**Section 401.70 Retirement of Guaranty Fund and Guaranty Capital and Payment of Interest**

a) A company may only retire guaranty funds and guaranty capital and make payment of interest on any indebtedness as provided under Section 76 of the Illinois Insurance Code. No payment shall be authorized by the Director unless:

1) The company's surplus as regards policyholders is reasonable in relation to its outstanding liabilities and adequate for its financial needs [the determination of the reasonableness and adequacy of surplus shall include consideration of the following factors: premium volume as referenced in Sections 144 and 244.1 of the Illinois Insurance Code (Code) (Ill. Rev. Stat. 1987, ch. 73, pars. 756 and 856.1); lines of business and additional authority as referenced in Sections 4, 11, 39, 245.23 of the Code (Ill. Rev. Stat. 1987, ch. 73, pars. 616, 623, 651, 857.23) and Section 2-1 of the Health Maintenance Organization Act (Ill. Rev. Stat. 1987, ch. 111½, par. 1403), reserves, company size and operational history as referenced in Section 113 of the Code (Ill. Rev. Stat. 1987, ch. 73, par. 725)], and

2) Such payment will not reduce the company's surplus as regards policyholders to less than that currently required under Section 66 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 678), and

3) Such payment is consistent with the terms of the certificate pursuant to Section 401.30 of this Part.

b) Any payment which reduces the company's surplus as regards policyholders beyond the amount permitted under Section 401.70 hereof must be immediately returned in lawful money to the company.

(Source: Amended at 13 Ill. Reg. 14048, effective September 11, 1989)