

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 Section 35B-25 as follows:

6 (215 ILCS 5/35B-25)

7 Sec. 35B-25. Plan of division approval.

8 (a) A division shall not become effective until it is
9 approved by the Director after reasonable notice and a public
10 hearing, if the notice and hearing are deemed by the Director
11 to be in the public interest. The Director shall hold a public
12 hearing if one is requested by the dividing company. A hearing
13 conducted under this Section shall be conducted in accordance
14 with Article 10 of the Illinois Administrative Procedure Act.

15 (b) The Director shall approve a plan of division unless
16 the Director finds that:

17 (1) the interest of any class of policyholder or
18 shareholder of the dividing company will not be properly
19 protected;

20 (2) each new company created by the proposed division,
21 except a new company that is a nonsurviving party to a
22 merger pursuant to subsection (b) of Section 156, would be
23 ineligible to receive a license to do insurance business in

1 this State pursuant to Section 5;

2 (2.5) each new company created by the proposed
3 division, except a new company that is a nonsurviving party
4 to a merger pursuant to subsection (b) of Section 156, that
5 will be a member insurer of the Illinois Life and Health
6 Insurance Guaranty Association and that will have policy
7 liabilities allocated to it will not be licensed to do
8 insurance business in each state where such policies were
9 written by the dividing company;

10 (3) the proposed division violates a provision of the
11 Uniform Fraudulent Transfer Act;

12 (4) the division is being made for purposes of
13 hindering, delaying, or defrauding any policyholders or
14 other creditors of the dividing company;

15 (5) one or more resulting companies will not be solvent
16 upon the consummation of the division; or

17 (6) the remaining assets of one or more resulting
18 companies will be, upon consummation of a division,
19 unreasonably small in relation to the business and
20 transactions in which the resulting company was engaged or
21 is about to engage.

22 (c) In determining whether the standards set forth in
23 paragraph (3) of subsection (b) have been satisfied, the
24 Director shall only apply the Uniform Fraudulent Transfer Act
25 to a dividing company in its capacity as a resulting company
26 and shall not apply the Uniform Fraudulent Transfer Act to any

1 dividing company that is not proposed to survive the division.

2 (d) In determining whether the standards set forth in
3 paragraphs (3), (4), (5), and (6) of subsection (b) have been
4 satisfied, the Director may consider all proposed assets of the
5 resulting company, including, without limitation, reinsurance
6 agreements, parental guarantees, support or keep well
7 agreements, or capital maintenance or contingent capital
8 agreements, in each case, regardless of whether the same would
9 qualify as an admitted asset as defined in Section 3.1.

10 (e) In determining whether the standards set forth in
11 paragraph (3) of subsection (b) have been satisfied, with
12 respect to each resulting company, the Director shall, in
13 applying the Uniform Fraudulent Transfer Act, treat:

14 (1) the resulting company as a debtor;

15 (2) liabilities allocated to the resulting company as
16 obligations incurred by a debtor;

17 (3) the resulting company as not having received
18 reasonably equivalent value in exchange for incurring the
19 obligations; and

20 (4) assets allocated to the resulting company as
21 remaining property.

22 (f) All information, documents, materials, and copies
23 thereof submitted to, obtained by, or disclosed to the Director
24 in connection with a plan of division or in contemplation
25 thereof, including any information, documents, materials, or
26 copies provided by or on behalf of a domestic stock company in

1 advance of its adoption or submission of a plan of division,
2 shall be confidential and shall be subject to the same
3 protection and treatment in accordance with Section 131.14d as
4 documents and reports disclosed to or filed with the Director
5 pursuant to Section 131.14b until such time, if any, as a
6 notice of the hearing contemplated by subsection (a) is issued.

7 (g) From and after the issuance of a notice of the hearing
8 contemplated by subsection (a), all business, financial, and
9 actuarial information that the domestic stock company requests
10 confidential treatment, other than the plan of division, shall
11 continue to be confidential and shall not be available for
12 public inspection and shall be subject to the same protection
13 and treatment in accordance with Section 131.14d as documents
14 and reports disclosed to or filed with the Director pursuant to
15 Section 131.14b.

16 (h) All expenses incurred by the Director in connection
17 with proceedings under this Section, including expenses for the
18 services of any attorneys, actuaries, accountants, and other
19 experts as may be reasonably necessary to assist the Director
20 in reviewing the proposed division, shall be paid by the
21 dividing company filing the plan of division. A dividing
22 company may allocate expenses described in this subsection in a
23 plan of division in the same manner as any other liability.

24 (i) If the Director approves a plan of division, the
25 Director shall issue an order that shall be accompanied by
26 findings of fact and conclusions of law.

1 (j) The conditions in this Section for freeing one or more
2 of the resulting companies from the liabilities of the dividing
3 company and for allocating some or all of the liabilities of
4 the dividing company shall be conclusively deemed to have been
5 satisfied if the plan of division has been approved by the
6 Director in a final order that is not subject to further
7 appeal.

8 (Source: P.A. 100-1118, eff. 11-27-18.)