



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB0394**

Introduced 2/3/2009, by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/136

from Ch. 73, par. 748

Amends the Illinois Insurance Code. Provides that every property and casualty insurance company doing business in this State, unless otherwise exempted by the Director of Insurance, shall annually submit the opinion of an appointed actuary entitled "Statement of Actuarial Opinion". Provides that the opinion shall be filed in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions. Provides that every property and casualty insurance company domiciled in this State that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the company's appointed actuary. Provides that an Actuarial Report and underlying workpapers as required by the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions shall be prepared to support each Actuarial Opinion. Provides that the appointed actuary shall not be liable for damages to any person (other than the insurance company and the Director) for any act, error, omission, decision, or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary. Makes other changes. Effective immediately.

LRB096 03634 RPM 13662 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 changing Section 136 as follows:

6 (215 ILCS 5/136) (from Ch. 73, par. 748)

7 Sec. 136. Annual statement.

8 (1) Every company authorized to do business in this State  
9 or accredited by this State shall file with the Director by  
10 March 1st in each year 2 copies of its financial statement for  
11 the year ending December 31st immediately preceding on forms  
12 prescribed by the Director, which shall conform substantially  
13 to the form of statement adopted by the National Association of  
14 Insurance Commissioners. Unless the Director provides  
15 otherwise, the annual statement is to be prepared in accordance  
16 with the annual statement instructions and the Accounting  
17 Practices and Procedures Manual adopted by the National  
18 Association of Insurance Commissioners. The Director shall  
19 have power to make such modifications and additions in this  
20 form as he may deem desirable or necessary to ascertain the  
21 condition and affairs of the company. The Director shall have  
22 authority to extend the time for filing any statement by any  
23 company for reasons which he considers good and sufficient. In

1 every statement the admitted assets shall be shown at the  
2 actual values as of the last day of the preceding year, in  
3 accordance with Section 126.7. The statement shall be verified  
4 by oaths of the president and secretary of the company or, in  
5 their absence, by 2 other principal officers. In addition, any  
6 company may be required by the Director, when he considers that  
7 action to be necessary and appropriate for the protection of  
8 policyholders, creditors, shareholders, or claimants, to file,  
9 within 60 days after mailing to the company a notice that such  
10 is required, a supplemental summary statement as of the last  
11 day of any calendar month occurring during the 100 days next  
12 preceding the mailing of such notice designated by him on forms  
13 prescribed and furnished by the Director. The Director may  
14 require supplemental summary statements to be certified by an  
15 independent actuary deemed competent by the Director or by an  
16 independent certified public accountant.

17 (2) The statement of an alien company shall embrace only  
18 its condition and transactions in the United States and shall  
19 be verified by the oaths of its resident manager or principal  
20 representative in the United States, except that in the case of  
21 any life company organized under the laws of Canada or any  
22 province thereof, the statement may be verified by the oaths of  
23 any of its principal officers designated for that purpose by  
24 its board of directors.

25 (3) For the information of the public generally the  
26 Director shall cause an abstract of the information contained

1 in the annual statement to be made available to the public as  
2 soon as practicable after filing with the Department, by  
3 printing those abstracts in pamphlet tabular form for free  
4 general distribution by the Department, or by such other  
5 publication in the city of Springfield or in the city of  
6 Chicago as may be reasonably necessary more fully to inform the  
7 public of the financial condition of companies transacting  
8 business in this State.

9 (4) Each domestic, foreign, and alien insurer authorized to  
10 do business in this State or accredited by this State shall  
11 participate in the National Association of Insurance  
12 Commissioners' Insurance Regulatory Information System,  
13 including the payment of all fees and charges of the system.  
14 Each company shall, on or before March 1 of each year, file  
15 with the National Association of Insurance Commissioners a copy  
16 of its annual financial statement along with any additional  
17 filings prescribed by the Director for the preceding year. The  
18 statement filed with the National Association of Insurance  
19 Commissioners shall be in the same format and scope as that  
20 required by this Code and shall include a signed jurat page and  
21 actuarial certification. Any amendments and addendums to the  
22 annual statement shall also be filed with the National  
23 Association of Insurance Commissioners. Each company shall  
24 also file with the National Association of Insurance  
25 Commissioners annual and quarterly financial statement  
26 information in computer readable format as required by the

1 Insurance Regulatory Information System. Failure of a company  
2 to file financial statement information in computer readable  
3 format shall subject the company to the provisions of Section  
4 139.

5 (5) All financial analysis ratios and examination synopsis  
6 concerning insurance companies that are submitted to the  
7 Director by the National Association of Insurance  
8 Commissioners' Insurance Regulatory Information System are  
9 confidential and may not be disclosed by the Director.

10 (6) Every property and casualty insurance company doing  
11 business in this State, unless otherwise exempted by the  
12 Director, shall annually submit the opinion of an appointed  
13 actuary entitled "Statement of Actuarial Opinion". This  
14 opinion shall be filed in accordance with the appropriate  
15 National Association of Insurance Commissioners Property and  
16 Casualty Annual Statement Instructions.

17 (a) Every property and casualty insurance company  
18 domiciled in this State that is required to submit a  
19 Statement of Actuarial Opinion shall annually submit an  
20 Actuarial Opinion Summary, written by the company's  
21 appointed actuary. This Actuarial Opinion Summary shall be  
22 filed in accordance with the appropriate National  
23 Association of Insurance Commissioners Property and  
24 Casualty Annual Statement Instructions and shall be  
25 considered as a document supporting the Actuarial Opinion  
26 required in this subsection (6). Each foreign and alien

1 property and casualty company authorized to do business in  
2 this State shall provide the Actuarial Opinion Summary upon  
3 request.

4 (b) An Actuarial Report and underlying workpapers as  
5 required by the appropriate National Association of  
6 Insurance Commissioners Property and Casualty Annual  
7 Statement Instructions shall be prepared to support each  
8 Actuarial Opinion. If the insurance company fails to  
9 provide a supporting Actuarial Report or workpapers at the  
10 request of the Director or the Director determines that the  
11 supporting Actuarial Report or workpapers provided by the  
12 insurance company is otherwise unacceptable to the  
13 Director, the Director may engage a qualified actuary at  
14 the expense of the company to review the opinion and the  
15 basis for the opinion and prepare the supporting Actuarial  
16 Report or workpapers.

17 (c) The appointed actuary shall not be liable for  
18 damages to any person (other than the insurance company and  
19 the Director) for any act, error, omission, decision, or  
20 conduct with respect to the actuary's opinion, except in  
21 cases of fraud or willful misconduct on the part of the  
22 appointed actuary.

23 (d) The Statement of Actuarial Opinion shall be  
24 provided with the Annual Statement in accordance with the  
25 appropriate National Association of Insurance  
26 Commissioners Property and Casualty Annual Statement

1 Instructions and shall be treated as a public document.  
2 Documents, materials, or other information in the  
3 possession or control of the Director that are considered  
4 an Actuarial Report, workpapers, or Actuarial Opinion  
5 Summary provided in support of the opinion, and any other  
6 material provided by the company to the Director in  
7 connection with the Actuarial Report, workpapers or  
8 Actuarial Opinion Summary, must be given confidential  
9 treatment, are not subject to subpoena, and may not be made  
10 public by the Director or any other persons. This paragraph  
11 (d) shall not be construed to limit the Director's  
12 authority to release the documents to the Actuarial Board  
13 for Counseling and Discipline (ABCD), so long as the  
14 material is required for the purpose of professional  
15 disciplinary proceedings and that the ABCD establishes  
16 procedures satisfactory to the Director for preserving the  
17 confidentiality of the documents, nor shall this paragraph  
18 (d) be construed to limit the Director's authority to use  
19 the documents, materials or other information in  
20 furtherance of any regulatory or legal action brought as  
21 part of the Director's official duties. Neither the  
22 Director nor any person who received documents, materials,  
23 or other information while acting under the authority of  
24 the Director shall be permitted or required to testify in  
25 any private civil action concerning any confidential  
26 documents, materials, or information subject to this

1 subsection (6). Except where another provision of this Code  
2 expressly prohibits a disclosure of confidential  
3 information to the specific officials or organizations  
4 described in this subsection, the Director may:

5 (i) share documents, materials, or other  
6 information, including the confidential and privileged  
7 documents, materials or information subject to this  
8 paragraph (d) with the insurance department of any  
9 other state or country or with law enforcement  
10 officials of this or any other state or agency of the  
11 federal government at any time, as long as the agency  
12 or office receiving the document, material, or other  
13 information agrees in writing to hold it confidential  
14 and in a manner consistent with this Code;

15 (ii) receive documents, materials, or information,  
16 including otherwise confidential and privileged  
17 documents, materials, or information, from the  
18 National Association of Insurance Commissioners and  
19 its affiliates and subsidiaries, and from regulatory  
20 and law enforcement officials of other foreign or  
21 domestic jurisdictions, and shall maintain as  
22 confidential or privileged any document, material, or  
23 information received with notice or the understanding  
24 that it is confidential or privileged under the laws of  
25 the jurisdiction that is the source of the document,  
26 material, or information; and



1           (iii) enter into agreements governing sharing and  
2           use of information consistent with paragraph (d).

3           (e) No waiver of any applicable privilege or claim of  
4           confidentiality in the documents, materials or information  
5           shall occur as a result of disclosure to the Director under  
6           this Section or as a result of sharing as authorized in  
7           subparagraphs (i), (ii), and (iii) of paragraph (d) of  
8           subsection (6) of this Section. All 2008 Annual Statements,  
9           which are filed in 2009, and all subsequent Annual  
10           Statement filings shall be done in accordance with  
11           subsection (6) of this Section.

12        (Source: P.A. 90-418, eff. 8-15-97.)

13           Section 99. Effective date. This Act takes effect upon  
14        becoming law.