

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Sections 132, 132.3, 143.15, and 143.17 and by adding  
6 Article XLVIII as follows:

7 (215 ILCS 5/132) (from Ch. 73, par. 744)

8 Sec. 132. Market conduct actions and market analysis.

9 (a) Definitions. As used in this Section:

10 "Data call" means a written solicitation by the Director  
11 to 2 or more regulated companies or persons seeking existing  
12 data or other existing information to be provided within a  
13 reasonable time period for a narrow and targeted regulatory  
14 oversight purpose for market analysis. "Data call" does not  
15 include an information request in a market conduct action or  
16 any data or information that the Director shall or may  
17 specifically require under any other law, except as provided  
18 by the other law.

19 "Desk examination" means an examination that is conducted  
20 by market conduct surveillance personnel at a location other  
21 than the regulated company's or person's premises. "Desk  
22 examination" includes an examination performed at the  
23 Department's offices with the company or person providing

1 requested documents by hard copy, microfiche, or discs or  
2 other electronic media for review without an on-site  
3 examination.

4 "Market analysis" means a process whereby market conduct  
5 surveillance personnel collect and analyze information from  
6 filed schedules, surveys, required reports, data calls, and  
7 other sources to develop a baseline understanding of the  
8 marketplace and to identify patterns or practices of regulated  
9 persons that deviate significantly from the norm or that may  
10 pose a potential risk to insurance consumers.

11 "Market conduct action" means any activity, other than  
12 market analysis, that the Director may initiate to assess and  
13 address the market and nonfinancial practices of regulated  
14 persons, including market conduct examinations. The  
15 Department's consumer complaint process outlined in 50 Ill.  
16 Adm. Code 926 is not a market conduct action for purposes of  
17 this Section; however, the Department may initiate market  
18 conduct actions based on information gathered during that  
19 process. "Market conduct action" includes:

- 20 (1) correspondence with the company or person;
- 21 (2) interviews with the company or person;
- 22 (3) information gathering;
- 23 (4) policy and procedure reviews;
- 24 (5) interrogatories;
- 25 (6) review of company or person self-evaluations and  
26 voluntary compliance programs;

1 (7) self-audits; and

2 (8) market conduct examinations.

3 "Market conduct examination" or "examination" means any  
4 type of examination, other than a financial examination, that  
5 assesses a regulated person's compliance with the laws, rules,  
6 and regulations applicable to the examinee. "Market conduct  
7 examination" includes comprehensive examinations, targeted  
8 examinations, and follow-up examinations, which may be  
9 conducted as desk examinations, on-site examinations, or a  
10 combination of those 2 methods.

11 "Market conduct surveillance" means market analysis or a  
12 market conduct action.

13 "Market conduct surveillance personnel" means those  
14 individuals employed or retained by the Department and  
15 designated by the Director to collect, analyze, review, or act  
16 on information in the insurance marketplace that identifies  
17 patterns or practices of persons subject to the Director's  
18 jurisdiction. "Market conduct surveillance personnel" includes  
19 all persons identified as an examiner in the insurance laws or  
20 rules of this State if the Director has designated them to  
21 assist her or him in ascertaining the nonfinancial business  
22 practices, performance, and operations of a company or person  
23 subject to the Director's jurisdiction.

24 "On-site examination" means an examination conducted at  
25 the company's or person's home office or the location where  
26 the records under review are stored.

1 "SOFR rate" means the Secured Overnight Financing Rate  
2 published by the Federal Reserve Bank of New York every  
3 business day.

4 (b) Companies and persons subject to surveillance. The  
5 Director, for the purposes of ascertaining the nonfinancial  
6 business practices, performance, and operations of any person  
7 subject to the Director's jurisdiction or within the  
8 marketplace, may engage in market conduct actions or market  
9 analysis relating to:

10 (1) any company transacting or being organized to  
11 transact business in this State;

12 (2) any person engaged in or proposing to be engaged  
13 in the organization, promotion, or solicitation of shares  
14 or capital contributions to or aiding in the formation of  
15 a company;

16 (3) any person having a written or oral contract  
17 pertaining to the management or control of a company as  
18 general agent, managing agent, or attorney-in-fact;

19 (4) any licensed or registered producer, firm,  
20 pharmacy benefit manager, administrator, or any person  
21 making application for any license, certificate, or  
22 registration;

23 (5) any person engaged in the business of adjusting  
24 losses or financing premiums; or

25 (6) any person, organization, trust, or corporation  
26 having custody or control of information reasonably

1 related to the operation, performance, or conduct of a  
2 company or person subject to the Director's jurisdiction,  
3 but only as to the operation, performance, or conduct of a  
4 company or person subject to the Director's jurisdiction.

5 (c) Market analysis and market conduct actions.

6 (1) The Director may perform market analysis by  
7 gathering and analyzing information from data currently  
8 available to the Director, information from surveys, data  
9 call responses, or reports that are submitted to the  
10 Director, information collected by the NAIC, and  
11 information from a variety of other sources to develop a  
12 baseline understanding of the marketplace and to identify  
13 for further review companies or practices that deviate  
14 from the norm or that may pose a potential risk to  
15 insurance consumers. The Director shall use the most  
16 recent NAIC Market Regulation Handbook as a guide in  
17 performing market analysis. The Director may also employ  
18 other guidelines or procedures as the Director may deem  
19 appropriate.

20 (2) The Director may initiate a market conduct action  
21 subject to the following:

22 (A) If the Director determines that further  
23 inquiry into a particular person or practice is  
24 needed, then the Director may consider undertaking a  
25 market conduct action. The Director shall inform the  
26 examinee of the initiation of the market conduct

1           action and shall use the most recent NAIC Market  
2           Regulation Handbook as a guide in performing the  
3           market conduct action. The Director may also employ  
4           other guidelines or procedures as the Director may  
5           deem appropriate.

6           (B) For an examination, the Director shall conduct  
7           a pre-examination conference with the examinee to  
8           clarify expectations before commencement of the  
9           examination. At the pre-examination conference, the  
10          Director or the market conduct surveillance personnel  
11          shall disclose the basis of the examination, including  
12          the statutes, regulations, or business practices at  
13          issue. The Director shall provide at least 30 days'  
14          advance notice of the date of the pre-examination  
15          conference unless circumstances warrant that the  
16          examination proceed more quickly.

17          (C) The Director may coordinate a market conduct  
18          action and findings of this State with market conduct  
19          actions and findings of other states.

20          (3) Nothing in this Section requires the Director to  
21          undertake market analysis before initiating any market  
22          conduct action.

23          (4) Nothing in this Section restricts the Director to  
24          the type of market conduct action he or she initially  
25          selected.

26          (5) A regulated person is required to respond to a

1 market analysis data call or to an information request in  
2 a market conduct action on the terms and conditions  
3 established by the Director. The Department shall  
4 establish reasonable timelines that are commensurate with  
5 the volume and nature of the data required to be collected  
6 in the information request.

7 (6) Without limiting the contents of any examination  
8 report, market conduct actions taken as a result of a  
9 market analysis shall focus primarily on the general  
10 business practices and compliance activities of companies  
11 or persons rather than identifying infrequent or  
12 unintentional random errors that do not cause significant  
13 consumer harm. The Director may give a company or person  
14 an opportunity to resolve matters that are identified as a  
15 result of a market analysis to the Director's satisfaction  
16 before undertaking a market conduct action against the  
17 company or person.

18 (d) Access to books and records. Every examinee and its  
19 officers, directors, and agents must provide to the Director  
20 convenient and free access ~~at all reasonable hours at its~~  
21 ~~office or location~~ to all books, records, and documents and  
22 any or all papers relating to the business, performance,  
23 operations, and affairs of the examinee or its affiliates. The  
24 officers, directors, and agents of the examinee must  
25 facilitate the market conduct action and aid in the action so  
26 far as it is in their power to do so. The Director and any

1 authorized market conduct surveillance personnel have the  
2 power to administer oaths and examine under oath any person  
3 relevant to the business of the examinee. A failure to produce  
4 requested books, records, or documents by the deadline shall  
5 not be a violation until after the later of:

6 (1) 5 business days after the initial response  
7 deadline set by the Director or authorized personnel; or

8 (2) an extended deadline granted by the Director or  
9 authorized personnel.

10 (e) Examination report. The market conduct surveillance  
11 personnel designated by the Director under Section 402 must  
12 make a full and true report of every examination made by them  
13 that contains only facts ascertained from the books, papers,  
14 records, documents, and other evidence obtained by  
15 investigation and examined by them or ascertained from the  
16 testimony of officers, agents, or other persons examined under  
17 oath concerning the business, affairs, conduct, and  
18 performance of the examinee. The report of examination must be  
19 verified by the oath of the examiner in charge thereof, and  
20 when so verified is prima facie evidence in any action or  
21 proceeding in the name of the State against the examinee, its  
22 officers, directors, or agents upon the facts stated therein.

23 (f) Examinee response to examination report. The  
24 Department and the examinee shall comply with the following  
25 timeline, unless a mutual agreement is reached to modify the  
26 timeline:

1           (1) The Department shall deliver a draft report to the  
2           examinee as soon as reasonably practicable. Nothing in  
3           this Section prevents the Department from sharing an  
4           earlier draft of the report with the examinee before  
5           confirming that the examination is completed.

6           (2) If the examinee chooses to respond with written  
7           submissions or rebuttals, then the examinee must do so  
8           within 30 days after receipt of any draft report delivered  
9           after the completion of the examination.

10          (3) As soon as reasonably practicable after receipt of  
11          any written submissions or rebuttals, the Department shall  
12          issue a final report. Whenever the Department has made  
13          substantive changes to a previously shared draft report,  
14          unless those changes remove part or all of an alleged  
15          violation or were proposed by the examinee, the Department  
16          shall deliver the revised version to the examinee as a new  
17          draft and shall allow the examinee 30 days to respond  
18          before the Department issues a final report.

19          (4) The examinee shall, within 10 days after the  
20          issuance of the final report, accept the final report or  
21          request a hearing in writing, unless granted an extension  
22          by mutual agreement. Failure to take either action within  
23          10 days or the mutually agreed extension shall be deemed  
24          an acceptance of the final report. If the examinee accepts  
25          the examination report, the Director shall continue to  
26          hold the content of the examination report as private and

1 confidential for a period of 30 days. Thereafter, the  
2 Director shall open the final report for public  
3 inspection.

4 (g) Hearing; final examination report. Notwithstanding  
5 anything to the contrary in this Code or Department rules, if  
6 the examinee requests a hearing, then the following procedures  
7 apply:

8 (1) The examinee must request the hearing in writing  
9 and must specify the issues in the final report that the  
10 examinee is challenging. The examinee is limited to  
11 challenging the issues that were previously challenged in  
12 the examinee's written submission and rebuttal or  
13 supplemental submission and rebuttal pursuant to  
14 paragraphs (2) and (3) of subsection (f).

15 (2) Except as permitted in paragraphs (3) and (8) of  
16 this subsection, the hearing shall be limited to the  
17 written arguments submitted by the parties to the  
18 designated hearing officer. The designated hearing officer  
19 may, however, grant a live hearing upon the request of  
20 either party.

21 (3) Discovery is limited to the market conduct  
22 surveillance personnel's work papers that are relevant to  
23 the issues the examinee is challenging. The relevant  
24 market conduct surveillance personnel's work papers shall  
25 be admitted into the record. No other forms of discovery,  
26 including depositions and interrogatories, are allowed,

1           except upon written agreement of the examinee and the  
2           Department when necessary to conduct a fair hearing or as  
3           otherwise provided in this subsection.

4           (4) Only the examinee and the Department may submit  
5           written arguments.

6           (5) The examinee must submit its written argument and  
7           any supporting evidence within 30 days after the  
8           Department serves a formal notice of hearing.

9           (6) The Department must submit its written response  
10          and any supporting evidence within 30 days after the  
11          examinee submits its written argument.

12          (7) The designated hearing officer may allow  
13          additional written submissions if necessary or useful to  
14          the fair resolution of the hearing.

15          (8) If either the examinee or the Department submit  
16          written testimony or affidavits, then the opposing party  
17          shall be given the opportunity to cross-examine the  
18          witness and to submit the cross-examination to the hearing  
19          officer before a decision.

20          (9) The Director shall issue a decision accompanied by  
21          findings and conclusions. The Director's order is a final  
22          administrative decision and shall be served upon the  
23          examinee together with a copy of the final report within  
24          90 days after the conclusion of the hearing. The hearing  
25          is deemed concluded on the later of the last date of any  
26          live hearing or the final deadline date for written

1 submissions to the hearing officer, including any  
2 continuances or supplemental briefings permitted by the  
3 hearing officer.

4 (10) Any portion of the final examination report that  
5 was not challenged by the examinee is incorporated into  
6 the decision of the Director.

7 (11) Findings of fact and conclusions of law in the  
8 Director's final administrative decision are prima facie  
9 evidence in any legal or regulatory action.

10 (12) If an examinee has requested a hearing, then the  
11 Director shall continue to hold the final report and any  
12 related decision as private and confidential for a period  
13 of 49 days after the final administrative decision. After  
14 the 49-day period expires, the Director shall open the  
15 final report and any related decision for public  
16 inspection if a court of competent jurisdiction has not  
17 stayed its publication.

18 (h) Disclosure. So long as the recipient agrees to and  
19 verifies in writing its legal authority to hold the  
20 information confidential in a manner consistent with this  
21 Section, nothing in this Section prevents the Director from  
22 disclosing at any time the content of an examination report,  
23 preliminary examination report, or results, or any matter  
24 relating to a report or results, to:

25 (1) the insurance regulatory authorities of any other  
26 state; or

1           (2) any agency or office of the federal government.

2           (i) Confidentiality.

3           (1) The Director and any other person in the course of  
4 market conduct surveillance shall keep confidential all  
5 documents, including working papers, third-party models,  
6 or products; complaint logs; copies of any documents  
7 created, produced, obtained by, or disclosed to the  
8 Director, market conduct surveillance personnel, or any  
9 other person in the course of market conduct surveillance  
10 conducted pursuant to this Section; and all documents  
11 obtained by the NAIC pursuant to this Section. The  
12 documents shall remain confidential after the termination  
13 of the market conduct surveillance, are not subject to  
14 subpoena, are not subject to discovery or admissible as  
15 evidence in private civil litigation, are not subject to  
16 disclosure under the Freedom of Information Act, and must  
17 not be made public at any time or used by the Director or  
18 any other person, except as provided in paragraphs (3),  
19 (4), and (6) of this subsection (i) and in subsection (k).

20           (2) The Director and any other person in the course of  
21 market conduct surveillance shall keep confidential any  
22 self-evaluation or voluntary compliance program documents  
23 disclosed to the Director or other person by an examinee  
24 and the data collected via the NAIC market conduct annual  
25 statement. The documents are not subject to subpoena, are  
26 not subject to discovery or admissible as evidence in

1 private civil litigation, are not subject to disclosure  
2 under the Freedom of Information Act, and they shall not  
3 be made public or used by the Director or any other person,  
4 except as provided in paragraphs (3) and (4) of this  
5 subsection (i), in subsection (k), or in Section 155.35.  
6 Nothing in this Section shall supersede the restrictions  
7 on disclosure under Section 155.35.

8 (3) Notwithstanding paragraphs (1) and (2) of this  
9 subsection (i), and consistent with paragraph (5) of this  
10 subsection (i), in order to assist in the performance of  
11 the Director's duties, the Director may:

12 (A) share documents, materials, communications, or  
13 other information, including the confidential and  
14 privileged documents, materials, or information  
15 described in this subsection (i), with other State,  
16 federal, alien, and international regulatory agencies  
17 and law enforcement authorities and the NAIC, its  
18 affiliates, and subsidiaries, if the recipient agrees  
19 to and verifies in writing its legal authority to  
20 maintain the confidentiality and privileged status of  
21 the document, material, communication, or other  
22 information;

23 (B) receive documents, materials, communications,  
24 or information, including otherwise confidential and  
25 privileged documents, materials, or information, from  
26 the NAIC and its affiliates or subsidiaries, and from

1 regulatory and law enforcement officials of other  
2 State, federal, alien, or international jurisdictions,  
3 authorities, and agencies, and shall maintain as  
4 confidential or privileged any document, material,  
5 communication, or information received with notice or  
6 the understanding that it is confidential or  
7 privileged under the laws of the jurisdiction that is  
8 the source of the document, material, communication,  
9 or information; and

10 (C) enter into agreements governing the sharing  
11 and use of information consistent with this Section.

12 (4) Nothing in this Section limits:

13 (A) the Director's authority to use, if consistent  
14 with subsection (5) of Section 188.1, as applicable,  
15 any final or preliminary examination report, any  
16 market conduct surveillance or examinee work papers or  
17 other documents, or any other information discovered  
18 or developed during the course of any market conduct  
19 surveillance in the furtherance of any legal or  
20 regulatory action initiated by the Director that the  
21 Director may, in the Director's sole discretion, deem  
22 appropriate; however, confidential or privileged  
23 information about a company or person that is used in  
24 the legal or regulatory action shall not be made  
25 public except by order of a court of competent  
26 jurisdiction or with the written consent of the

1 company or person; or

2 (B) the ability of an examinee to conduct  
3 discovery in accordance with paragraph (3) of  
4 subsection (g).

5 (5) Disclosure to or by the Director of documents,  
6 materials, communications, or information required as part  
7 of any type of market conduct surveillance does not waive  
8 any applicable privilege or claim of confidentiality in  
9 the documents, materials, communications, or information.

10 (6) Notwithstanding the confidentiality requirements  
11 of this Section or otherwise imposed by State law, if the  
12 Director performs a data call, other than the collection  
13 of data for the NAIC market conduct annual statement, the  
14 Director may make the results of the data call available  
15 for public inspection in an aggregated format that does  
16 not disclose information or data attributed to any  
17 specific company or person, including the name of any  
18 company or person who responded to the data call, so long  
19 as the Director provides all companies or persons that  
20 responded to the data call 15 days' notice identifying the  
21 information to be publicly released. Nothing in this  
22 Section requires the Director to publish results from any  
23 data call. A data call does not need a warrant or a final  
24 report. Failure to comply with a data call may result in a  
25 fine up to \$10,000 per day per offense.

26 (j) Corrective actions.

1           (1) As a result of any market conduct action, the  
2 Director may take any action the Director considers  
3 necessary or appropriate in accordance with the report of  
4 examination or any hearing thereon for acts in violation  
5 of any law, rule, or prior lawful order of the Director. No  
6 corrective action, including a penalty, shall be ordered  
7 with respect to violations in transactions with consumers  
8 or other entities that are isolated occurrences or that  
9 occur with such low frequency as to fall below a  
10 reasonable margin of error. Such actions include, but are  
11 not limited to:

12           (A) requiring the regulated person to undertake  
13 corrective actions to cease and desist an identified  
14 violation or institute processes and practices to  
15 comply with applicable standards;

16           (B) requiring reimbursement or restitution of any  
17 actual losses or damages to persons harmed by the  
18 regulated person's violation with interest from the  
19 date that the actual loss or damage was incurred,  
20 which shall be calculated at the SOFR rate applicable  
21 on the date that the actual loss or damage was incurred  
22 plus 2%; and

23           (C) imposing civil penalties as provided in this  
24 subsection (j).

25           (2) The Director may order a penalty of up to \$2,000  
26 for each violation of any law, rule, or prior lawful order

1 of the Director. Any failure to respond to an information  
2 request in a market conduct action or violation of  
3 subsection (d) may carry a fine of up to \$10,000 per day  
4 per offense ~~\$1,000 per day up to a maximum of \$50,000. The~~  
5 penalty shall be paid into the Insurance Producer  
6 Administration Fund. Fines and penalties shall be  
7 consistent, reasonable, and justifiable, and the Director  
8 may consider reasonable criteria in ordering the fines and  
9 penalties, including, but not limited to, consumer harm,  
10 the intentionality of any violations, or remedial actions  
11 already undertaken by the examinee. The Director shall  
12 communicate to the examinee the basis for any assessed  
13 fine or penalty.

14 (3) If any other provision of this Code or any other  
15 law or rule under the Director's jurisdiction prescribes  
16 an amount or range of monetary penalty for a violation of a  
17 particular statute or rule or a maximum penalty in the  
18 aggregate for repeated violations, the Director shall  
19 assess penalties pursuant to the terms of the statute or  
20 rule allowing the largest penalty.

21 (4) If any other provision of this Code or any other  
22 law or rule under the Director's jurisdiction prescribes  
23 or specifies a method by which the Director is to  
24 determine a violation, then compliance with the process  
25 set forth herein shall be deemed to comply with the method  
26 prescribed or specified in the other provision.

1           (5) If the Director imposes any sanctions or  
2 corrective actions described in subparagraphs (A) through  
3 (C) of paragraph (1) of this subsection (j) based on the  
4 final report, the Director shall include those actions in  
5 a proposed stipulation and consent order enclosed with the  
6 final report issued to the examinee under subsection (f).  
7 The examinee shall have 10 days to sign the order or  
8 request a hearing in writing on the actions proposed in  
9 the order regardless of whether the examinee requests a  
10 hearing on the contents of the report under subsection  
11 (f). If the examinee does not sign the order or request a  
12 hearing on the proposed actions or the final report within  
13 10 days, the Director may issue a final order imposing the  
14 sanctions or corrective actions. Nothing in this Section  
15 prevents the Department from sharing an earlier draft of  
16 the proposed order with the examinee before issuing the  
17 final report.

18           (6) If the examinee accepts the order and the final  
19 report, the Director shall hold the content of the order  
20 and report as private and confidential for a period of 30  
21 days. Thereafter, the Director shall open the order and  
22 report for public inspection.

23           (7) If the examinee makes a timely request for a  
24 hearing on the order, the request must specify the  
25 sanctions or corrective actions in the order that the  
26 examinee is challenging. Any hearing shall follow the

1 procedures set forth in paragraphs (2) through (7) of  
2 subsection (g).

3 (8) If the examinee has also requested a hearing on  
4 the contents of the report, then that hearing shall be  
5 consolidated with the hearing on the order. The Director  
6 shall not impose sanctions or corrective actions under  
7 this Section until the conclusion of the hearing.

8 (9) The Director shall issue a decision accompanied by  
9 findings and conclusions along with any corrective actions  
10 or sanctions. Any sanctions or corrective actions shall be  
11 based on the final report accepted by the examinee or  
12 adopted by the Director under paragraph (9) of subsection  
13 (g). The Director's order is a final administrative  
14 decision and shall be served upon the examinee together  
15 with a copy of the final report within 90 days after the  
16 conclusion of the hearing or within 10 days after the  
17 examinee's acceptance of the proposed order and final  
18 report, as applicable. The hearing is deemed concluded on  
19 the later of the last date of any live hearing or the final  
20 deadline date for written submissions to the hearing  
21 officer, including any continuances or supplemental  
22 briefings permitted by the hearing officer.

23 (10) If an examinee has requested a hearing under this  
24 subsection (i), the Director shall continue to hold the  
25 final order and examination report as private and  
26 confidential for a period of 49 days after the final

1 administrative decision. After the 49-day period expires,  
2 the Director shall open the final order and examination  
3 report if a court of competent jurisdiction has not stayed  
4 their publication.

5 (k) National market conduct databases. The Director shall  
6 collect and report market data to the NAIC's market  
7 information systems, including, but not limited to, the  
8 Complaint Database System, the Examination Tracking System,  
9 and the Regulatory Information Retrieval System, or other  
10 successor NAIC products as determined by the Director.  
11 Information collected and maintained by the Department for  
12 inclusion in these NAIC market information systems shall be  
13 compiled in a manner that meets the requirements of the NAIC.  
14 Confidential or privileged information collected, reported, or  
15 maintained under this subsection (k) shall be subject to the  
16 protections and restrictions on disclosure in subsection (i).

17 (l) Immunity of market conduct surveillance personnel.

18 (1) No cause of action shall arise nor shall any  
19 liability be imposed against the Director, the Director's  
20 authorized representatives, market conduct surveillance  
21 personnel, or an examiner appointed by the Director for  
22 any statements made or conduct performed in good faith  
23 while carrying out the provisions of this Section.

24 (2) No cause of action shall arise nor shall any  
25 liability be imposed against any person for the act of  
26 communicating or delivering information or data to the

1 Director, the Director's authorized representative, market  
2 conduct surveillance personnel, or examiner pursuant to an  
3 examination made under this Section, if the act of  
4 communication or delivery was performed in good faith and  
5 without fraudulent intent or the intent to deceive.

6 (3) A person identified in paragraph (1) of this  
7 subsection (1) shall be entitled to an award of attorney's  
8 fees and costs if he or she is the prevailing party in a  
9 civil cause of action for libel, slander, or any other  
10 relevant tort arising out of activities in carrying out  
11 the provisions of this Section and the party bringing the  
12 action was not substantially justified in doing so. As  
13 used in this paragraph, a proceeding is substantially  
14 justified if it had a reasonable basis in law or fact at  
15 the time it was initiated.

16 (4) This subsection (1) does not abrogate or modify in  
17 any way any common law or statutory privilege or immunity  
18 heretofore enjoyed by any person identified in paragraph  
19 (1) of this subsection (1).

20 (Source: P.A. 103-897, eff. 1-1-25.)

21 (215 ILCS 5/132.3) (from Ch. 73, par. 744.3)

22 Sec. 132.3. Authority, scope, and scheduling of  
23 examinations.

24 (a) The Director or any of his examiners may conduct an  
25 examination of any company as often as the Director, in his

1 sole discretion, deems appropriate, but shall, at a minimum,  
2 conduct an examination of every insurer authorized or licensed  
3 in this State not less frequently than once every 5 years. In  
4 scheduling and determining the nature, scope, and frequency of  
5 the examinations, the Director shall consider the results of  
6 financial statement analyses and ratios, changes in management  
7 or ownership, actuarial opinions, reports of independent  
8 certified public accountants and other criteria set forth in  
9 the Examiners' Handbook adopted by the National Association of  
10 Insurance Commissioners and in effect when the Director  
11 exercises discretion under this subsection.

12 (b) For purposes of completing an examination of any  
13 company, the Director may examine or investigate any person,  
14 or the business of any person, insofar as the examination or  
15 investigation is, in the sole discretion of the Director,  
16 necessary or material to the examination of the company.

17 (b-5) The Director may issue a data call to any company to  
18 collect any information within that company or its affiliate's  
19 control. If an insurer fails to comply with the data call, the  
20 Director may assess a fine up to \$10,000 per day per offense. A  
21 data call does not require an examination warrant or a final  
22 report. Any information provided through a data call shall be  
23 treated as confidential and privileged. The information shall  
24 not be subject to subpoena or discovery and shall not be  
25 admissible into evidence in any private civil action. No  
26 waiver of privilege or confidentiality shall occur as a result

1 of responding to such data call.

2 (c) In lieu of an examination of any foreign or alien  
3 insurer authorized or licensed in this State, the Director may  
4 accept an examination report on the company as prepared by the  
5 insurance department for the company's state of domicile or  
6 port-of-entry state until January 1, 1994. Thereafter, those  
7 reports may only be accepted if (1) the insurance department  
8 was at the time of the examination accredited under the  
9 National Association of Insurance Commissioners' Financial  
10 Regulation Standards and Accreditation Program, (2) the  
11 examination is performed under the supervision of an  
12 accredited insurance department or with the participation of  
13 one or more examiners who are employed by an accredited state  
14 insurance department, and who, after a review of the  
15 examination work papers and report, state under oath that the  
16 examination was performed in a manner consistent with the  
17 standards and procedures required by their insurance  
18 department, or (3) the Director otherwise determines that the  
19 examination was performed in a manner substantially similar to  
20 the standards and procedures required by Sections 132.1  
21 through 132.6 of this Code.

22 (d) Any company that or person who violates or aids and  
23 abets any violation of a written order issued under this  
24 Section is guilty of a business offense and may be fined up to  
25 \$10,000 per day per offense. The penalty shall be paid into the  
26 Insurance Producer Administration Fund.

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

2 (215 ILCS 5/143.15) (from Ch. 73, par. 755.15)

3 Sec. 143.15. Mailing of cancellation notice. All notices  
4 of cancellation of insurance as defined in subsections (a),  
5 (b) and (c) of Section 143.13 must be mailed at least 30 days  
6 prior to the effective date of cancellation to the named  
7 insured if the effective date of cancellation is within the  
8 first 60 days of coverage. After the coverage has been  
9 effective for 61 days or more, all notices must be mailed at  
10 least 60 days prior to the effective date of cancellation.  
11 However, ~~however~~, if cancellation is for nonpayment of  
12 premium, the notice of cancellation must be mailed at least 10  
13 days before the effective date of the cancellation to the last  
14 mailing address known to the company. All notices of  
15 cancellation to the named insured shall include a specific  
16 explanation of the reason or reasons for cancellation. For  
17 purposes of this Section, the mortgagee or lien holder, if  
18 known, may opt to accept notification electronically.

19 (Source: P.A. 100-475, eff. 1-1-18.)

20 (215 ILCS 5/143.17) (from Ch. 73, par. 755.17)

21 Sec. 143.17. Notice of intention not to renew.

22 a. No company shall fail to renew any policy of insurance,  
23 as defined in subsections (a), (b), (c), and (h) of Section  
24 143.13, to which Section 143.11 applies, unless it shall send

1 by mail to the named insured at least 60 ~~30~~ days advance notice  
2 of its intention not to renew. The company shall maintain  
3 proof of mailing of such notice on a recognized U.S. Post  
4 Office form or a form acceptable to the U. S. Post Office or  
5 other commercial mail delivery service. The nonrenewal shall  
6 not become effective until at least 60 ~~30~~ days from the proof  
7 of mailing date of the notice to the name insured.  
8 Notification shall also be sent to the insured's broker, if  
9 known, or the agent of record, if known, and to the last known  
10 mortgagee or lien holder. For purposes of this Section, the  
11 mortgagee or lien holder, insured's broker, or the agent of  
12 record may opt to accept notification electronically. However,  
13 where cancellation is for nonpayment of premium, the notice of  
14 cancellation must be mailed at least 10 days before the  
15 effective date of the cancellation.

16 b. This Section does not apply if the company has  
17 manifested its willingness to renew directly to the named  
18 insured. Such written notice shall specify the premium amount  
19 payable, including any premium payment plan available, and the  
20 name of any person or persons, if any, authorized to receive  
21 payment on behalf of the company. If no person is so  
22 authorized, the premium notice shall so state.

23 b-5. This Section does not apply if the company manifested  
24 its willingness to renew directly to the named insured.  
25 However, no company may impose changes in deductibles or  
26 coverage for any policy forms applicable to an entire line of

1 business enumerated in subsections (a), (b), (c), and (h) of  
2 Section 143.13 to which Section 143.11 applies unless the  
3 company mails to the named insured written notice of the  
4 change in deductible or coverage at least 60 days prior to the  
5 renewal or anniversary date. Notice shall also be sent to the  
6 insured's broker, if known, or the agent of record.

7 c. Should a company fail to comply with (a) or (b) of this  
8 Section, the policy shall terminate only on the effective date  
9 of any similar insurance procured by the insured with respect  
10 to the same subject or location designated in both policies.

11 d. Renewal of a policy does not constitute a waiver or  
12 estoppel with respect to grounds for cancellation which  
13 existed before the effective date of such renewal.

14 e. In all notices of intention not to renew any policy of  
15 insurance, as defined in Section 143.11 the company shall  
16 provide the named insured a specific explanation of the  
17 reasons for nonrenewal.

18 f. For purposes of this Section, the insured's broker, if  
19 known, or the agent of record and the mortgagee or lien holder  
20 may opt to accept notification electronically.

21 (Source: P.A. 100-475, eff. 1-1-18.)

22 (215 ILCS 5/Art. XLVIII heading new)

23 ARTICLE XLVIII. CLIMATE RISK DISCLOSURE

24 (215 ILCS 5/1801 new)

1       Sec. 1801. Short title. This Article may be cited as the  
2       Climate Risk Disclosure Law.

3           (215 ILCS 5/1805 new)

4       Sec. 1805. Purpose. The purpose of this Article is to  
5       enhance transparency about how insurers manage climate-related  
6       risks and to clarify the Department's authority to require  
7       companies to participate in climate surveys issued by entities  
8       including but not limited to the Department and the National  
9       Association of Insurance Commissioners. This Article shall be  
10       liberally interpreted to carry into effect the intent of this  
11       Section.

12           (215 ILCS 5/1810 new)

13       Sec. 1810. Applicability. This Article applies to all  
14       companies licensed in Illinois under Classes 2 and 3 of  
15       Section 4 of this Code that write \$100,000,000 or more  
16       annually in premiums. This threshold may be altered by rule.

17           (215 ILCS 5/1815 new)

18       Sec. 1815. Climate disclosure survey participation. All  
19       insurers subject to this Article shall, upon direction from  
20       the Department, participate in National Association of  
21       Insurance Commissioners issued climate surveys.