



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5528

by Rep. Thaddeus Jones

SYNOPSIS AS INTRODUCED:

215 ILCS 5/131.8	from Ch. 73, par. 743.8
215 ILCS 5/131.22	from Ch. 73, par. 743.22
215 ILCS 5/131.9a rep.	

Amends the Illinois Insurance Code. In provisions requiring the Director of Insurance to approve specified acquisitions of control, provides that the Director shall deny the acquisition if the competence, experience, and integrity of those persons who would control the operation are such that it would not (rather than would) be in the best interests of specified individuals. In provisions concerning confidential treatment of certain information, excludes information submitted pursuant to specified provisions concerning mergers and acquisitions that is not personal financial information. Repeals duplicative provisions concerning exemptions. Effective immediately.

LRB101 15678 BMS 65033 b

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 131.8 and 131.22 as follows:

6 (215 ILCS 5/131.8) (from Ch. 73, par. 743.8)

7 Sec. 131.8. (1) After the statement required by Section
8 131.5 has been filed, the Director shall approve any merger,
9 consolidation or other acquisition of control referred to in
10 Section 131.4 unless the Director finds that:

11 (a) after the change of control, the domestic company
12 referred to in Section 131.4 would not be able to satisfy
13 the requirements for the issuance of a license to write the
14 line or lines of insurance for which it is presently
15 licensed;

16 (b) the effect of the merger, consolidation or other
17 acquisition of control would be substantially to lessen
18 competition in insurance in this State or tend to create a
19 monopoly therein. In applying the competitive standard in
20 this paragraph:

21 (i) the informational requirements of subsection
22 (3)(a) and the standards of subsection (4)(b) of
23 Section 131.12a shall apply,

1 (ii) the merger or other acquisition shall not be
2 found substantially to lessen competition in insurance
3 in this State or tend to create a monopoly therein if
4 the Director finds that any of the situations meeting
5 the criteria provided by subsection (4)(c) of Section
6 131.12a exist, and

7 (iii) the Director may condition the approval of
8 the merger or other acquisition on the removal of the
9 basis of disapproval within a specified period of time;

10 (c) the financial condition of any acquiring party is
11 such as might jeopardize the financial stability of the
12 domestic company or jeopardize the interests of its
13 policyholders;

14 (d) the plans or proposals which the acquiring party
15 has to liquidate the domestic company, sell its assets or
16 consolidate or merge it with any person, or to make any
17 other material change in its business or corporate
18 structure or management, are unfair and unreasonable to
19 policyholders of such company and not in the public
20 interest; or

21 (e) the competence, experience and integrity of those
22 persons who would control the operation of the domestic
23 company are such that it would not be in the best interests
24 of policyholders of such company and of the insurance
25 buying public to permit the merger, consolidation or other
26 acquisition of control.

1 (2) The Director may hold a public hearing on any merger,
2 consolidation or other acquisition of control referred to in
3 Section 131.4 if the Director determines that the statement
4 filed as required by Section 131.5 does not demonstrate
5 compliance with the standards referred to in subsection (1), of
6 this Section, or if he determines that such acquisition of
7 control is likely to be hazardous or prejudicial to the
8 insurance buying public.

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

1 the public hearing.

2 (4) If the proposed acquisition of control will require the
3 approval of more than one state insurance commissioner, the
4 public hearing referred to in subsection (2) of this Section
5 may be held on a consolidated basis upon request of the person
6 filing the statement referred to in Section 131.5 of this Code.
7 Such person shall file the statement referred to in Section
8 131.5 of this Code with the National Association of Insurance
9 Commissioners (NAIC) within 5 days after making the request for
10 a public hearing. A commissioner may opt out of a consolidated
11 hearing and shall provide notice to the applicant of the opt
12 out within 10 days after the receipt of the statement referred
13 to in Section 131.5 of this Code. A hearing conducted on a
14 consolidated basis shall be public and shall be held within the
15 United States before the commissioners of the states in which
16 the companies are domiciled. Such commissioners shall hear and
17 receive evidence. A commissioner may attend such hearing in
18 person or by telecommunication.

19 (5) In connection with a change of control of a domestic
20 company, any determination by the Director that the person
21 acquiring control of the company shall be required to maintain
22 or restore the capital of the company to the level required by
23 the laws and regulations of this State shall be made not later
24 than 60 days after the filing of the statement required by
25 Section 131.5 of this Code.

26 (Source: P.A. 98-609, eff. 1-1-14.)

1 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

2 Sec. 131.22. Confidential treatment.

3 (a) Documents, materials, or other information in the
4 possession or control of the Department that are obtained by or
5 disclosed to the Director or any other person in the course of
6 an examination or investigation made pursuant to this Article
7 and all information reported pursuant to this Article, with the
8 exception of information submitted pursuant to Section 131.5
9 through Section 131.10 that is not personal financial
10 information, shall be confidential by law and privileged, shall
11 not be subject to the Illinois Freedom of Information Act,
12 shall not be subject to subpoena, and shall not be subject to
13 discovery or admissible in evidence in any private civil
14 action. However, the Director is authorized to use the
15 documents, materials, or other information in the furtherance
16 of any regulatory or legal action brought as a part of the
17 Director's official duties. The Director shall not otherwise
18 make the documents, materials, or other information public
19 without the prior written consent of the company to which it
20 pertains unless the Director, after giving the company and its
21 affiliates who would be affected thereby prior written notice
22 and an opportunity to be heard, determines that the interest of
23 policyholders, shareholders, or the public shall be served by
24 the publication thereof, in which event the Director may
25 publish all or any part in such manner as may be deemed

1 appropriate.

2 (b) Neither the Director nor any person who received
3 documents, materials, or other information while acting under
4 the authority of the Director or with whom such documents,
5 materials, or other information are shared pursuant to this
6 Article shall be permitted or required to testify in any
7 private civil action concerning any confidential documents,
8 materials, or information subject to subsection (a) of this
9 Section.

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

12 (1) may share documents, materials, or other
13 information, including the confidential and privileged
14 documents, materials, or information subject to subsection
15 (a) of this Section, with other state, federal, and
16 international regulatory agencies, with the NAIC and its
17 affiliates and subsidiaries, and with state, federal, and
18 international law enforcement authorities, including
19 members of any supervisory college allowed by this Article,
20 provided that the recipient agrees in writing to maintain
21 the confidentiality and privileged status of the document,
22 material, or other information, and has verified in writing
23 the legal authority to maintain confidentiality;

24 (1.5) notwithstanding paragraph (1) of this subsection
25 (c), may only share confidential and privileged documents,
26 material, or information reported pursuant to Section

1 131.14b with commissioners of states having statutes or
2 regulations substantially similar to subsection (a) of
3 this Section and who have agreed in writing not to disclose
4 such information;

5 (2) may receive documents, materials, or information,
6 including otherwise confidential and privileged documents,
7 materials, or information from the NAIC and its affiliates
8 and subsidiaries and from regulatory and law enforcement
9 officials of other foreign or domestic jurisdictions, and
10 shall maintain as confidential or privileged any document,
11 material, or information received with notice or the
12 understanding that it is confidential or privileged under
13 the laws of the jurisdiction that is the source of the
14 document, material, or information; any such documents,
15 materials, or information, while in the Director's
16 possession, shall not be subject to the Illinois Freedom of
17 Information Act and shall not be subject to subpoena; and

18 (3) shall enter into written agreements with the NAIC
19 governing sharing and use of information provided pursuant
20 to this Article consistent with this subsection (c) that
21 shall (i) specify procedures and protocols regarding the
22 confidentiality and security of information shared with
23 the NAIC and its affiliates and subsidiaries pursuant to
24 this Article, including procedures and protocols for
25 sharing by the NAIC with other state, federal, or
26 international regulators; (ii) specify that ownership of

1 information shared with the NAIC and its affiliates and
2 subsidiaries pursuant to this Article remains with the
3 Director and the NAIC's use of the information is subject
4 to the direction of the Director; (iii) require prompt
5 notice to be given to a company whose confidential
6 information in the possession of the NAIC pursuant to this
7 Article is subject to a request or subpoena to the NAIC for
8 disclosure or production; and (iv) require the NAIC and its
9 affiliates and subsidiaries to consent to intervention by a
10 company in any judicial or administrative action in which
11 the NAIC and its affiliates and subsidiaries may be
12 required to disclose confidential information about the
13 company shared with the NAIC and its affiliates and
14 subsidiaries pursuant to this Article.

15 (d) The sharing of documents, materials, or information by
16 the Director pursuant to this Article shall not constitute a
17 delegation of regulatory authority or rulemaking, and the
18 Director is solely responsible for the administration,
19 execution, and enforcement of the provisions of this Article.

20 (e) No waiver of any applicable privilege or claim of
21 confidentiality in the documents, materials, or information
22 shall occur as a result of disclosure to the Director under
23 this Section or as a result of sharing as authorized in
24 subsection (c) of this Section.

25 (f) Documents, materials, or other information in the
26 possession or control of the NAIC pursuant to this Article

1 shall be confidential by law and privileged, shall not be
2 subject to the Illinois Freedom of Information Act, shall not
3 be subject to subpoena, and shall not be subject to discovery
4 or admissible in evidence in any private civil action.

5 (Source: P.A. 98-609, eff. 1-1-14.)

6 (215 ILCS 5/131.9a rep.)

7 Section 10. The Illinois Insurance Code is amended by
8 repealing Section 131.9a.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.