AN ACT concerning regulation.

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

Section 5. The Illinois Insurance Code is amended by changing Sections 132, 132.5, 155.35, 402, 408, 511.109, 512-3, 512-5, and 513b3 and by adding Section 512-11 as follows:

(215 ILCS 5/132) (from Ch. 73, par. 744)

Sec. 132. Market conduct actions and market analysis ~~and non-financial examinations~~.

(a) Definitions. As used in this Section:

"Data call" means a written solicitation by the Director to 2 or more regulated companies or persons seeking existing data or other existing information to be provided within a reasonable time period for a narrow and targeted regulatory oversight purpose for market analysis. "Data call" does not include an information request in a market conduct action or any data or information that the Director shall or may specifically require under any other law, except as provided by the other law.

"Desk examination" means an examination that is conducted by market conduct surveillance personnel at a location other than the regulated company's or person's premises. "Desk

examination" includes an examination performed at the Department's offices with the company or person providing requested documents by hard copy, microfiche, or discs or other electronic media for review without an on-site examination.

"Market analysis" means a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports, data calls, and other sources to develop a baseline understanding of the marketplace and to identify patterns or practices of regulated persons that deviate significantly from the norm or that may pose a potential risk to insurance consumers.

"Market conduct action" means any activity, other than market analysis, that the Director may initiate to assess and address the market and nonfinancial practices of regulated persons, including market conduct examinations. The Department's consumer complaint process outlined in 50 Ill. Adm. Code 926 is not a market conduct action for purposes of this Section; however, the Department may initiate market conduct actions based on information gathered during that process. "Market conduct action" includes:

(1) correspondence with the company or person;

(2) interviews with the company or person;

(3) information gathering;

(4) policy and procedure reviews;

(5) interrogatories;

(6) review of company or person self-evaluations and voluntary compliance programs;

(7) self-audits; and

(8) market conduct examinations.

"Market conduct examination" or "examination" means any type of examination, other than a financial examination, that assesses a regulated person's compliance with the laws, rules, and regulations applicable to the examinee. "Market conduct examination" includes comprehensive examinations, targeted examinations, and follow-up examinations, which may be conducted as desk examinations, on-site examinations, or a combination of those 2 methods.

"Market conduct surveillance" means market analysis or a market conduct action.

"Market conduct surveillance personnel" means those individuals employed or retained by the Department and designated by the Director to collect, analyze, review, or act on information in the insurance marketplace that identifies patterns or practices of persons subject to the Director's jurisdiction. "Market conduct surveillance personnel" includes all persons identified as an examiner in the insurance laws or rules of this State if the Director has designated them to assist her or him in ascertaining the nonfinancial business practices, performance, and operations of a company or person subject to the Director's jurisdiction.

"On-site examination" means an examination conducted at

the company's or person's home office or the location where the records under review are stored.

"SOFR rate" means the Secured Overnight Financing Rate published by the Federal Reserve Bank of New York every business day.

(b) Companies and persons subject to surveillance. The Director, for the purposes of ascertaining the nonfinancial business practices, performance, and operations of any person subject to the Director's jurisdiction or within the marketplace, may engage in market conduct actions or market analysis relating to:

(1) any company transacting or being organized to transact business in this State;

(2) any person engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a company;

(3) any person having a written or oral contract pertaining to the management or control of a company as general agent, managing agent, or attorney-in-fact;

(4) any licensed or registered producer, firm, pharmacy benefit manager, administrator, or any person making application for any license, certificate, or registration;

(5) any person engaged in the business of adjusting losses or financing premiums; or

(6) any person, organization, trust, or corporation having custody or control of information reasonably related to the operation, performance, or conduct of a company or person subject to the Director's jurisdiction, but only as to the operation, performance, or conduct of a company or person subject to the Director's jurisdiction.

(c) Market analysis and market conduct actions.

(1) The Director may perform market analysis by gathering and analyzing information from data currently available to the Director, information from surveys, data call responses, or reports that are submitted to the Director, information collected by the NAIC, and information from a variety of other sources to develop a baseline understanding of the marketplace and to identify for further review companies or practices that deviate from the norm or that may pose a potential risk to insurance consumers. The Director shall use the most recent NAIC Market Regulation Handbook as a guide in performing market analysis. The Director may also employ other guidelines or procedures as the Director may deem appropriate.

(2) The Director may initiate a market conduct action subject to the following:

(A) If the Director determines that further inquiry into a particular person or practice is needed, then the Director may consider undertaking a

market conduct action. The Director shall inform the examinee of the initiation of the market conduct action and shall use the most recent NAIC Market Regulation Handbook as a guide in performing the market conduct action. The Director may also employ other guidelines or procedures as the Director may deem appropriate.

(B) For an examination, the Director shall conduct a pre-examination conference with the examinee to clarify expectations before commencement of the examination. At the pre-examination conference, the Director or the market conduct surveillance personnel shall disclose the basis of the examination, including the statutes, regulations, or business practices at issue. The Director shall provide at least 30 days' advance notice of the date of the pre-examination conference unless circumstances warrant that the examination proceed more quickly.

(C) The Director may coordinate a market conduct action and findings of this State with market conduct actions and findings of other states.

(3) Nothing in this Section requires the Director to undertake market analysis before initiating any market conduct action.

(4) Nothing in this Section restricts the Director to the type of market conduct action he or she initially

selected.

(5) A regulated person is required to respond to a market analysis data call or to an information request in a market conduct action on the terms and conditions established by the Director. The Department shall establish reasonable timelines that are commensurate with the volume and nature of the data required to be collected in the information request.

(6) Without limiting the contents of any examination report, market conduct actions taken as a result of a market analysis shall focus primarily on the general business practices and compliance activities of companies or persons rather than identifying infrequent or unintentional random errors that do not cause significant consumer harm. The Director may give a company or person an opportunity to resolve matters that are identified as a result of a market analysis to the Director's satisfaction before undertaking a market conduct action against the company or person.

(d) Access to books and records. Every examinee and its officers, directors, and agents must provide to the Director convenient and free access at all reasonable hours at its office or location to all books, records, and documents and any or all papers relating to the business, performance, operations, and affairs of the examinee. The officers, directors, and agents of the examinee must facilitate the

market conduct action and aid in the action so far as it is in their power to do so. The Director and any authorized market conduct surveillance personnel have the power to administer oaths and examine under oath any person relevant to the business of the examinee. A failure to produce requested books, records, or documents by the deadline shall not be a violation until after the later of:

(1) 5 business days after the initial response deadline set by the Director or authorized personnel; or

(2) an extended deadline granted by the Director or authorized personnel.

(e) Examination report. The market conduct surveillance personnel designated by the Director under Section 402 must make a full and true report of every examination made by them that contains only facts ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examined by them or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, conduct, and performance of the examinee. The report of examination must be verified by the oath of the examiner in charge thereof, and when so verified is prima facie evidence in any action or proceeding in the name of the State against the examinee, its officers, directors, or agents upon the facts stated therein.

(f) Examinee response to examination report. The Department and the examinee shall comply with the following

timeline, unless a mutual agreement is reached to modify the timeline:

(1) The Department shall deliver a draft report to the examinee as soon as reasonably practicable. Nothing in this Section prevents the Department from sharing an earlier draft of the report with the examinee before confirming that the examination is completed.

(2) If the examinee chooses to respond with written submissions or rebuttals, then the examinee must do so within 30 days after receipt of any draft report delivered after the completion of the examination.

(3) As soon as reasonably practicable after receipt of any written submissions or rebuttals, the Department shall issue a final report. Whenever the Department has made substantive changes to a previously shared draft report, unless those changes remove part or all of an alleged violation or were proposed by the examinee, the Department shall deliver the revised version to the examinee as a new draft and shall allow the examinee 30 days to respond before the Department issues a final report.

(4) The examinee shall, within 10 days after the issuance of the final report, accept the final report or request a hearing in writing, unless granted an extension by mutual agreement. Failure to take either action within 10 days or the mutually agreed extension shall be deemed an acceptance of the final report. If the examinee accepts

the examination report, the Director shall continue to hold the content of the examination report as private and confidential for a period of 30 days. Thereafter, the Director shall open the final report for public inspection.

(g) Hearing; final examination report. Notwithstanding anything to the contrary in this Code or Department rules, if the examinee requests a hearing, then the following procedures apply:

(1) The examinee must request the hearing in writing and must specify the issues in the final report that the examinee is challenging. The examinee is limited to challenging the issues that were previously challenged in the examinee's written submission and rebuttal or supplemental submission and rebuttal pursuant to paragraphs (2) and (3) of subsection (f).

(2) Except as permitted in paragraphs (3) and (8) of this subsection, the hearing shall be limited to the written arguments submitted by the parties to the designated hearing officer. The designated hearing officer may, however, grant a live hearing upon the request of either party.

(3) Discovery is limited to the market conduct surveillance personnel's work papers that are relevant to the issues the examinee is challenging. The relevant market conduct surveillance personnel's work papers shall

be admitted into the record. No other forms of discovery, including depositions and interrogatories, are allowed, except upon written agreement of the examinee and the Department when necessary to conduct a fair hearing or as otherwise provided in this subsection.

(4) Only the examinee and the Department may submit written arguments.

(5) The examinee must submit its written argument and any supporting evidence within 30 days after the Department serves a formal notice of hearing.

(6) The Department must submit its written response and any supporting evidence within 30 days after the examinee submits its written argument.

(7) The designated hearing officer may allow additional written submissions if necessary or useful to the fair resolution of the hearing.

(8) If either the examinee or the Department submit written testimony or affidavits, then the opposing party shall be given the opportunity to cross-examine the witness and to submit the cross-examination to the hearing officer before a decision.

(9) The Director shall issue a decision accompanied by findings and conclusions. The Director's order is a final administrative decision and shall be served upon the examinee together with a copy of the final report within 90 days after the conclusion of the hearing. The hearing

is deemed concluded on the later of the last date of any live hearing or the final deadline date for written submissions to the hearing officer, including any continuances or supplemental briefings permitted by the hearing officer.

(10) Any portion of the final examination report that was not challenged by the examinee is incorporated into the decision of the Director.

(11) Findings of fact and conclusions of law in the Director's final administrative decision are prima facie evidence in any legal or regulatory action.

(12) If an examinee has requested a hearing, then the Director shall continue to hold the final report and any related decision as private and confidential for a period of 49 days after the final administrative decision. After the 49-day period expires, the Director shall open the final report and any related decision for public inspection if a court of competent jurisdiction has not stayed its publication.

(h) Disclosure. So long as the recipient agrees to and verifies in writing its legal authority to hold the information confidential in a manner consistent with this Section, nothing in this Section prevents the Director from disclosing at any time the content of an examination report, preliminary examination report, or results, or any matter relating to a report or results, to:

(1) the insurance regulatory authorities of any other state; or

(2) any agency or office of the federal government.

(i) Confidentiality.

(1) The Director and any other person in the course of market conduct surveillance shall keep confidential all documents, including working papers, third-party models, or products; complaint logs; copies of any documents created, produced, obtained by, or disclosed to the Director, market conduct surveillance personnel, or any other person in the course of market conduct surveillance conducted pursuant to this Section; and all documents obtained by the NAIC pursuant to this Section. The documents shall remain confidential after the termination of the market conduct surveillance, are not subject to subpoena, are not subject to discovery or admissible as evidence in private civil litigation, are not subject to disclosure under the Freedom of Information Act, and must not be made public at any time or used by the Director or any other person, except as provided in paragraphs (3), (4), and (6) of this subsection (i) and in subsection (k).

(2) The Director and any other person in the course of market conduct surveillance shall keep confidential any self-evaluation or voluntary compliance program documents disclosed to the Director or other person by an examinee and the data collected via the NAIC market conduct annual

statement. The documents are not subject to subpoena, are not subject to discovery or admissible as evidence in private civil litigation, are not subject to disclosure under the Freedom of Information Act, and they shall not be made public or used by the Director or any other person, except as provided in paragraphs (3) and (4) of this subsection (i), in subsection (k), or in Section 155.35. Nothing in this Section shall supersede the restrictions on disclosure under Section 155.35.

(3) Notwithstanding paragraphs (1) and (2) of this subsection (i), and consistent with paragraph (5) of this subsection (i), in order to assist in the performance of the Director's duties, the Director may:

(A) share documents, materials, communications, or other information, including the confidential and privileged documents, materials, or information described in this subsection (i), with other State, federal, alien, and international regulatory agencies and law enforcement authorities and the NAIC, its affiliates, and subsidiaries, if the recipient agrees to and verifies in writing its legal authority to maintain the confidentiality and privileged status of the document, material, communication, or other information;

(B) receive documents, materials, communications, or information, including otherwise confidential and

privileged documents, materials, or information, from the NAIC and its affiliates or subsidiaries, and from regulatory and law enforcement officials of other State, federal, alien, or international jurisdictions, authorities, and agencies, and shall maintain as confidential or privileged any document, material, communication, 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, communication, or information; and

(C) enter into agreements governing the sharing and use of information consistent with this Section.

(4) Nothing in this Section limits:

(A) the Director's authority to use, if consistent with subsection (5) of Section 188.1, as applicable, any final or preliminary examination report, any market conduct surveillance or examinee work papers or other documents, or any other information discovered or developed during the course of any market conduct surveillance in the furtherance of any legal or regulatory action initiated by the Director that the Director may, in the Director's sole discretion, deem appropriate; however, confidential or privileged information about a company or person that is used in the legal or regulatory action shall not be made

public except by order of a court of competent jurisdiction or with the written consent of the company or person; or

(B) the ability of an examinee to conduct discovery in accordance with paragraph (3) of subsection (g).

(5) Disclosure to or by the Director of documents, materials, communications, or information required as part of any type of market conduct surveillance does not waive any applicable privilege or claim of confidentiality in the documents, materials, communications, or information.

(6) Notwithstanding the confidentiality requirements of this Section or otherwise imposed by State law, if the Director performs a data call, other than the collection of data for the NAIC market conduct annual statement, the Director may make the results of the data call available for public inspection in an aggregated format that does not disclose information or data attributed to any specific company or person, including the name of any company or person who responded to the data call, so long as the Director provides all companies or persons that responded to the data call 15 days' notice identifying the information to be publicly released. Nothing in this Section requires the Director to publish results from any data call.

(j) Corrective actions.

(1) As a result of any market conduct action, the Director may take any action the Director considers necessary or appropriate in accordance with the report of examination or any hearing thereon for acts in violation of any law, rule, or prior lawful order of the Director. No corrective action, including a penalty, shall be ordered with respect to violations in transactions with consumers or other entities that are isolated occurrences or that occur with such low frequency as to fall below a reasonable margin of error. Such actions include, but are not limited to:

(A) requiring the regulated person to undertake corrective actions to cease and desist an identified violation or institute processes and practices to comply with applicable standards;

(B) requiring reimbursement or restitution of any actual losses or damages to persons harmed by the regulated person's violation with interest from the date that the actual loss or damage was incurred, which shall be calculated at the SOFR rate applicable on the date that the actual loss or damage was incurred plus 2%; and

(C) imposing civil penalties as provided in this subsection (j).

(2) The Director may order a penalty of up to $2,000 for each violation of any law, rule, or prior lawful order

of the Director. Any failure to respond to an information request in a market conduct action or violation of subsection (d) may carry a fine of up to $1,000 per day up to a maximum of $50,000. Fines and penalties shall be consistent, reasonable, and justifiable, and the Director may consider reasonable criteria in ordering the fines and penalties, including, but not limited to, consumer harm, the intentionality of any violations, or remedial actions already undertaken by the examinee. The Director shall communicate to the examinee the basis for any assessed fine or penalty.

(3) If any other provision of this Code or any other law or rule under the Director's jurisdiction prescribes an amount or range of monetary penalty for a violation of a particular statute or rule or a maximum penalty in the aggregate for repeated violations, the Director shall assess penalties pursuant to the terms of the statute or rule allowing the largest penalty.

(4) If any other provision of this Code or any other law or rule under the Director's jurisdiction prescribes or specifies a method by which the Director is to determine a violation, then compliance with the process set forth herein shall be deemed to comply with the method prescribed or specified in the other provision.

(5) If the Director imposes any sanctions or corrective actions described in subparagraphs (A) through

(C) of paragraph (1) of this subsection (j) based on the final report, the Director shall include those actions in a proposed stipulation and consent order enclosed with the final report issued to the examinee under subsection (f). The examinee shall have 10 days to sign the order or request a hearing in writing on the actions proposed in the order regardless of whether the examinee requests a hearing on the contents of the report under subsection (f). If the examinee does not sign the order or request a hearing on the proposed actions or the final report within 10 days, the Director may issue a final order imposing the sanctions or corrective actions. Nothing in this Section prevents the Department from sharing an earlier draft of the proposed order with the examinee before issuing the final report.

(6) If the examinee accepts the order and the final report, the Director shall hold the content of the order and report as private and confidential for a period of 30 days. Thereafter, the Director shall open the order and report for public inspection.

(7) If the examinee makes a timely request for a hearing on the order, the request must specify the sanctions or corrective actions in the order that the examinee is challenging. Any hearing shall follow the procedures set forth in paragraphs (2) through (7) of subsection (g).

(8) If the examinee has also requested a hearing on the contents of the report, then that hearing shall be consolidated with the hearing on the order. The Director shall not impose sanctions or corrective actions under this Section until the conclusion of the hearing.

(9) The Director shall issue a decision accompanied by findings and conclusions along with any corrective actions or sanctions. Any sanctions or corrective actions shall be based on the final report accepted by the examinee or adopted by the Director under paragraph (9) of subsection (g). The Director's order is a final administrative decision and shall be served upon the examinee together with a copy of the final report within 90 days after the conclusion of the hearing or within 10 days after the examinee's acceptance of the proposed order and final report, as applicable. The hearing is deemed concluded on the later of the last date of any live hearing or the final deadline date for written submissions to the hearing officer, including any continuances or supplemental briefings permitted by the hearing officer.

(10) If an examinee has requested a hearing under this subsection (i), the Director shall continue to hold the final order and examination report as private and confidential for a period of 49 days after the final administrative decision. After the 49-day period expires, the Director shall open the final order and examination

report if a court of competent jurisdiction has not stayed their publication.

(k) National market conduct databases. The Director shall collect and report market data to the NAIC's market information systems, including, but not limited to, the Complaint Database System, the Examination Tracking System, and the Regulatory Information Retrieval System, or other successor NAIC products as determined by the Director. Information collected and maintained by the Department for inclusion in these NAIC market information systems shall be compiled in a manner that meets the requirements of the NAIC. Confidential or privileged information collected, reported, or maintained under this subsection (k) shall be subject to the protections and restrictions on disclosure in subsection (i).

(l) Immunity of market conduct surveillance personnel.

(1) No cause of action shall arise nor shall any liability be imposed against the Director, the Director's authorized representatives, market conduct surveillance personnel, or an examiner appointed by the Director for any statements made or conduct performed in good faith while carrying out the provisions of this Section.

(2) No cause of action shall arise nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the Director, the Director's authorized representative, market conduct surveillance personnel, or examiner pursuant to an

examination made under this Section, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

(3) A person identified in paragraph (1) of this subsection (l) shall be entitled to an award of attorney's fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this Section and the party bringing the action was not substantially justified in doing so. As used in this paragraph, a proceeding is substantially justified if it had a reasonable basis in law or fact at the time it was initiated.

(4) This subsection (l) does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in paragraph (1) of this subsection (l).

~~(1) The Director, for the purposes of ascertaining the non financial business practices, performance, and operations of any company, may make examinations of:~~

~~(a) any company transacting or being organized to transact business in this State;~~

~~(b) any person engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a company;~~

~~(c) any person having a contract, written or oral, pertaining to the management or control of a company as general agent, managing agent, or attorney-in-fact;~~

~~(d) any licensed or registered producer, firm, or administrator, or any person, organization, or corporation making application for any licenses or registration;~~

~~(e) any person engaged in the business of adjusting losses or financing premiums; or~~

~~(f) any person, organization, trust, or corporation having custody or control of information reasonably related to the operation, performance, or conduct of a company or person subject to the jurisdiction of the Director.~~

~~(2) Every company or person being examined and its officers, directors, and agents must provide to the Director convenient and free access at all reasonable hours at its office or location to all books, records, documents, and any or all papers relating to the business, performance, operations, and affairs of the company. The officers, directors, and agents of the company or person must facilitate the examination and aid in the examination so far as it is in their power to do so.~~

~~The Director and any authorized examiner have the power to administer oaths and examine under oath any person relative to the business of the company being examined.~~

~~(3) The examiners designated by the Director under Section~~

~~402 must make a full and true report of every examination made by them, which contains only facts ascertained from the books, papers, records, or documents, and other evidence obtained by investigation and examined by them or ascertained from the testimony of officers or agents or other persons examined under oath concerning the business, affairs, conduct, and performance of the company or person. The report of examination must be verified by the oath of the examiner in charge thereof, and when so verified is prima facie evidence in any action or proceeding in the name of the State against the company, its officers, or agents upon the facts stated therein.~~

~~(4) The Director must notify the company or person made the subject of any examination hereunder of the contents of the verified examination report before filing it and making the report public of any matters relating thereto, and must afford the company or person an opportunity to demand a hearing with reference to the facts and other evidence therein contained.~~

~~The company or person may request a hearing within 10 days after receipt of the examination report by giving the Director written notice of that request, together with a statement of its objections. The Director must then conduct a hearing in accordance with Sections 402 and 403. He must issue a written order based upon the examination report and upon the hearing within 90 days after the report is filed or within 90 days~~

~~after the hearing.~~

~~If the examination reveals that the company is operating in violation of any law, regulation, or prior order, the Director in the written order may require the company or person to take any action he considers necessary or appropriate in accordance with the report of examination or any hearing thereon. The order is subject to judicial review under the Administrative Review Law. The Director may withhold any report from public inspection for such time as he may deem proper and may, after filing the same, publish any part or all of the report as he considers to be in the interest of the public, in one or more newspapers in this State, without expense to the company.~~

~~(5) Any company which or person who violates or aids and abets any violation of a written order issued under this Section shall be guilty of a business offense and may be fined not more than $5,000. The penalty shall be paid into the General Revenue fund of the State of Illinois.~~

(Source: P.A. 87-108.)

(215 ILCS 5/132.5) (from Ch. 73, par. 744.5)

Sec. 132.5. Examination reports.

(a) General description. All examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the company, its agents, or other persons examined or as ascertained from the testimony of its officers,

agents, or other persons examined concerning its affairs and the conclusions and recommendations as the examiners find reasonably warranted from those facts.

(b) Filing of examination report. No later than 60 days following completion of the examination, the examiner in charge shall file with the Department a verified written report of examination under oath. Upon receipt of the verified report, the Department shall transmit the report to the company examined, together with a notice that affords the company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(c) Adoption of the report on examination. Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the Director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners work papers and enter an order:

(1) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation, or prior order of the Director, the Director may order the company to take any action the Director considers necessary and appropriate to cure the violation.

(2) Rejecting the examination report with directions

to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information and refiling under subsection (b).

(3) Calling for an investigatory hearing with no less than 20 days notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d) Order and procedures. All orders entered under paragraph (1) of subsection (c) shall be accompanied by findings and conclusions resulting from the Director's consideration and review of the examination report, relevant examiner work papers, and any written submissions or rebuttals. The order shall be considered a final administrative decision and may be appealed in accordance with the Administrative Review Law. The order shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

Any hearing conducted under paragraph (3) of subsection (c) by the Director or an authorized representative shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or

as a result of the Director's review of relevant work papers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of any hearing, the Director shall enter an order under paragraph (1) of subsection (c).

The Director shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the company limited to the examiner's work papers that tend to substantiate any assertions set forth in any written submission or rebuttal. The Director or his representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation, whether under the control of the Department, the company, or other persons. The documents produced shall be included in the record, and testimony taken by the Director or his representative shall be under oath and preserved for the record. Nothing contained in this Section shall require the Department to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

The hearing shall proceed with the Director or his representative posing questions to the persons subpoenaed. Thereafter, the company and the Department may present testimony relevant to the investigation. Cross-examination shall be conducted only by the Director or his representative. The company and the Department shall be permitted to make

closing statements and may be represented by counsel of their choice.

(e) Publication and use. Upon the adoption of the examination report under paragraph (1) of subsection (c), the Director shall continue to hold the content of the examination report as private and confidential information for a period of 35 days, except to the extent provided in subsection (b). Thereafter, the Director may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

Nothing contained in this Code shall prevent or be construed as prohibiting the Director from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this Code.

In the event the Director determines that regulatory action is appropriate as a result of any examination, he may initiate any proceedings or actions as provided by law.

(f) Confidentiality of ancillary information. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the Director or any

other person in the course of any examination must be given confidential treatment, are not subject to subpoena, and may not be made public by the Director or any other persons, except to the extent provided in subsection (e). Access may also be granted to the National Association of Insurance Commissioners. Those parties must agree in writing before receiving the information to provide to it the same confidential treatment as required by this Section, unless the prior written consent of the company to which it pertains has been obtained.

~~This subsection (f) applies to market conduct examinations described in Section 132 of this Code.~~

(g) Disclosure. Nothing contained in this Code shall prevent or be construed as prohibiting the Director from disclosing the information described in subsections (e) and (f) to the Illinois Insurance Guaranty Fund regarding any member company defined in Section 534.5 if the member company has an authorized control level event as defined in Section 35A-25. The Director may disclose the information described in this subsection so long as the Fund agrees in writing to hold that information confidential, in a manner consistent with this Code, and uses that information to prepare for the possible liquidation of the member company. Access to the information disclosed by the Director to the Fund shall be limited to the Fund's staff and its counsel. The Board of Directors of the Fund may have access to the information

disclosed by the Director to the Fund once the member company is subject to a delinquency proceeding under Article XIII subject to any terms and conditions established by the Director.

(Source: P.A. 102-929, eff. 5-27-22.)

(215 ILCS 5/155.35)

Sec. 155.35. Insurance compliance self-evaluative privilege.

(a) To encourage insurance companies and persons conducting activities regulated under this Code, both to conduct voluntary internal audits of their compliance programs and management systems and to assess and improve compliance with State and federal statutes, rules, and orders, an insurance compliance self-evaluative privilege is recognized to protect the confidentiality of communications relating to voluntary internal compliance audits. The General Assembly hereby finds and declares that protection of insurance consumers is enhanced by companies' voluntary compliance with this State's insurance and other laws and that the public will benefit from incentives to identify and remedy insurance and other compliance issues. It is further declared that limited expansion of the protection against disclosure will encourage voluntary compliance and improve insurance market conduct quality and that the voluntary provisions of this Section will not inhibit the exercise of the regulatory authority by those

entrusted with protecting insurance consumers.

(b)(1) An insurance compliance self-evaluative audit document is privileged information and is not admissible as evidence in any legal action in any civil, criminal, or administrative proceeding, except as provided in subsections (c) and (d) of this Section. Documents, communications, data, reports, or other information created as a result of a claim involving personal injury or workers' compensation made against an insurance policy are not insurance compliance self-evaluative audit documents and are admissible as evidence in civil proceedings as otherwise provided by applicable rules of evidence or civil procedure, subject to any applicable statutory or common law privilege, including, but not limited to, the work product doctrine, the attorney-client privilege, or the subsequent remedial measures exclusion.

(2) If any company, person, or entity performs or directs the performance of an insurance compliance audit, an officer or employee involved with the insurance compliance audit, or any consultant who is hired for the purpose of performing the insurance compliance audit, may not be examined in any civil, criminal, or administrative proceeding as to the insurance compliance audit or any insurance compliance self-evaluative audit document, as defined in this Section. This subsection (b)(2) does not apply if the privilege set forth in subsection (b)(1) of this Section is determined under subsection (c) or (d) not to apply.

(3) A company may voluntarily submit, in connection with examinations conducted under this Article, an insurance compliance self-evaluative audit document to the Director, or his or her designee, as a confidential document under subsection (i) of Section 132 or subsection (f) of Section 132.5 of this Code without waiving the privilege set forth in this Section to which the company would otherwise be entitled; provided, however, that the provisions in Sections 132 and ~~subsection (f) of Section~~ 132.5 permitting the Director to make confidential documents public ~~pursuant to subsection (c) of Section 132.5~~ and grant access to the National Association of Insurance Commissioners shall not apply to the insurance compliance self-evaluative audit document so voluntarily submitted. Nothing contained in this subsection shall give the Director any authority to compel a company to disclose involuntarily or otherwise provide an insurance compliance self-evaluative audit document.

(c)(1) The privilege set forth in subsection (b) of this Section does not apply to the extent that it is expressly waived by the company that prepared or caused to be prepared the insurance compliance self-evaluative audit document.

(2) In a civil or administrative proceeding, a court of record may, after an in camera review, require disclosure of material for which the privilege set forth in subsection (b) of this Section is asserted, if the court determines one of the following:

(A) the privilege is asserted for a fraudulent purpose;

(B) the material is not subject to the privilege; or

(C) even if subject to the privilege, the material shows evidence of noncompliance with State and federal statutes, rules and orders and the company failed to undertake reasonable corrective action or eliminate the noncompliance within a reasonable time.

(3) In a criminal proceeding, a court of record may, after an in camera review, require disclosure of material for which the privilege described in subsection (b) of this Section is asserted, if the court determines one of the following:

(A) the privilege is asserted for a fraudulent purpose;

(B) the material is not subject to the privilege;

(C) even if subject to the privilege, the material shows evidence of noncompliance with State and federal statutes, rules and orders and the company failed to undertake reasonable corrective action or eliminate such noncompliance within a reasonable time; or

(D) the material contains evidence relevant to commission of a criminal offense under this Code, and all of the following factors are present:

(i) the Director, State's Attorney, or Attorney General has a compelling need for the information;

(ii) the information is not otherwise available;

and

(iii) the Director, State's Attorney, or Attorney General is unable to obtain the substantial equivalent of the information by any means without incurring unreasonable cost and delay.

(d)(1) Within 30 days after the Director, State's Attorney, or Attorney General makes a written request by certified mail for disclosure of an insurance compliance self-evaluative audit document under this subsection, the company that prepared or caused the document to be prepared may file with the appropriate court a petition requesting an in camera hearing on whether the insurance compliance self-evaluative audit document or portions of the document are privileged under this Section or subject to disclosure. The court has jurisdiction over a petition filed by a company under this subsection requesting an in camera hearing on whether the insurance compliance self-evaluative audit document or portions of the document are privileged or subject to disclosure. Failure by the company to file a petition waives the privilege.

(2) A company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection shall include in its request for an in camera hearing all of the information set forth in subsection (d)(5) of this Section.

(3) Upon the filing of a petition under this subsection,

the court shall issue an order scheduling, within 45 days after the filing of the petition, an in camera hearing to determine whether the insurance compliance self-evaluative audit document or portions of the document are privileged under this Section or subject to disclosure.

(4) The court, after an in camera review, may require disclosure of material for which the privilege in subsection (b) of this Section is asserted if the court determines, based upon its in camera review, that any one of the conditions set forth in subsection (c)(2)(A) through (C) is applicable as to a civil or administrative proceeding or that any one of the conditions set forth in subsection (c)(3)(A) through (D) is applicable as to a criminal proceeding. Upon making such a determination, the court may only compel the disclosure of those portions of an insurance compliance self-evaluative audit document relevant to issues in dispute in the underlying proceeding. Any compelled disclosure will not be considered to be a public document or be deemed to be a waiver of the privilege for any other civil, criminal, or administrative proceeding. A party unsuccessfully opposing disclosure may apply to the court for an appropriate order protecting the document from further disclosure.

(5) A company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection (d) shall provide to the Director, State's Attorney, or Attorney General, as the case

may be, at the time of filing any objection to the disclosure, all of the following information:

(A) The date of the insurance compliance self-evaluative audit document.

(B) The identity of the entity conducting the audit.

(C) The general nature of the activities covered by the insurance compliance audit.

(D) An identification of the portions of the insurance compliance self-evaluative audit document for which the privilege is being asserted.

(e) (1) A company asserting the insurance compliance self-evaluative privilege set forth in subsection (b) of this Section has the burden of demonstrating the applicability of the privilege. Once a company has established the applicability of the privilege, a party seeking disclosure under subsections (c)(2)(A) or (C) of this Section has the burden of proving that the privilege is asserted for a fraudulent purpose or that the company failed to undertake reasonable corrective action or eliminate the noncompliance with a reasonable time. The Director, State's Attorney, or Attorney General seeking disclosure under subsection (c)(3) of this Section has the burden of proving the elements set forth in subsection (c)(3) of this Section.

(2) The parties may at any time stipulate in proceedings under subsections (c) or (d) of this Section to entry of an order directing that specific information contained in an

insurance compliance self-evaluative audit document is or is not subject to the privilege provided under subsection (b) of this Section.

(f) The privilege set forth in subsection (b) of this Section shall not extend to any of the following:

(1) documents, communications, data, reports, or other information required to be collected, developed, maintained, reported, or otherwise made available to a regulatory agency pursuant to this Code, or other federal or State law, rule, or order;

(2) information obtained by observation or monitoring by any regulatory agency; or

(3) information obtained from a source independent of the insurance compliance audit.

(g) As used in this Section:

(1) "Insurance compliance audit" means a voluntary, internal evaluation, review, assessment, or audit not otherwise expressly required by law of a company or an activity regulated under this Code, or other State or federal law applicable to a company, or of management systems related to the company or activity, that is designed to identify and prevent noncompliance and to improve compliance with those statutes, rules, or orders. An insurance compliance audit may be conducted by the company, its employees, or by independent contractors.

(2) "Insurance compliance self-evaluative audit

document" means documents prepared as a result of or in connection with and not prior to an insurance compliance audit. An insurance compliance self-evaluation audit document may include a written response to the findings of an insurance compliance audit. An insurance compliance self-evaluative audit document may include, but is not limited to, as applicable, field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, phone records, maps, charts, graphs, and surveys, provided this supporting information is collected or developed for the primary purpose and in the course of an insurance compliance audit. An insurance compliance self-evaluative audit document may also include any of the following:

(A) an insurance compliance audit report prepared by an auditor, who may be an employee of the company or an independent contractor, which may include the scope of the audit, the information gained in the audit, and conclusions and recommendations, with exhibits and appendices;

(B) memoranda and documents analyzing portions or all of the insurance compliance audit report and discussing potential implementation issues;

(C) an implementation plan that addresses

correcting past noncompliance, improving current compliance, and preventing future noncompliance; or

(D) analytic data generated in the course of conducting the insurance compliance audit.

(3) "Company" has the same meaning as provided in Section 2 of this Code.

(h) Nothing in this Section shall limit, waive, or abrogate the scope or nature of any statutory or common law privilege including, but not limited to, the work product doctrine, the attorney-client privilege, or the subsequent remedial measures exclusion.

(Source: P.A. 90-499, eff. 8-19-97; 90-655, eff. 7-30-98.)

(215 ILCS 5/402) (from Ch. 73, par. 1014)

Sec. 402. Examinations, investigations and hearings. (1) All examinations, investigations and hearings provided for by this Code may be conducted either by the Director personally, or by one or more of the actuaries, technical advisors, deputies, supervisors or examiners employed or retained by the Department and designated by the Director for such purpose. When necessary to supplement its examination procedures, the Department may retain independent actuaries deemed competent by the Director, independent certified public accountants, ~~or~~ qualified examiners of insurance companies, or other qualified outside professional assistance deemed competent by the Director, or any combination of the foregoing, the cost of

which shall be borne by the company or person being examined. The Director may compensate independent actuaries, certified public accountants, ~~and~~ qualified examiners, and other qualified outside professional assistance retained for supplementing examination procedures in amounts not to exceed the reasonable and customary charges for such services. The Director may also accept as a part of the Department's examination of any company or person (a) a report by an independent actuary deemed competent by the Director or (b) a report of an audit made by an independent certified public accountant. Neither those persons so designated nor any members of their immediate families shall be officers of, connected with, or financially interested in any company other than as policyholders, nor shall they be financially interested in any other corporation or person affected by the examination, investigation or hearing.

(2) All hearings provided for in this Code shall, unless otherwise specially provided, be held at such time and place as shall be designated in a notice which shall be given by the Director in writing to the person or company whose interests are affected, at least 10 days before the date designated therein. The notice shall state the subject of inquiry and the specific charges, if any. The hearings shall be held in the City of Springfield, the City of Chicago, or in the county where the principal business address of the person or company affected is located.

(Source: P.A. 87-757.)

(215 ILCS 5/408) (from Ch. 73, par. 1020)

(Text of Section before amendment by P.A. 103-75)

Sec. 408. Fees and charges.

(1) The Director shall charge, collect and give proper acquittances for the payment of the following fees and charges:

(a) For filing all documents submitted for the incorporation or organization or certification of a domestic company, except for a fraternal benefit society, $2,000.

(b) For filing all documents submitted for the incorporation or organization of a fraternal benefit society, $500.

(c) For filing amendments to articles of incorporation and amendments to declaration of organization, except for a fraternal benefit society, a mutual benefit association, a burial society or a farm mutual, $200.

(d) For filing amendments to articles of incorporation of a fraternal benefit society, a mutual benefit association or a burial society, $100.

(e) For filing amendments to articles of incorporation of a farm mutual, $50.

(f) For filing bylaws or amendments thereto, $50.

(g) For filing agreement of merger or consolidation:

(i) for a domestic company, except for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $2,000.

(ii) for a foreign or alien company, except for a fraternal benefit society, $600.

(iii) for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $200.

(h) For filing agreements of reinsurance by a domestic company, $200.

(i) For filing all documents submitted by a foreign or alien company to be admitted to transact business or accredited as a reinsurer in this State, except for a fraternal benefit society, $5,000.

(j) For filing all documents submitted by a foreign or alien fraternal benefit society to be admitted to transact business in this State, $500.

(k) For filing declaration of withdrawal of a foreign or alien company, $50.

(l) For filing annual statement by a domestic company, except a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $200.

(m) For filing annual statement by a domestic fraternal benefit society, $100.

(n) For filing annual statement by a farm mutual, a mutual benefit association, or a burial society, $50.

(o) For issuing a certificate of authority or renewal thereof except to a foreign fraternal benefit society, $400.

(p) For issuing a certificate of authority or renewal thereof to a foreign fraternal benefit society, $200.

(q) For issuing an amended certificate of authority, $50.

(r) For each certified copy of certificate of authority, $20.

(s) For each certificate of deposit, or valuation, or compliance or surety certificate, $20.

(t) For copies of papers or records per page, $1.

(u) For each certification to copies of papers or records, $10.

(v) For multiple copies of documents or certificates listed in subparagraphs (r), (s), and (u) of paragraph (1) of this Section, $10 for the first copy of a certificate of any type and $5 for each additional copy of the same certificate requested at the same time, unless, pursuant to paragraph (2) of this Section, the Director finds these additional fees excessive.

(w) For issuing a permit to sell shares or increase paid-up capital:

(i) in connection with a public stock offering, $300;

(ii) in any other case, $100.

(x) For issuing any other certificate required or permissible under the law, $50.

(y) For filing a plan of exchange of the stock of a domestic stock insurance company, a plan of demutualization of a domestic mutual company, or a plan of reorganization under Article XII, $2,000.

(z) For filing a statement of acquisition of a domestic company as defined in Section 131.4 of this Code, $2,000.

(aa) For filing an agreement to purchase the business of an organization authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act or of a health maintenance organization or a limited health service organization, $2,000.

(bb) For filing a statement of acquisition of a foreign or alien insurance company as defined in Section 131.12a of this Code, $1,000.

(cc) For filing a registration statement as required in Sections 131.13 and 131.14, the notification as required by Sections 131.16, 131.20a, or 141.4, or an agreement or transaction required by Sections 124.2(2), 141, 141a, or 141.1, $200.

(dd) For filing an application for licensing of:

(i) a religious or charitable risk pooling trust or a workers' compensation pool, $1,000;

(ii) a workers' compensation service company,

$500;

(iii) a self-insured automobile fleet, $200; or

(iv) a renewal of or amendment of any license issued pursuant to (i), (ii), or (iii) above, $100.

(ee) For filing articles of incorporation for a syndicate to engage in the business of insurance through the Illinois Insurance Exchange, $2,000.

(ff) For filing amended articles of incorporation for a syndicate engaged in the business of insurance through the Illinois Insurance Exchange, $100.

(gg) For filing articles of incorporation for a limited syndicate to join with other subscribers or limited syndicates to do business through the Illinois Insurance Exchange, $1,000.

(hh) For filing amended articles of incorporation for a limited syndicate to do business through the Illinois Insurance Exchange, $100.

(ii) For a permit to solicit subscriptions to a syndicate or limited syndicate, $100.

(jj) For the filing of each form as required in Section 143 of this Code, $50 per form. Informational and advertising filings shall be $25 per filing. The fee for advisory and rating organizations shall be $200 per form.

(i) For the purposes of the form filing fee, filings made on insert page basis will be considered one form at the time of its original submission.

Changes made to a form subsequent to its approval shall be considered a new filing.

(ii) Only one fee shall be charged for a form, regardless of the number of other forms or policies with which it will be used.

(iii) Fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed $1,500. For advisory or rating organizations, fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed $2,500.

(iv) The Director may by rule exempt forms from such fees.

(kk) For filing an application for licensing of a reinsurance intermediary, $500.

(ll) For filing an application for renewal of a license of a reinsurance intermediary, $200.

(mm) For filing a plan of division of a domestic stock company under Article IIB, $10,000.

(nn) For filing all documents submitted by a foreign or alien company to be a certified reinsurer in this State, except for a fraternal benefit society, $1,000.

(oo) For filing a renewal by a foreign or alien company to be a certified reinsurer in this State, except for a fraternal benefit society, $400.

(pp) For filing all documents submitted by a reinsurer

domiciled in a reciprocal jurisdiction, $1,000.

(qq) For filing a renewal by a reinsurer domiciled in a reciprocal jurisdiction, $400.

(rr) For registering a captive management company or renewal thereof, $50.

(2) When printed copies or numerous copies of the same paper or records are furnished or certified, the Director may reduce such fees for copies if he finds them excessive. He may, when he considers it in the public interest, furnish without charge to state insurance departments and persons other than companies, copies or certified copies of reports of examinations and of other papers and records.

(3)(a) The expenses incurred in any performance examination authorized by law shall be paid by the company or person being examined. The charge shall be consistent with that otherwise authorized by law and shall be reasonably related to the cost of the examination including but not limited to compensation of examiners, electronic data processing costs, supervision and preparation of an examination report and lodging and travel expenses. All lodging and travel expenses shall be in accord with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132 shall be in accordance with travel rates

prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon authorization of the Director. With the exception of the direct reimbursements authorized by the Director, all performance examination charges collected by the Department shall be paid to the Insurance Producer Administration Fund, however, the electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company being examined for payment to the Technology Management Revolving Fund.

(b) The costs and fees incurred in a market conduct examination shall be itemized and bills shall be provided to the examinee on a monthly basis for review prior to submission for payment. The Director shall review and affirmatively endorse detailed billings from any contracted, qualified outside professional assistance retained under Section 402 for market conduct examinations before the detailed billings are sent to the examinee. Before any qualified outside professional assistance conducts billable work on an examination, the Department shall disclose to the examinee the terms of the contracts with the qualified outside professional assistance that will be used, including the fees and hourly rates that can be charged.

(4) At the time of any service of process on the Director

as attorney for such service, the Director shall charge and collect the sum of $40, which may be recovered as taxable costs by the party to the suit or action causing such service to be made if he prevails in such suit or action.

(5) (a) The costs incurred by the Department of Insurance in conducting any hearing authorized by law shall be assessed against the parties to the hearing in such proportion as the Director of Insurance may determine upon consideration of all relevant circumstances including: (1) the nature of the hearing; (2) whether the hearing was instigated by, or for the benefit of a particular party or parties; (3) whether there is a successful party on the merits of the proceeding; and (4) the relative levels of participation by the parties.

(b) For purposes of this subsection (5) costs incurred shall mean the hearing officer fees, court reporter fees, and travel expenses of Department of Insurance officers and employees; provided however, that costs incurred shall not include hearing officer fees or court reporter fees unless the Department has retained the services of independent contractors or outside experts to perform such functions.

(c) The Director shall make the assessment of costs incurred as part of the final order or decision arising out of the proceeding; provided, however, that such order or decision shall include findings and conclusions in support of the assessment of costs. This subsection (5) shall not be construed as permitting the payment of travel expenses unless

calculated in accordance with the applicable travel regulations of the Department of Central Management Services, as approved by the Governor's Travel Control Board. The Director as part of such order or decision shall require all assessments for hearing officer fees and court reporter fees, if any, to be paid directly to the hearing officer or court reporter by the party(s) assessed for such costs. The assessments for travel expenses of Department officers and employees shall be reimbursable to the Director of Insurance for deposit to the fund out of which those expenses had been paid.

(d) The provisions of this subsection (5) shall apply in the case of any hearing conducted by the Director of Insurance not otherwise specifically provided for by law.

(6) The Director shall charge and collect an annual financial regulation fee from every domestic company for examination and analysis of its financial condition and to fund the internal costs and expenses of the Interstate Insurance Receivership Commission as may be allocated to the State of Illinois and companies doing an insurance business in this State pursuant to Article X of the Interstate Insurance Receivership Compact. The fee shall be the greater fixed amount based upon the combination of nationwide direct premium income and nationwide reinsurance assumed premium income or upon admitted assets calculated under this subsection as follows:

(a) Combination of nationwide direct premium income and nationwide reinsurance assumed premium.

(i) $150, if the premium is less than $500,000 and there is no reinsurance assumed premium;

(ii) $750, if the premium is $500,000 or more, but less than $5,000,000 and there is no reinsurance assumed premium; or if the premium is less than $5,000,000 and the reinsurance assumed premium is less than $10,000,000;

(iii) $3,750, if the premium is less than $5,000,000 and the reinsurance assumed premium is $10,000,000 or more;

(iv) $7,500, if the premium is $5,000,000 or more, but less than $10,000,000;

(v) $18,000, if the premium is $10,000,000 or more, but less than $25,000,000;

(vi) $22,500, if the premium is $25,000,000 or more, but less than $50,000,000;

(vii) $30,000, if the premium is $50,000,000 or more, but less than $100,000,000;

(viii) $37,500, if the premium is $100,000,000 or more.

(b) Admitted assets.

(i) $150, if admitted assets are less than $1,000,000;

(ii) $750, if admitted assets are $1,000,000 or

more, but less than $5,000,000;

(iii) $3,750, if admitted assets are $5,000,000 or more, but less than $25,000,000;

(iv) $7,500, if admitted assets are $25,000,000 or more, but less than $50,000,000;

(v) $18,000, if admitted assets are $50,000,000 or more, but less than $100,000,000;

(vi) $22,500, if admitted assets are $100,000,000 or more, but less than $500,000,000;

(vii) $30,000, if admitted assets are $500,000,000 or more, but less than $1,000,000,000;

(viii) $37,500, if admitted assets are $1,000,000,000 or more.

(c) The sum of financial regulation fees charged to the domestic companies of the same affiliated group shall not exceed $250,000 in the aggregate in any single year and shall be billed by the Director to the member company designated by the group.

(7) The Director shall charge and collect an annual financial regulation fee from every foreign or alien company, except fraternal benefit societies, for the examination and analysis of its financial condition and to fund the internal costs and expenses of the Interstate Insurance Receivership Commission as may be allocated to the State of Illinois and companies doing an insurance business in this State pursuant to Article X of the Interstate Insurance Receivership Compact.

The fee shall be a fixed amount based upon Illinois direct premium income and nationwide reinsurance assumed premium income in accordance with the following schedule:

(a) $150, if the premium is less than $500,000 and there is no reinsurance assumed premium;

(b) $750, if the premium is $500,000 or more, but less than $5,000,000 and there is no reinsurance assumed premium; or if the premium is less than $5,000,000 and the reinsurance assumed premium is less than $10,000,000;

(c) $3,750, if the premium is less than $5,000,000 and the reinsurance assumed premium is $10,000,000 or more;

(d) $7,500, if the premium is $5,000,000 or more, but less than $10,000,000;

(e) $18,000, if the premium is $10,000,000 or more, but less than $25,000,000;

(f) $22,500, if the premium is $25,000,000 or more, but less than $50,000,000;

(g) $30,000, if the premium is $50,000,000 or more, but less than $100,000,000;

(h) $37,500, if the premium is $100,000,000 or more.

The sum of financial regulation fees under this subsection (7) charged to the foreign or alien companies within the same affiliated group shall not exceed $250,000 in the aggregate in any single year and shall be billed by the Director to the member company designated by the group.

(8) Beginning January 1, 1992, the financial regulation

fees imposed under subsections (6) and (7) of this Section shall be paid by each company or domestic affiliated group annually. After January 1, 1994, the fee shall be billed by Department invoice based upon the company's premium income or admitted assets as shown in its annual statement for the preceding calendar year. The invoice is due upon receipt and must be paid no later than June 30 of each calendar year. All financial regulation fees collected by the Department shall be paid to the Insurance Financial Regulation Fund. The Department may not collect financial examiner per diem charges from companies subject to subsections (6) and (7) of this Section undergoing financial examination after June 30, 1992.

(9) In addition to the financial regulation fee required by this Section, a company undergoing any financial examination authorized by law shall pay the following costs and expenses incurred by the Department: electronic data processing costs, the expenses authorized under Section 131.21 and subsection (d) of Section 132.4 of this Code, and lodging and travel expenses.

Electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company undergoing examination for payment to the Technology Management Revolving Fund. Except for direct reimbursements authorized by the Director or direct payments made under Section 131.21 or subsection (d) of Section 132.4 of this Code, all financial regulation fees and

all financial examination charges collected by the Department shall be paid to the Insurance Financial Regulation Fund.

All lodging and travel expenses shall be in accordance with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Sections 132.1 through 132.7 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon the authorization of the Director.

In the case of an organization or person not subject to the financial regulation fee, the expenses incurred in any financial examination authorized by law shall be paid by the organization or person being examined. The charge shall be reasonably related to the cost of the examination including, but not limited to, compensation of examiners and other costs described in this subsection.

(10) Any company, person, or entity failing to make any payment of $150 or more as required under this Section shall be subject to the penalty and interest provisions provided for in subsections (4) and (7) of Section 412.

(11) Unless otherwise specified, all of the fees collected under this Section shall be paid into the Insurance Financial

Regulation Fund.

(12) For purposes of this Section:

(a) "Domestic company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of this State, and in addition includes a not-for-profit corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act, a health maintenance organization, and a limited health service organization.

(b) "Foreign company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any state of the United States other than this State and in addition includes a health maintenance organization and a limited health service organization which is incorporated or organized under the laws of any state of the United States other than this State.

(c) "Alien company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any country other than the United States.

(d) "Fraternal benefit society" means a corporation, society, order, lodge or voluntary association as defined in Section 282.1 of this Code.

(e) "Mutual benefit association" means a company, association or corporation authorized by the Director to do business in this State under the provisions of Article

XVIII of this Code.

(f) "Burial society" means a person, firm, corporation, society or association of individuals authorized by the Director to do business in this State under the provisions of Article XIX of this Code.

(g) "Farm mutual" means a district, county and township mutual insurance company authorized by the Director to do business in this State under the provisions of the Farm Mutual Insurance Company Act of 1986.

(Source: P.A. 102-775, eff. 5-13-22.)

(Text of Section after amendment by P.A. 103-75)

Sec. 408. Fees and charges.

(1) The Director shall charge, collect and give proper acquittances for the payment of the following fees and charges:

(a) For filing all documents submitted for the incorporation or organization or certification of a domestic company, except for a fraternal benefit society, $2,000.

(b) For filing all documents submitted for the incorporation or organization of a fraternal benefit society, $500.

(c) For filing amendments to articles of incorporation and amendments to declaration of organization, except for a fraternal benefit society, a mutual benefit association,

a burial society or a farm mutual, $200.

(d) For filing amendments to articles of incorporation of a fraternal benefit society, a mutual benefit association or a burial society, $100.

(e) For filing amendments to articles of incorporation of a farm mutual, $50.

(f) For filing bylaws or amendments thereto, $50.

(g) For filing agreement of merger or consolidation:

(i) for a domestic company, except for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $2,000.

(ii) for a foreign or alien company, except for a fraternal benefit society, $600.

(iii) for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $200.

(h) For filing agreements of reinsurance by a domestic company, $200.

(i) For filing all documents submitted by a foreign or alien company to be admitted to transact business or accredited as a reinsurer in this State, except for a fraternal benefit society, $5,000.

(j) For filing all documents submitted by a foreign or alien fraternal benefit society to be admitted to transact business in this State, $500.

(k) For filing declaration of withdrawal of a foreign

or alien company, $50.

(l) For filing annual statement by a domestic company, except a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $200.

(m) For filing annual statement by a domestic fraternal benefit society, $100.

(n) For filing annual statement by a farm mutual, a mutual benefit association, or a burial society, $50.

(o) For issuing a certificate of authority or renewal thereof except to a foreign fraternal benefit society, $400.

(p) For issuing a certificate of authority or renewal thereof to a foreign fraternal benefit society, $200.

(q) For issuing an amended certificate of authority, $50.

(r) For each certified copy of certificate of authority, $20.

(s) For each certificate of deposit, or valuation, or compliance or surety certificate, $20.

(t) For copies of papers or records per page, $1.

(u) For each certification to copies of papers or records, $10.

(v) For multiple copies of documents or certificates listed in subparagraphs (r), (s), and (u) of paragraph (1) of this Section, $10 for the first copy of a certificate of any type and $5 for each additional copy of the same

certificate requested at the same time, unless, pursuant to paragraph (2) of this Section, the Director finds these additional fees excessive.

(w) For issuing a permit to sell shares or increase paid-up capital:

(i) in connection with a public stock offering, $300;

(ii) in any other case, $100.

(x) For issuing any other certificate required or permissible under the law, $50.

(y) For filing a plan of exchange of the stock of a domestic stock insurance company, a plan of demutualization of a domestic mutual company, or a plan of reorganization under Article XII, $2,000.

(z) For filing a statement of acquisition of a domestic company as defined in Section 131.4 of this Code, $2,000.

(aa) For filing an agreement to purchase the business of an organization authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act or of a health maintenance organization or a limited health service organization, $2,000.

(bb) For filing a statement of acquisition of a foreign or alien insurance company as defined in Section 131.12a of this Code, $1,000.

(cc) For filing a registration statement as required

in Sections 131.13 and 131.14, the notification as required by Sections 131.16, 131.20a, or 141.4, or an agreement or transaction required by Sections 124.2(2), 141, 141a, or 141.1, $200.

(dd) For filing an application for licensing of:

(i) a religious or charitable risk pooling trust or a workers' compensation pool, $1,000;

(ii) a workers' compensation service company, $500;

(iii) a self-insured automobile fleet, $200; or

(iv) a renewal of or amendment of any license issued pursuant to (i), (ii), or (iii) above, $100.

(ee) For filing articles of incorporation for a syndicate to engage in the business of insurance through the Illinois Insurance Exchange, $2,000.

(ff) For filing amended articles of incorporation for a syndicate engaged in the business of insurance through the Illinois Insurance Exchange, $100.

(gg) For filing articles of incorporation for a limited syndicate to join with other subscribers or limited syndicates to do business through the Illinois Insurance Exchange, $1,000.

(hh) For filing amended articles of incorporation for a limited syndicate to do business through the Illinois Insurance Exchange, $100.

(ii) For a permit to solicit subscriptions to a

syndicate or limited syndicate, $100.

(jj) For the filing of each form as required in Section 143 of this Code, $50 per form. Informational and advertising filings shall be $25 per filing. The fee for advisory and rating organizations shall be $200 per form.

(i) For the purposes of the form filing fee, filings made on insert page basis will be considered one form at the time of its original submission. Changes made to a form subsequent to its approval shall be considered a new filing.

(ii) Only one fee shall be charged for a form, regardless of the number of other forms or policies with which it will be used.

(iii) Fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed $1,500. For advisory or rating organizations, fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed $2,500.

(iv) The Director may by rule exempt forms from such fees.

(kk) For filing an application for licensing of a reinsurance intermediary, $500.

(ll) For filing an application for renewal of a license of a reinsurance intermediary, $200.

(mm) For filing a plan of division of a domestic stock

company under Article IIB, $10,000.

(nn) For filing all documents submitted by a foreign or alien company to be a certified reinsurer in this State, except for a fraternal benefit society, $1,000.

(oo) For filing a renewal by a foreign or alien company to be a certified reinsurer in this State, except for a fraternal benefit society, $400.

(pp) For filing all documents submitted by a reinsurer domiciled in a reciprocal jurisdiction, $1,000.

(qq) For filing a renewal by a reinsurer domiciled in a reciprocal jurisdiction, $400.

(rr) For registering a captive management company or renewal thereof, $50.

(ss) For filing an insurance business transfer plan under Article XLVII, $25,000.

(2) When printed copies or numerous copies of the same paper or records are furnished or certified, the Director may reduce such fees for copies if he finds them excessive. He may, when he considers it in the public interest, furnish without charge to state insurance departments and persons other than companies, copies or certified copies of reports of examinations and of other papers and records.

(3)(a) The expenses incurred in any performance examination authorized by law shall be paid by the company or person being examined. The charge shall be consistent with that otherwise authorized by law and shall be reasonably

related to the cost of the examination including but not limited to compensation of examiners, electronic data processing costs, supervision and preparation of an examination report and lodging and travel expenses. All lodging and travel expenses shall be in accord with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon authorization of the Director. With the exception of the direct reimbursements authorized by the Director, all performance examination charges collected by the Department shall be paid to the Insurance Producer Administration Fund, however, the electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company being examined for payment to the Technology Management Revolving Fund.

(b) The costs and fees incurred in a market conduct examination shall be itemized and bills shall be provided to the examinee on a monthly basis for review prior to submission for payment. The Director shall review and affirmatively

endorse detailed billings from any contracted, qualified outside professional assistance retained under Section 402 for market conduct examinations before the detailed billings are sent to the examinee. Before any qualified outside professional assistance conducts billable work on an examination, the Department shall disclose to the examinee the terms of the contracts with the qualified outside professional assistance that will be used, including the fees and hourly rates that can be charged.

(4) At the time of any service of process on the Director as attorney for such service, the Director shall charge and collect the sum of $40, which may be recovered as taxable costs by the party to the suit or action causing such service to be made if he prevails in such suit or action.

(5) (a) The costs incurred by the Department of Insurance in conducting any hearing authorized by law shall be assessed against the parties to the hearing in such proportion as the Director of Insurance may determine upon consideration of all relevant circumstances including: (1) the nature of the hearing; (2) whether the hearing was instigated by, or for the benefit of a particular party or parties; (3) whether there is a successful party on the merits of the proceeding; and (4) the relative levels of participation by the parties.

(b) For purposes of this subsection (5) costs incurred shall mean the hearing officer fees, court reporter fees, and travel expenses of Department of Insurance officers and

employees; provided however, that costs incurred shall not include hearing officer fees or court reporter fees unless the Department has retained the services of independent contractors or outside experts to perform such functions.

(c) The Director shall make the assessment of costs incurred as part of the final order or decision arising out of the proceeding; provided, however, that such order or decision shall include findings and conclusions in support of the assessment of costs. This subsection (5) shall not be construed as permitting the payment of travel expenses unless calculated in accordance with the applicable travel regulations of the Department of Central Management Services, as approved by the Governor's Travel Control Board. The Director as part of such order or decision shall require all assessments for hearing officer fees and court reporter fees, if any, to be paid directly to the hearing officer or court reporter by the party(s) assessed for such costs. The assessments for travel expenses of Department officers and employees shall be reimbursable to the Director of Insurance for deposit to the fund out of which those expenses had been paid.

(d) The provisions of this subsection (5) shall apply in the case of any hearing conducted by the Director of Insurance not otherwise specifically provided for by law.

(6) The Director shall charge and collect an annual financial regulation fee from every domestic company for

examination and analysis of its financial condition and to fund the internal costs and expenses of the Interstate Insurance Receivership Commission as may be allocated to the State of Illinois and companies doing an insurance business in this State pursuant to Article X of the Interstate Insurance Receivership Compact. The fee shall be the greater fixed amount based upon the combination of nationwide direct premium income and nationwide reinsurance assumed premium income or upon admitted assets calculated under this subsection as follows:

(a) Combination of nationwide direct premium income and nationwide reinsurance assumed premium.

(i) $150, if the premium is less than $500,000 and there is no reinsurance assumed premium;

(ii) $750, if the premium is $500,000 or more, but less than $5,000,000 and there is no reinsurance assumed premium; or if the premium is less than $5,000,000 and the reinsurance assumed premium is less than $10,000,000;

(iii) $3,750, if the premium is less than $5,000,000 and the reinsurance assumed premium is $10,000,000 or more;

(iv) $7,500, if the premium is $5,000,000 or more, but less than $10,000,000;

(v) $18,000, if the premium is $10,000,000 or more, but less than $25,000,000;

(vi) $22,500, if the premium is $25,000,000 or more, but less than $50,000,000;

(vii) $30,000, if the premium is $50,000,000 or more, but less than $100,000,000;

(viii) $37,500, if the premium is $100,000,000 or more.

(b) Admitted assets.

(i) $150, if admitted assets are less than $1,000,000;

(ii) $750, if admitted assets are $1,000,000 or more, but less than $5,000,000;

(iii) $3,750, if admitted assets are $5,000,000 or more, but less than $25,000,000;

(iv) $7,500, if admitted assets are $25,000,000 or more, but less than $50,000,000;

(v) $18,000, if admitted assets are $50,000,000 or more, but less than $100,000,000;

(vi) $22,500, if admitted assets are $100,000,000 or more, but less than $500,000,000;

(vii) $30,000, if admitted assets are $500,000,000 or more, but less than $1,000,000,000;

(viii) $37,500, if admitted assets are $1,000,000,000 or more.

(c) The sum of financial regulation fees charged to the domestic companies of the same affiliated group shall not exceed $250,000 in the aggregate in any single year

and shall be billed by the Director to the member company designated by the group.

(7) The Director shall charge and collect an annual financial regulation fee from every foreign or alien company, except fraternal benefit societies, for the examination and analysis of its financial condition and to fund the internal costs and expenses of the Interstate Insurance Receivership Commission as may be allocated to the State of Illinois and companies doing an insurance business in this State pursuant to Article X of the Interstate Insurance Receivership Compact. The fee shall be a fixed amount based upon Illinois direct premium income and nationwide reinsurance assumed premium income in accordance with the following schedule:

(a) $150, if the premium is less than $500,000 and there is no reinsurance assumed premium;

(b) $750, if the premium is $500,000 or more, but less than $5,000,000 and there is no reinsurance assumed premium; or if the premium is less than $5,000,000 and the reinsurance assumed premium is less than $10,000,000;

(c) $3,750, if the premium is less than $5,000,000 and the reinsurance assumed premium is $10,000,000 or more;

(d) $7,500, if the premium is $5,000,000 or more, but less than $10,000,000;

(e) $18,000, if the premium is $10,000,000 or more, but less than $25,000,000;

(f) $22,500, if the premium is $25,000,000 or more,

but less than $50,000,000;

(g) $30,000, if the premium is $50,000,000 or more, but less than $100,000,000;

(h) $37,500, if the premium is $100,000,000 or more.

The sum of financial regulation fees under this subsection (7) charged to the foreign or alien companies within the same affiliated group shall not exceed $250,000 in the aggregate in any single year and shall be billed by the Director to the member company designated by the group.

(8) Beginning January 1, 1992, the financial regulation fees imposed under subsections (6) and (7) of this Section shall be paid by each company or domestic affiliated group annually. After January 1, 1994, the fee shall be billed by Department invoice based upon the company's premium income or admitted assets as shown in its annual statement for the preceding calendar year. The invoice is due upon receipt and must be paid no later than June 30 of each calendar year. All financial regulation fees collected by the Department shall be paid to the Insurance Financial Regulation Fund. The Department may not collect financial examiner per diem charges from companies subject to subsections (6) and (7) of this Section undergoing financial examination after June 30, 1992.

(9) In addition to the financial regulation fee required by this Section, a company undergoing any financial examination authorized by law shall pay the following costs and expenses incurred by the Department: electronic data

processing costs, the expenses authorized under Section 131.21 and subsection (d) of Section 132.4 of this Code, and lodging and travel expenses.

Electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company undergoing examination for payment to the Technology Management Revolving Fund. Except for direct reimbursements authorized by the Director or direct payments made under Section 131.21 or subsection (d) of Section 132.4 of this Code, all financial regulation fees and all financial examination charges collected by the Department shall be paid to the Insurance Financial Regulation Fund.

All lodging and travel expenses shall be in accordance with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Sections 132.1 through 132.7 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon the authorization of the Director.

In the case of an organization or person not subject to the financial regulation fee, the expenses incurred in any financial examination authorized by law shall be paid by the

organization or person being examined. The charge shall be reasonably related to the cost of the examination including, but not limited to, compensation of examiners and other costs described in this subsection.

(10) Any company, person, or entity failing to make any payment of $150 or more as required under this Section shall be subject to the penalty and interest provisions provided for in subsections (4) and (7) of Section 412.

(11) Unless otherwise specified, all of the fees collected under this Section shall be paid into the Insurance Financial Regulation Fund.

(12) For purposes of this Section:

(a) "Domestic company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of this State, and in addition includes a not-for-profit corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act, a health maintenance organization, and a limited health service organization.

(b) "Foreign company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any state of the United States other than this State and in addition includes a health maintenance organization and a limited health service organization which is incorporated or organized under the laws of any state of the United States other than this State.

(c) "Alien company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any country other than the United States.

(d) "Fraternal benefit society" means a corporation, society, order, lodge or voluntary association as defined in Section 282.1 of this Code.

(e) "Mutual benefit association" means a company, association or corporation authorized by the Director to do business in this State under the provisions of Article XVIII of this Code.

(f) "Burial society" means a person, firm, corporation, society or association of individuals authorized by the Director to do business in this State under the provisions of Article XIX of this Code.

(g) "Farm mutual" means a district, county and township mutual insurance company authorized by the Director to do business in this State under the provisions of the Farm Mutual Insurance Company Act of 1986.

(Source: P.A. 102-775, eff. 5-13-22; 103-75, eff. 1-1-25.)

(215 ILCS 5/511.109) (from Ch. 73, par. 1065.58-109)

(Section scheduled to be repealed on January 1, 2027)

Sec. 511.109. Examination.

(a) The Director or the Director's ~~his~~ designee may examine any applicant for or holder of an administrator's

license in accordance with Sections 132 through 132.7. If the Director or the examiners find that the administrator has violated this Article or any other insurance-related laws, rules, or regulations under the Director's jurisdiction because of the manner in which the administrator has conducted business on behalf of an insurer or plan sponsor, then, unless the insurer or plan sponsor is included in the examination and has been afforded the same opportunity to request or participate in a hearing on the examination report, the examination report shall not allege a violation by the insurer or plan sponsor and the Director's order based on the report shall not impose any requirements, prohibitions, or penalties on the insurer or plan sponsor. Nothing in this Section shall prevent the Director from using any information obtained during the examination of an administrator to examine, investigate, or take other appropriate regulatory or legal action with respect to an insurer or plan sponsor.

~~(b) Any administrator being examined shall provide to the Director or his designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to such administrator's business affairs.~~

~~(c) The Director or his designee may administer oaths and thereafter examine any individual about the business of the administrator.~~

~~(d) The examiners designated by the Director pursuant to~~

~~this Section may make reports to the Director. Any report alleging substantive violations of this Article, any applicable provisions of the Illinois Insurance Code, or any applicable Part of Title 50 of the Illinois Administrative Code shall be in writing and be based upon facts obtained by the examiners. The report shall be verified by the examiners.~~

~~(c) If a report is made, the Director shall either deliver a duplicate thereof to the administrator being examined or send such duplicate by certified or registered mail to the administrator's address specified in the records of the Department. The Director shall afford the administrator an opportunity to request a hearing to object to the report. The administrator may request a hearing within 30 days after receipt of the duplicate of the examination report by giving the Director written notice of such request together with written objections to the report. Any hearing shall be conducted in accordance with Sections 402 and 403 of this Code. The right to hearing is waived if the delivery of the report is refused or the report is otherwise undeliverable or the administrator does not timely request a hearing. After the hearing or upon expiration of the time period during which an administrator may request a hearing, if the examination reveals that the administrator is operating in violation of any applicable provision of the Illinois Insurance Code, any applicable Part of Title 50 of the Illinois Administrative Code or prior order, the Director, in the written order, may~~

~~require the administrator to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. If the Director issues an order, it shall be issued within 90 days after the report is filed, or if there is a hearing, within 90 days after the conclusion of the hearing. The order is subject to review under the Administrative Review Law.~~

(Source: P.A. 84-887.)

(215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

Sec. 512-3. Definitions. For the purposes of this Article, unless the context otherwise requires, the terms defined in this Article have the meanings ascribed to them herein:

"Health care payer" means an insurance company, health maintenance organization, limited health service organization, health services plan corporation, or dental service plan corporation authorized to do business in this State.

~~(a)~~ "Third party prescription program" or "program" means any system of providing for the reimbursement of pharmaceutical services and prescription drug products offered or operated in this State under a contractual arrangement or agreement between a provider of such services and another party who is not the consumer of those services and products. Such programs may include, but need not be limited to, employee benefit plans whereby a consumer receives prescription drugs or other pharmaceutical services and those

services are paid for by an agent of the employer or others.

~~(b)~~ "Third party program administrator" or "administrator" means any person, partnership or corporation who issues or causes to be issued any payment or reimbursement to a provider for services rendered pursuant to a third party prescription program, but does not include the Director of Healthcare and Family Services or any agent authorized by the Director to reimburse a provider of services rendered pursuant to a program of which the Department of Healthcare and Family Services is the third party.

(Source: P.A. 95-331, eff. 8-21-07.)

(215 ILCS 5/512-5) (from Ch. 73, par. 1065.59-5)

Sec. 512-5. Fiduciary and Bonding Requirements. A third party prescription program administrator shall (1) establish and maintain a fiduciary account, separate and apart from any and all other accounts, for the receipt and disbursement of funds for reimbursement of providers of services under the program, or (2) post, or cause to be posted, a bond of indemnity in an amount equal to not less than 10% of the total estimated annual reimbursements under the program.

The establishment of such fiduciary accounts and bonds shall be consistent with applicable State law. If a bond of indemnity is posted, it shall be held by the Director of Insurance for the benefit and indemnification of the providers of services under the third party prescription program.

An administrator who operates more than one third party prescription program may establish and maintain a separate fiduciary account or bond of indemnity for each such program, or may operate and maintain a consolidated fiduciary account or bond of indemnity for all such programs.

The requirements of this Section do not apply to any third party prescription program administered by or on behalf of any health care payer ~~insurance company, Health Care Service Plan Corporation or Pharmaceutical Service Plan Corporation authorized to do business in the State of Illinois~~.

(Source: P.A. 82-1005.)

(215 ILCS 5/512-11 new)

Sec. 512-11. Examination. The Director or the Director's designee may examine any applicant for or holder of an administrator's registration in accordance with Sections 132 through 132.7 of this Code. If the Director or the examiners find that the administrator has violated this Article or any other insurance-related laws or regulations under the Director's jurisdiction because of the manner in which the administrator has conducted business on behalf of a separately incorporated health care payer, then, unless the health care payer is included in the examination and has been afforded the same opportunity to request or participate in a hearing on the examination report, the examination report shall not allege a violation by the health care payer and the Director's order

based on the report shall not impose any requirements, prohibitions, or penalties on the health care payer. Nothing in this Section shall prevent the Director from using any information obtained during the examination of an administrator to examine, investigate, or take other appropriate regulatory or legal action with respect to a health care payer.

(215 ILCS 5/513b3)

Sec. 513b3. Examination. ~~(a)~~ The Director, or his or her designee, may examine a registered pharmacy benefit manager in accordance with Sections 132-132.7. If the Director or the examiners find that the pharmacy benefit manager has violated this Article or any other insurance-related laws, rules, or regulations under the Director's jurisdiction because of the manner in which the pharmacy benefit manager has conducted business on behalf of a health insurer or plan sponsor, then, unless the health insurer or plan sponsor is included in the examination and has been afforded the same opportunity to request or participate in a hearing on the examination report, the examination report shall not allege a violation by the health insurer or plan sponsor and the Director's order based on the report shall not impose any requirements, prohibitions, or penalties on the health insurer or plan sponsor. Nothing in this Section shall prevent the Director from using any information obtained during the examination of an

administrator to examine, investigate, or take other appropriate regulatory or legal action with respect to a health insurer or plan sponsor.

~~(b) Any pharmacy benefit manager being examined shall provide to the Director, or his or her designee, convenient and free access to all books, records, documents, and other papers relating to such pharmacy benefit manager's business affairs at all reasonable hours at its offices.~~

~~(c) The Director, or his or her designee, may administer oaths and thereafter examine the pharmacy benefit manager's designee, representative, or any officer or senior manager as listed on the license or registration certificate about the business of the pharmacy benefit manager.~~

~~(d) The examiners designated by the Director under this Section may make reports to the Director. Any report alleging substantive violations of this Article, any applicable provisions of this Code, or any applicable Part of Title 50 of the Illinois Administrative Code shall be in writing and be based upon facts obtained by the examiners. The report shall be verified by the examiners.~~

~~(e) If a report is made, the Director shall either deliver a duplicate report to the pharmacy benefit manager being examined or send such duplicate by certified or registered mail to the pharmacy benefit manager's address specified in the records of the Department. The Director shall afford the pharmacy benefit manager an opportunity to request a hearing~~

~~to object to the report. The pharmacy benefit manager may request a hearing within 30 days after receipt of the duplicate report by giving the Director written notice of such request together with written objections to the report. Any hearing shall be conducted in accordance with Sections 402 and 403 of this Code. The right to a hearing is waived if the delivery of the report is refused or the report is otherwise undeliverable or the pharmacy benefit manager does not timely request a hearing. After the hearing or upon expiration of the time period during which a pharmacy benefit manager may request a hearing, if the examination reveals that the pharmacy benefit manager is operating in violation of any applicable provision of this Code, any applicable Part of Title 50 of the Illinois Administrative Code, a provision of this Article, or prior order, the Director, in the written order, may require the pharmacy benefit manager to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. If the Director issues an order, it shall be issued within 90 days after the report is filed, or if there is a hearing, within 90 days after the conclusion of the hearing. The order is subject to review under the Administrative Review Law.~~

(Source: P.A. 101-452, eff. 1-1-20.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text

that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect January 1, 2025.