

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating

to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information

or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair

County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Authority due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied

for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services

Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor service agencies but are exempt from

disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) ~~(oo)~~ Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) ~~(oo)~~ Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) ~~(oo)~~ Data reported by an employer to the

Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) ~~(oo)~~ Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) ~~(oo)~~ Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) ~~(oo)~~ Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois Public Aid Code.

(ww) ~~(oo)~~ Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the Illinois Insurance Code.

(Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18; 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff. 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517, eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19; 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff. 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff. 1-1-20; revised 9-25-19.)

Section 10. The Illinois Insurance Code is amended by adding Article VIII.33 as follows:

(215 ILCS 5/Art. VIII.33 heading new)

ARTICLE VIII 1/3. Corporate Governance Annual Disclosure Law

(215 ILCS 5/130.1 new)

Sec. 130.1. Short title. This Article may be cited as the Corporate Governance Annual Disclosure Law.

(215 ILCS 5/130.2 new)

Sec. 130.2. Purpose and scope. The purpose of this Article is to:

(1) provide the Director a summary of an insurer's or insurance group's corporate governance structure, policies, and practices to permit the Director to gain and maintain an understanding of the insurer's corporate governance framework;

(2) outline the requirements for completing a corporate governance annual disclosure with the Director;

(3) provide for the confidential treatment of the corporate governance annual disclosure and related information that will contain confidential and sensitive information related to an insurer's or insurance group's internal operations and proprietary and trade-secret information that, if made public, could potentially cause

the insurer or insurance group competitive harm or disadvantage.

Nothing in this Article shall be construed to prescribe or impose corporate governance standards and internal procedures beyond that which is required under applicable State corporate law. Notwithstanding the foregoing, nothing in this Article shall be construed to limit the Director's authority or the rights or obligations of third parties under Sections 131.21, 132 through 132.7, and 401 through 403. The requirements of this Article apply to all insurers domiciled in this State.

(215 ILCS 5/130.3 new)

Sec. 130.3. Definitions. As used in this Article:

"Director" means the Director of Insurance.

"Corporate governance annual disclosure" means a confidential report filed by the insurer or insurance group made in accordance with the requirements of this Article.

"Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in Section 131.1.

"Insurer" has the same meaning given to "company" in Section 2, except that it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

"ORSA summary report" means the own risk and solvency assessment report filed in accordance with Article VIII 1/4.

(215 ILCS 5/130.4 new)

Sec. 130.4. Disclosure requirement.

(a) An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the Director a corporate governance annual disclosure that contains the information described in subsection (b) of Section 130.5. Notwithstanding any request from the Director made pursuant to subsection (c), if the insurer is a member of an insurance group, the insurer shall submit the report required by this Section to the Director of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

(b) The corporate governance annual disclosure must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer has implemented the corporate governance practices required by this Section and that a copy of the disclosure has been provided to the insurer's board of directors or the appropriate committee thereof.

(c) An insurer not required to submit a corporate

governance annual disclosure under this Section shall do so upon the Director's request.

(d) For purposes of completing the corporate governance annual disclosure, the insurer or insurance group may provide information regarding corporate governance at the ultimate controlling parent level, an intermediate holding company level, or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the corporate governance annual disclosure at the level at which the insurer's or insurance group's risk appetite is determined, the level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors is coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the 3 criteria was used to determine the level of reporting and explain any subsequent changes in the level of reporting.

(e) The review of the corporate governance annual disclosure and any additional requests for information shall be made through the lead state as determined by the procedures within the most recent Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

(f) Insurers providing information substantially similar to the information required by this Article in other documents provided to the Director, including proxy statements filed in conjunction with the requirements of Section 131.13 or other State or federal filings provided to the Department, are not required to duplicate that information in the corporate governance annual disclosure but are only required to cross-reference the document in which the information is included.

(215 ILCS 5/130.5 new)

Sec. 130.5. Contents of corporate governance annual disclosure.

(a) The insurer or insurance group has discretion over the responses to the corporate governance annual disclosure inquiries if the corporate governance annual disclosure contains the material information necessary to permit the Director to gain an understanding of the insurer's or insurance group's corporate governance structure, policies, and practices. The Director may request additional information that he or she deems material and necessary to provide the Director with a clear understanding of the corporate governance policies, the reporting or information system, or controls implementing those policies.

(b) Notwithstanding subsection (a), the corporate governance annual disclosure shall be prepared in a manner

consistent with rules adopted by the Director. Documentation and supporting information shall be maintained and made available upon examination or upon the request of the Director.

(c) The Director may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise a part of the Director's staff, as may be reasonably necessary to assist the Director in reviewing the corporate governance annual disclosure and related information or the insurer's compliance with this Article. Any persons retained shall be under the direction and control of the Director and shall act only in an advisory capacity.

(215 ILCS 5/130.6 new)

Sec. 130.6. Confidentiality.

(a) Documents, materials, or other information, including the corporate governance annual disclosure, in the possession or control of the Department that are obtained by, created by, or disclosed to the Director or any other person under this Article are recognized by this State as being proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be subject to the Freedom of Information Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Director is authorized to use the

documents, materials, or other information in furtherance of any regulatory or legal action brought as a part of the Director's official duties. The Director shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer.

(b) Neither the Director nor any person who received documents, materials, or other corporate governance annual disclosure-related information through examination or otherwise, while acting under the authority of the Director or with whom such documents, materials, or other information are shared pursuant to this Article, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a).

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

(1) upon request, share documents, materials, or other corporate governance annual disclosure-related information, including the confidential and privileged documents, materials, and information subject to subsection (a), including proprietary and trade-secret documents and materials with other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in subsection (c) of Section 131.20, with the National Association of Insurance Commissioners, and with third-party consultants,

if the recipient agrees in writing to maintain the confidentiality and privileged status of the corporate governance annual disclosure-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality; and

(2) receive documents, materials, or other corporate governance annual disclosure-related information, including otherwise confidential and privileged documents, materials, and information, including proprietary and trade-secret information and documents from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in subsection (c) of Section 131.20, and from the National Association of Insurance Commissioners, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(d) A written agreement with the National Association of Insurance Commissioners or a third-party consultant governing sharing and use of information provided pursuant to this Article shall:

(1) include specific procedures and protocols for maintaining the confidentiality and security of corporate

governance annual disclosure-related information shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this Article, including procedures and protocols for sharing by the National Association of Insurance Commissioners only with other state regulators from states in which the insurance group has domiciled insurers; the agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the corporate governance annual disclosure-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(2) specify that ownership of the corporate governance annual disclosure-related information shared with the National Association of Insurance Commissioners or a third-party consultant remains with the Director and that the National Association of Insurance Commissioners' or third-party consultant's use of the information is subject to the direction of the Director;

(3) prohibit the National Association of Insurance Commissioners or a third-party consultant from storing the information shared pursuant to this Article in a permanent database after the underlying analysis is completed;

(4) require the National Association of Insurance Commissioners or a third-party consultant to provide prompt notice to the Director and to the insurer or

insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's or insurance group's corporate governance annual disclosure-related information;

(5) require the National Association of Insurance Commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners or a third-party consultant may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners or a third-party consultant pursuant to this Article; and

(6) require the National Association of Insurance Commissioners or a third-party consultant to obtain written consent of the insurer before making any of the insurer's corporate governance annual disclosure-related information public.

(e) The sharing of information and documents by the Director pursuant to this Article shall not constitute a delegation of regulatory authority or rulemaking, and the Director is solely responsible for the administration, execution, and enforcement of this Article.

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials, or other corporate governance annual

disclosure-related information shall occur as a result of disclosure of such information or documents to the Director under this Section or as a result of sharing as authorized in this Article.

(g) Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners or any third-party consultants pursuant to this Article shall be confidential by law and privileged, shall not be subject to the Freedom of Information Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(215 ILCS 5/130.7 new)

Sec. 130.7. Sanctions. Any insurer failing, without just cause, to timely file the corporate governance annual disclosure as required in this Article shall be required, after notice and a hearing, to pay a penalty of \$200 for each day's delay, to be recovered by the Director. Any penalty recovered shall be paid into the General Revenue Fund. The Director may reduce the penalty if the insurer demonstrates to the Director that the imposition of the penalty would constitute a financial hardship to the insurer.

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