the Illinois Insurance
10 Code takes effect July 1, 2014.".