

1 AN ACT concerning insurance.

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 adding Article VIID as follows:

6 (215 ILCS 5/Art. VIID heading new)

7 ARTICLE VIID. NONPROFIT RISK ORGANIZATIONS

8 (215 ILCS 5/123D-1 new)

9 Sec. 123D-1. Purpose; construction.

10 (a) The purpose of this Article is to provide for the
11 organization of and issuance of a certificate of authority to
12 nonprofit risk organizations that insure nonprofit
13 organizations and that will qualify, and continue to qualify,
14 as a qualified charitable risk pool, as defined in subsection
15 (n) of Section 501 of the Internal Revenue Code.

16 (b) This Article shall be liberally construed to effect
17 the purpose under subsection (a) of this Section, which shall
18 constitute an aid and guide to interpretation.

19 (215 ILCS 5/123D-5 new)

20 Sec. 123D-5. Definitions. As used in this Article:

21 "Member" shall have the meaning set forth in the articles
22 or declaration of organization of the nonprofit risk
23 organization.

24 "Nonmember charitable organization" shall have the
25 meaning set forth in subsection (n) of Section 501 of the
26 Internal Revenue Code.

27 "Nonprofit organizations" means organizations described
28 in paragraph (3) of subsection (c), and exempt from taxation
29 under subsection (a), of Section 501 of the Internal Revenue

1 Code.

2 "Nonprofit risk organization" means a nonprofit company
3 organized to do business solely with nonprofit organizations
4 as a qualified charitable risk pool under subsection (n) of
5 Section 501 of the Internal Revenue Code that is organized in
6 accordance with this Article.

7 "Startup capital" shall have the meaning set forth in
8 subsection (n) of Section 501 of the Internal Revenue Code.

9 (215 ILCS 5/123D-10 new)

10 Sec. 123D-10. Organization of nonprofit risk
11 organizations.

12 (a) A company organized pursuant to Articles II, III, or
13 IV, including such companies organized as a risk retention
14 group in this State pursuant to Article VIIB of this Code,
15 that satisfies the requirements of this Article may be
16 organized as a nonprofit risk organization.

17 (b) Notwithstanding any contrary provision in subsection
18 A of Section 123B-3 of this Code, a nonprofit risk
19 organization may be organized as a reciprocal insurance
20 company and qualify for organization under Article VIIB as a
21 risk retention group.

22 (c) No nonprofit risk organization issued a certificate
23 of authority pursuant to this Article shall be converted into
24 a corporation or other entity organized for pecuniary profit
25 or into a for-profit organization of any kind.

26 (215 ILCS 5/123D-15 new)

27 Sec. 123D-15. Conduct of insurance business by nonprofit
28 risk organizations.

29 (a) No person, firm, corporation, or association shall
30 do any insurance business as a nonprofit risk organization in
31 this State unless authorized to do so pursuant to the
32 provisions of this Article.

1 (b) The Director may, pursuant to this Article, issue a
2 certificate of authority to a nonprofit risk organization
3 that is a company organized pursuant to Articles II, III, or
4 IV, including such companies organized as a risk retention
5 group in this State pursuant to Article VIIB, if such
6 organization:

7 (1) complies with the applicable requirements of
8 Articles II, III, or IV and VIIB, if organized as a risk
9 retention group; and

10 (2) has an initial paid-up capital and surplus at
11 least equal to the amount of applicable paid-up capital
12 and surplus required by Articles II, III, or IV for a
13 newly organized company doing the same kind or kinds of
14 insurance business.

15 Thereafter, every such nonprofit risk organization shall
16 maintain capital and surplus at least equal to the amount of
17 applicable capital and surplus required to be maintained by
18 companies under Articles II, III, or IV doing the same kind
19 or kinds of insurance business.

20 (c) Every certificate of authority to engage in an
21 insurance business issued by the Director to any nonprofit
22 risk organization pursuant to the provisions of this Article
23 shall specify the company's name, the location of its
24 principal office, the name and principal address of its
25 attorney-in-fact, if any, and the kind or kinds of insurance
26 business that it is authorized to engage in this State.

27 (215 ILCS 5/123D-20 new)

28 Sec. 123D-20. Relevant criteria.

29 (a) In applying this Article, the Director shall
30 consider the provisions of paragraph (3) of subsection (c) of
31 Section 501 of the Internal Revenue Code and subsection (n)
32 of Section 501 of the Internal Revenue Code.

33 (b) Notwithstanding any other provision of law, a

1 nonprofit risk organization must meet all of the following
2 criteria:

3 (1) Be operated solely to insure risks of its
4 members.

5 (2) Directly provide information to its members
6 with respect to loss control and risk management.

7 (3) Obtain at least \$1,000,000 in startup capital
8 from nonmember charitable organizations. Such startup
9 capital may take the form of advancements or borrowings
10 in the form permitted by Section 34.1, 56, or 76 of this
11 Code, as applicable. Startup capital may be used to
12 satisfy the financial requirements contained in this
13 Article applicable to a nonprofit risk organization only
14 to the extent the Director determines that it complies
15 with such requirements.

16 (4) Be controlled by a board of directors, a
17 majority of whom are policy holders of the nonprofit risk
18 organization, or who are elected by the members of the
19 nonprofit risk organization.

20 (5) Require in its organizational documents that:

21 (A) each member of the nonprofit risk
22 organization shall at all times be an organization
23 described in paragraph (3) of subsection (c) of
24 Section 501 of the Internal Revenue Code and exempt
25 from tax under subsection (a) of Section 501 of the
26 Internal Revenue Code;

27 (B) any member that receives a final
28 determination that it no longer qualifies as an
29 organization described in paragraph (3) of
30 subsection (c) of Section 501 of the Internal
31 Revenue Code shall immediately notify the nonprofit
32 risk organization of the determination and the
33 effective date of the determination; and

34 (C) each policy of insurance issued by the

1 nonprofit risk organization shall provide that such
 2 policy will not cover the insured with respect to
 3 events occurring after the date the final
 4 determination was issued to the insured.

5 (215 ILCS 5/123D-25 new)

6 Sec. 123D-25. Applicability of other provisions of this
 7 Code.

8 (a) Except as otherwise provided in this Article, where
 9 inconsistent with this Article, or where the context
 10 otherwise requires, all of the provisions of this Code and
 11 the rules of the Director relating to all insurers and those
 12 relating to a company organized pursuant to Articles II, III,
 13 or IV or a risk retention group organized in this State
 14 pursuant to Article VIIB transacting the same kind or kinds
 15 of insurance shall be applicable to a nonprofit risk
 16 organization organized and issued a certificate of authority
 17 pursuant to this Article. Where any of such provisions of law
 18 refer to a corporation, company, or insurer, such references,
 19 when read in connection with and applicable to this Article,
 20 shall mean such a nonprofit risk organization.

21 (b) Every nonprofit risk organization shall be subject
 22 to rehabilitation, liquidation, conservation, or dissolution
 23 pursuant to the provisions of Article XIII of this Code, and
 24 such proceeding shall be under the supervision of the
 25 Director, who shall have the powers granted to him or her
 26 under the provisions of that Article as are applicable to
 27 domestic insurance companies.

28 (215 ILCS 5/123D-30 new)

29 Sec. 123D-30. Tax exemption; residual market
 30 participation exemption; security funds.

31 (a) Every nonprofit risk organization subject to the
 32 provisions of this Article shall be exempt from any fees,

1 taxes, special ad valorem levies, or assessments of any kind,
2 including, but not limited to, franchise taxes, sales taxes,
3 or other taxes, upon or with respect to any property owned by
4 it or under its jurisdiction, control, or supervision, or
5 upon the uses thereof, or upon or with respect to its
6 activities or operations in furtherance of the powers
7 conferred upon it by this Article, or upon or with respect to
8 any revenues or other income received by the nonprofit risk
9 organization.

10 (b) A nonprofit risk organization shall not be permitted
11 or required to join or contribute financially to any plan,
12 pool, association, or guaranty or insolvency fund in this
13 State, nor shall any nonprofit risk organization, nor its
14 insureds nor any claimants against the insureds, nor its
15 parent nor any affiliated company, nor any member
16 organization of its association, receive any benefit from any
17 such plan, pool association, or guaranty or insolvency fund
18 for claims arising out of the operations of such nonprofit
19 risk organization. Each nonprofit risk organization must
20 inform each insured, in both the application for insurance
21 and in the policy issued to the insured, that (i) the
22 nonprofit risk organization is not subject to all of the
23 insurance laws and rules of this State, and (ii) State
24 insurance insolvency guaranty funds are not available to such
25 insured for claims arising out of the operations of such
26 nonprofit risk organization.

27 (215 ILCS 5/123D-35 new)

28 Sec. 123D-35. Rules. The Director shall adopt such rules
29 as may be necessary for the implementation of this Article.
30 This regulation may be necessary in light of the nonprofit
31 risk organization being owned by nonprofit organizations that
32 it insures, including the proprietary nature of the
33 information relating to the nonprofit risk organization's

1 insurance company's operations.