**Section 807.40 Custody Agreement Requirements**

a) Every domestic company may, by written agreement with a custodian qualified to administer trusts in this State under the Corporate Fiduciary Act [205 ILCS 620], and that has an office in this State at which the account is maintained, provide for the custody of its securities with that custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.

b) The agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement shall comply with the following:

1) Securities' certificates held by the custodian shall be held separate from the securities' certificates of the custodian and of all of its other customers.

2) Securities held indirectly by the custodian and securities in a clearing corporation shall be separately identified on the custodian's official records as being owned by the insurance company. The records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records shall also identify where the securities are and, if in a clearing corporation, the name of the clearing corporation and, if through an agent, the name of the agent.

3) To the extent not inconsistent with the provisions of this Part, the custody agreement shall conform to the guidelines and procedures set forth in the Financial Condition Examiners Handbook.

4) If the securities are not located in Illinois, the company's board of directors shall adopt a custodial plan and file it for approval by the Director. If there is a committee or an officer with evidence of the authority from the board to act on this matter, approval by the committee or officer will be sufficient. The custodial plan shall acknowledge that the company and custodian have entered into a custody agreement that contains the following provisions:

A) Address of custodian's Illinois office and that of its main office if outside of Illinois.

B) Acknowledgment by the custodian that is authorized to administer trusts in Illinois pursuant to the provisions of the Illinois Corporate Fiduciary Act [205 ILCS 620].

C) Confirmation that the Department and the courts of the State of Illinois have in rem jurisdiction over the securities, and that the custodian will make the records of the custodial account readily available to the Department during normal business hours.

D) Confirmation that the custodian submits to the jurisdiction of the Department, and to the jurisdiction of any State or federal court located in the State of Illinois.

E) Designation of the custodian's Illinois office as its agent for service of process.

F) Designation that the rights and obligations of the parties under the agreement shall be construed and enforced in accordance with Illinois law.