

1 AN ACT to amend the Illinois Insurance Code by adding
2 Article XXA.

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

5 Section 5. The Illinois Insurance Code is amended by
6 adding Article XXA as follows:

7 (215 ILCS 5/Art. XXA heading new)

8 Article XXA. Accident and Health Insurance Rate Law

9 (215 ILCS 5/371A-1 new)

10 Sec. 371A-1. Short title. This Article may be cited as
11 the Accident and Health Insurance Rate Law.

12 (215 ILCS 5/371A-5 new)

13 Sec. 371A-1. Purpose of Article. The purpose of this
14 Article is to promote the public welfare by regulating
15 accident and health insurance rates so that they are not
16 excessive, inadequate, or unfairly discriminatory, to
17 authorize the existence and operation of qualified rating
18 organizations and advisory organizations, to require that
19 specified rating services of these rating organizations be
20 generally available to all admitted companies, and to
21 authorize cooperation between companies in rate making and
22 other related matters. It is the express intent of this
23 Article to permit and encourage competition between companies
24 on a sound financial basis to the fullest extent possible,
25 and to establish a mechanism to ensure the provision of
26 adequate accident and health insurance at reasonable rates to
27 the citizens of this State.

28 (215 ILCS 5/371A-10 new)

1 Sec. 371A-10. Definitions. As used in this Article:

2 "Rating organization" means a person, other than an
3 admitted company, who has as his object or purpose the making
4 of rates, rating plans, or rating systems. Two or more
5 admitted companies that act in concert for the purpose of
6 making rates, rating plans, or rating systems, but do not
7 operate within the specific authorizations contained in
8 Sections 371A-30, 371A-40, and 371-80 shall be deemed to be a
9 rating organization. No single company shall be deemed to be
10 a rating organization.

11 "Advisory organization" means a person, other than an
12 admitted company, who prepares policy forms or makes
13 underwriting rules incident to, but not including, the making
14 of rates, rating plans, or rating systems or who collects and
15 furnishes to admitted companies or rating organizations loss
16 or expense statistics or other statistical information and
17 data and acts in an advisory, as distinguished from a rate
18 making, capacity. No duly authorized attorney at law acting
19 in the usual course of his profession shall be deemed to be
20 an advisory organization.

21 "Member" means a company who participates in or is
22 entitled to participate in the management of a rating,
23 advisory, or other organization.

24 "Subscriber" means a company that is furnished at its
25 request (1) with rates and rating manuals by a rating
26 organization of which it is not a member or (2) with advisory
27 services by an advisory organization of which it is not a
28 member.

29 (215 ILCS 5/371A-15 new)

30 Sec. 371A-15. Scope of Article. The provisions of this
31 Article apply to accident and health insurance.

32 This Article applies to all companies, including stock
33 and mutual companies, Lloyds associations, and reciprocal and

1 interinsurance exchanges that, under any provisions of the
2 laws of this State, write accident and health insurance.

3 (215 ILCS 5/371A-20 new)

4 Sec. 371A-20. Classes of rates.

5 (a) The rates for accident and health insurance subject
6 to this Article shall not be excessive, inadequate, or
7 unfairly discriminatory.

8 (b) As to all classes of insurance, insurers or rating
9 organizations shall establish and use rates, rating
10 schedules, or rating manuals that allow the insurer to earn a
11 reasonable rate of return on insurance written in this State.
12 A copy of rates, rating schedules, rating manuals, premium
13 credit or discount schedules, and changes thereto shall be
14 filed with the Department as soon as possible following their
15 effective date, but no later than 30 days after that date. A
16 copy of rates, rating schedules, rating manuals, premium
17 credit or discount schedules, and changes thereto, that
18 provide for an increase greater than the increase in the
19 medical care component of the Consumer Price Index for the
20 region or city of the United States having the greatest
21 increase the previous calendar year shall be filed with and
22 approved by the Department prior to their effective date.

23 (c) Upon receiving a rate filing, the Department shall
24 review the rate filing to determine if a rate is excessive,
25 inadequate, or unfairly discriminatory. In making that
26 determination, the Department shall, in accordance with
27 generally accepted and reasonable actuarial techniques,
28 consider all of the following factors:

29 (1) Past loss experience within and without this
30 State.

31 (2) Past expenses both allocated and unallocated.

32 (3) The degree of competition among insurers for
33 the risk insured.

1 (4) Investment income reasonably expected by the
2 insurer, consistent with the insurer's investment
3 practices, from investable premiums anticipated in the
4 filing, plus any other expected income from currently
5 invested assets representing the amount expected on
6 unearned premium reserves and loss reserves. The
7 Department may promulgate rules utilizing reasonable
8 techniques of actuarial science and economics to specify
9 the manner in which insurers shall calculate investment
10 income attributable to the classes of insurance written
11 in this State and the manner in which that investment
12 income shall be used in the calculation of insurance
13 rates.

14 (5) The reasonableness of the judgment reflected in
15 the filing.

16 (6) Dividends, savings, or unabsorbed premium
17 deposits allowed or returned to Illinois policyholders,
18 members, or subscribers.

19 (7) The adequacy of loss reserves.

20 (8) The cost of reinsurance.

21 (9) Trend factors, including trends in actual
22 losses per insured unit for the insurer making the
23 filing.

24 (10) A reasonable margin for profit and
25 contingencies.

26 (11) Other relevant factors that impact upon the
27 frequency or severity of claims or upon expenses.

28 (d) In addition to the rate standards provided in
29 subsection (c), a rate may be found by the Department to be
30 excessive, inadequate, or unfairly discriminatory based upon
31 any of the following standards:

32 (1) A rate shall be deemed excessive if it is
33 likely to produce a profit from Illinois business that is
34 unreasonably high in relation to the risk involved in the

1 class of business or if expenses are unreasonably high in
2 relation to services rendered.

3 (2) A rate shall be deemed excessive if, among
4 other things, the rate structure established by a stock
5 insurance company provides for replenishment of surpluses
6 from premiums, when the replenishment is attributable to
7 investment losses.

8 (3) A rate shall be deemed inadequate if it is
9 clearly insufficient, together with the investment income
10 attributable to it, to sustain projected losses and
11 expenses in the class of business to which it applies.

12 (4) One rate shall be deemed unfairly
13 discriminatory in relation to another in the same class
14 if it fails to clearly and equitably reflect the
15 difference in expected losses and expenses.

16 (5) A rate shall be deemed inadequate as to the
17 premium charged to a risk or group of risks if discounts
18 or credits are allowed that exceed a reasonable
19 reflection of expense savings and reasonably expected
20 loss experience from the risk or group of risks.

21 (6) A rate shall be deemed unfairly discriminatory
22 as to a risk or group of risks if the application of
23 premium discounts or credits among those risks does not
24 bear a reasonable relationship to the expected loss and
25 expense experience among the various risks.

26 (e) In reviewing a rate filing, the Department may
27 require the insurer to provide at the insurer's expense all
28 information necessary to evaluate the condition of the
29 company and the reasonableness of the failure according to
30 the criteria enumerated in this Section.

31 (f) The Department may at any time review a rate, rating
32 schedule, rating manual, rate change, the pertinent records
33 of the insurer, and market conditions. If the Department
34 finds on a preliminary basis that a rate may be excessive,

1 inadequate, or unfairly discriminatory, the Department shall
2 initiate proceedings to disapprove the rate and shall so
3 notify the insurer. If a proposed rate represents an
4 increase greater than the increase in the medical care
5 component of the Consumer Price Index for the region or city
6 of the United States having the greatest increase in the
7 previous calendar year, the Department shall initiate
8 proceeding to approve or disapprove the rate and shall notify
9 the insurer. Upon being notified, the insurer or rating
10 organization shall, within 60 days, file with the Department
11 all information that, in the belief of the insurer or
12 organization, proves the reasonableness, adequacy, and
13 fairness of the rate or rate change. In these instances and
14 in any administrative proceeding relating to the legality of
15 the rate, the insurer or rating organization shall carry the
16 burden of proof by a preponderance of the evidence to show
17 that the rate is not excessive, inadequate, or unfairly
18 discriminatory. After the Department notifies an insurer
19 that a rate may be excessive, inadequate, or unfairly
20 discriminatory, unless the Department withdraws the
21 notification, the insurer shall not alter the rate except to
22 conform with the Department's notice until the earlier of 120
23 days after the date the notification was provided or 180 days
24 after the date of the implementation of the rate. The
25 Department may disapprove without the 60-day notification any
26 rate increase filed by an insurer within the prohibited time
27 period or during the time that the legality of the increased
28 rate is being contested.

29 (g) If the Department finds that a rate or rate change
30 is excessive, inadequate, or unfairly discriminatory, the
31 Department shall issue an order of disapproval specifying
32 that the insurer file a new rate or rate schedule that
33 responds to the findings of the Department. The Department
34 shall further order that premiums be adjusted reflecting the

1 findings of the Department.

2 (215 ILCS 5/371A-25 new)

3 Sec. 371A-25. Companies authorized to act in concert.
4 Subject to and in compliance with the provisions of this
5 Article authorizing companies to be members or subscribers of
6 rating or advisory organizations or to engage in joint
7 underwriting or joint reinsurance, 2 or more companies may
8 act in concert with respect to any matters pertaining to the
9 making of rates or rating systems, the preparation or making
10 of insurance policy forms, underwriting rules, surveys,
11 inspections and investigations, the furnishing of loss or
12 expense statistics or other information and data, or the
13 carrying on of research.

14 (215 ILCS 5/371A-30 new)

15 Sec. 371A-30. Admitted companies with common ownership
16 or management. With respect to any matters pertaining to the
17 making of rates or rating systems, the preparation or making
18 of insurance policy forms, underwriting rules, surveys,
19 inspections, and investigations, the furnishing of loss or
20 expense statistics or other information and data, or the
21 carrying on of research, 2 or more admitted companies having
22 a common ownership or operating in this State under common
23 management or control are authorized to act in concert the
24 same as if they constituted a single company. Nothing in this
25 Section shall require that such companies so act in concert.

26 (215 ILCS 5/371A-35 new)

27 Sec. 371A-35. Use of rates, rating systems, and policy
28 forms of rating or advisory organizations; agreements to
29 adhere thereto. Members and subscribers of rating or advisory
30 organizations may use the rates, rating systems, underwriting
31 rules, or policy forms of those organizations, either

1 consistently or intermittently, but except as provided in
2 Sections 371A-30 and 371A-80, may not agree with each other,
3 rating organizations, or others to adhere thereto. The fact
4 that 2 or more admitted companies, whether or not members or
5 subscribers of a rating or advisory organization, use, either
6 consistently or intermittently, the rates or rating systems
7 made or adopted by a rating organization or policy forms
8 prepared by a rating or advisory organization shall not be
9 sufficient in itself to support a finding that an agreement
10 to so adhere exists and may be used only for the purpose of
11 supplementing or explaining direct evidence of the existence
12 of any such agreement.

13 (215 ILCS 5/371A-40 new)

14 Sec. 371A-40. Exchange of information or experience
15 data; consultation with rating organizations and companies.
16 Cooperation among rating organizations or among rating
17 organizations and companies in rate making or in other
18 matters within the scope of this Article is hereby
19 authorized. The Director may review this cooperation and if,
20 after a hearing upon notice to all cooperating parties, he
21 finds that the cooperation is unfair or unreasonable or
22 otherwise inconsistent with the provisions of this Article,
23 he may issue a written order specifying in what respects the
24 cooperation is unfair or unreasonable or otherwise
25 inconsistent with the provisions of this Article and
26 requiring the discontinuance of the cooperation.

27 (215 ILCS 5/371A-45 new)

28 Sec. 371A-45. Joint underwriters and reinsurers; conduct
29 of operation in State; membership or subscription to
30 organization; noncompliance with Article. Upon compliance
31 with the provisions of this Article, a rating organization,
32 advisory organization, and any group, association, or other

1 organization of admitted companies that engages in joint
 2 underwriting or joint reinsurance through the organization or
 3 by standing agreement among the members of the organization
 4 may conduct operations in this State. With respect to
 5 insurance risks or operations in this State, no company may
 6 be a member or subscriber of any such organization, group, or
 7 association that has not complied with the provisions of this
 8 Article.

9 (215 ILCS 5/371A-50 new)

10 Sec. 371A-50. Rating organizations; existing licenses
 11 continued.

12 (a) No rating organization may conduct its operations in
 13 this State without first filing with the Director a written
 14 application for and securing a license to act as a rating
 15 organization, however, a license issued to a rating
 16 organization pursuant to Section 459 shall continue in effect
 17 until the expiration date of that license. A rating
 18 organization may make application for and obtain a license as
 19 a rating organization if it meets the requirements for
 20 license set forth in this Article.

21 (b) A rating organization shall file with its
 22 application:

23 (1) a copy of its constitution, its articles of
 24 incorporation, agreement, or association, and its
 25 by-laws, rules, and regulations governing the conduct of
 26 its business, all duly certified by the custodian of the
 27 originals thereof;

28 (2) a list of its members and subscribers;

29 (3) the name and address of a resident of this
 30 State upon whom notices or orders of the Director or
 31 process affecting the rating organization may be served;
 32 and

33 (4) a statement of its qualifications as a rating

1 organization.

2 The fee for filing an application for license as a rating
3 organization is \$25, payable in advance to the Director.

4 (215 ILCS 5/371A-55 new)

5 Sec. 371A-55. Evidence prerequisite to license. To
6 obtain and retain a license, a rating organization shall
7 provide satisfactory evidence to the Director that it will:

8 (1) permit any admitted company to become a member of or
9 a subscriber to the rating organization at a reasonable cost
10 and without discrimination, or to withdraw therefrom;

11 (2) neither have nor adopt any rule or exact any
12 agreement, the effect of which would be to require any member
13 or subscriber as a condition to membership or subscribership,
14 to adhere to its rates, rating plans, rating systems,
15 underwriting rules, or policy forms;

16 (3) neither adopt any rule nor exact any agreement the
17 effect of which would be to prohibit or regulate the payment
18 of dividends, savings, or unabsorbed premium deposits allowed
19 or returned by companies to their policyholders, members, or
20 subscribers;

21 (4) neither practice nor sanction any plan or act of
22 boycott, coercion, or intimidation;

23 (5) neither enter into nor sanction any contract or act
24 by which any person is restrained from lawfully engaging in
25 the insurance business; and

26 (6) notify the Director promptly of every change in its
27 constitution, its articles of incorporation, agreement, or
28 association, its by-laws, rules, and regulations governing
29 the conduct of its business, its list of members and
30 subscribers, and the name and address of the resident of this
31 State designated by it upon whom notices or orders of the
32 Director or process affecting the organization may be served.

1 (215 ILCS 5/371A-60 new)

2 Sec. 371A-60. Examination of application and
3 investigation of applicant; issuance of license.

4 (a) The Director shall examine each application for
5 license to act as a rating organization and and may make such
6 further investigation of the applicant, its affairs, and its
7 proposed plan of business as he deems desirable.

8 (b) The Director shall issue the license applied for
9 within 60 days after the application is filed with him if
10 from the examination and investigation he is satisfied that:

11 (1) the business reputation of the applicant and
12 its officers is good;

13 (2) the facilities of the applicant are adequate to
14 enable it to furnish the services it proposes to furnish;
15 and

16 (3) the applicant and its proposed plan of
17 operation conform to the requirements of this Article.

18 Otherwise, but only after hearing upon notice, the
19 Director shall in writing deny the application and notify the
20 applicant of his decision and his reasons therefor.

21 (c) Licenses issued pursuant to this Section shall
22 remain in effect until revoked as provided in this Article.

23 (215 ILCS 5/371A-65 new)

24 Sec. 371A-65. Rules governing eligibility for
25 membership. Subject to the approval of the Director a
26 licensed rating organization may make reasonable rules
27 governing eligibility for membership.

28 (215 ILCS 5/371A-70 new)

29 Sec. 371A-70. Companies with common ownership or
30 management. If 2 or more companies having a common ownership
31 or operating in this State under common management are
32 admitted for the classes or types of insurance for which a

1 rating organization is licensed to make rates, the rating
2 organization may require as a condition to membership or
3 subscribership of one or more that all such companies shall
4 become members or subscribers.

5 (215 ILCS 5/371A-75 new)

6 Sec. 371A-75. Advisory organization.

7 (a) No advisory organization shall conduct its
8 operations in this State unless and until it has filed with
9 the Director:

10 (1) a copy of its constitution, its articles of
11 incorporation, agreement, or association, and its
12 by-laws, rules, and regulations governing its activities,
13 all duly certified by the custodian of the originals
14 thereof;

15 (2) a list of its members and subscribers; and

16 (3) the name and address of a resident of this
17 State upon whom notices or orders of the Director or
18 process may be served.

19 (b) An advisory organization shall notify the Director
20 promptly of every change in its constitution, its articles of
21 incorporation, agreement, or association, its by-laws, rules,
22 and regulations governing the conduct of its business, its
23 list of members and subscribers, and the name and address of
24 the resident of this State designated by it upon whom notices
25 or orders of the Director or process affecting the
26 organization may be served.

27 (c) An advisory organization may not engage in any
28 unfair or unreasonable practice with respect to its
29 activities.

30 (215 ILCS 5/371A-80 new)

31 Sec. 371A-80. Joint underwriting and joint reinsurance.

32 (a) A group, association, or other organization of

1 companies that engages in joint underwriting or joint
2 reinsurance through the group, association, or organization
3 or by standing agreement among the members thereof shall file
4 with the Director:

5 (1) a copy of its constitution, its articles of
6 incorporation, agreement, or association, and its
7 by-laws, rules, and regulations governing its business,
8 all duly certified by the custodian of the originals
9 thereof;

10 (2) a list of its members; and

11 (3) the name and address of a resident of this
12 State upon whom notices or orders of the Director or
13 process affecting the group, association, or organization
14 may be served.

15 (b) A group, association, or other organization that
16 engages in joint underwriting or joint reinsurance shall
17 notify the Director promptly of every change in its
18 constitution, its articles of incorporation, agreement, or
19 association, its by-laws, rules, and regulations governing
20 the conduct of its business, its list of members, and the
21 name and address of the resident of this State designated by
22 it upon whom notices or orders of the Director or process
23 affecting the group, association or organization may be
24 served.

25 (c) A group, association, or organization that engages
26 in joint underwriting or joint reinsurance may not engage in
27 any unfair or unreasonable practice with respect to such
28 activities.

29 (215 ILCS 5/371A-85 new)

30 Sec. 371A-85. Maintenance of records; compliance with
31 Section.

32 (a) A company, rating organization or advisory
33 organization, and a group, association, or other organization

1 of companies that engages in joint underwriting or joint
2 reinsurance shall maintain reasonable records, of its
3 experience or the experience of its members and of the data,
4 statistics, or information collected or used by it in
5 connection with the rates, rating plans, rating systems,
6 underwriting rules, policy forms, surveys, or inspections
7 made or used by it so that the records will be available at
8 all reasonable times to enable the Director to determine
9 whether the organization, company, group, or association and,
10 in the case of a company or rating organization, every rate,
11 rating plan, and rating system made or used by it complies
12 with the provisions of this Article. The maintenance of these
13 records in the office of a licensed rating organization of
14 which a company is a member or subscriber is sufficient
15 compliance with this Section for any company maintaining
16 membership or subscribership in the organization to the
17 extent that the company uses the rates, rating plans, or
18 rating systems of the organization. The records must be made
19 available for examination or inspection by the Director at
20 any time upon reasonable notice.

21 (b) The Director shall adopt, and may modify, reasonable
22 rules and statistical plans that each company must use in the
23 recording and reporting of its loss and countrywide expense
24 experience in order that the experience of all companies may
25 be made available at least annually in such form and detail
26 as may be necessary to aid the Director in determining
27 whether rates comply with this Article. The rules and
28 statistical plans may also provide for the recording and
29 reporting of expense experience items that are specially
30 applicable to this State and are not susceptible of
31 determination by a prorating of countrywide expense
32 experience.

33 (c) In adopting the rules and plans, the Director shall
34 give due consideration to the rating systems in use in this

1 State and, in order that the rules and plans may be as
2 uniform as is possible among the several states, to the rules
3 and to the form of the plans used for rating systems in other
4 states. No company shall be required to record or report its
5 loss experience on a classification basis that is
6 inconsistent with the rating system used by it.

7 (d) The Director may designate one or more rating
8 organizations or other agencies to assist him in gathering
9 and making compilations of loss and expense experience. The
10 compilations must be made available, subject to reasonable
11 rules adopted by the Director, to companies and rating
12 organizations.

13 (215 ILCS 5/371A-90 new)

14 Sec. 371A-90. Report of loss and expense data.

15 (a) The Department shall promulgate rules that require an
16 insurer licensed to write accident and health insurance in
17 the State to record and report its loss and expense
18 experience and other data as may be necessary to determine
19 whether rates are fair and appropriate. The Department may
20 designate one or more rating service organizations or
21 advisory organizations to gather and compile the loss and
22 expense experience and data. The Department shall require an
23 insurer licensed to write accident and health insurance in
24 this State to submit a report, on a form furnished by the
25 Department, showing its direct writings in this State and the
26 United States.

27 (b) The report must include all of the following data,
28 both specific to this State and also to the United States, by
29 the type of insurance for the previous year ending on the
30 31st day of December:

31 (1) Direct premiums written.

32 (2) Direct premiums earned.

33 (3) Net investment income, including net realized

1 capital gains and losses, using appropriate estimates
2 where necessary.

3 (4) Incurred claims, developed as the sum of the
4 following (the report must include data for each of the
5 following categories used to develop the sum of incurred
6 claims):

7 (A) dollar amount of claims closed with
8 payment; plus

9 (B) reserves for reported claims at the end of
10 the current year; minus

11 (C) reserves for reported claims at the end of
12 the previous year; plus

13 (D) reserves for incurred but not reported
14 claims at the end of the current year; minus

15 (E) reserves for incurred but not reported
16 claims at the end of the previous year; plus

17 (F) loss adjustment expenses for claims
18 closed; plus

19 (G) reserves for Loss Adjustment Expense at
20 the end of the current year; minus

21 (H) reserves for Loss Adjustment Expense at
22 the end of the previous year.

23 (5) Actual incurred expenses allocated separately
24 to loss adjustment, commissions, other acquisition costs,
25 advertising, general office expenses, taxes, licenses and
26 fees, and all other expenses.

27 (6) Net underwriting gain or loss.

28 (7) Net operation gain or loss, including net
29 investment income.

30 (8) The number and dollar amount of claims closed
31 with payment, by year incurred and the amount reserved
32 for them.

33 (9) The number of claims closed without payment and
34 the dollar amount reserved for those claims.

1 (10) Federal income tax recoverable.

2 (11) Any other information requested by the
3 Department.

4 (c) For the first year only in which the insurer is
5 required to file this report, the data required by paragraphs
6 (1) through (7) of subsection (b) must include the previous
7 calendar year and each of the preceding 4 calendar years.

8 (d) It is the duty of the Department to annually compile
9 and review all reports submitted by insurers pursuant to this
10 Section to determine the appropriateness of premium rates for
11 accident and health insurance in this State. The
12 Department's findings and the filings shall be published,
13 provided to the General Assembly, and made available to any
14 interested insured or citizen. If the Department finds at
15 any time that any rate is no longer fair or appropriate, it
16 shall issue an order withdrawing its approval. The order
17 shall specify reasons for withdrawal of approval, shall be
18 furnished to each affected insurer and rating organization,
19 and shall be effective in not less than 30 days after its
20 issuance unless an affected insurer meets the burden of
21 showing that the rate is in fact fair and appropriate.

22 (f) An insurance company shall file all of the
23 information required under this Section with the Department
24 as a prerequisite to obtaining permission to write coverage,
25 to continue to do business, or to file for rate increases.

26 (g) An insurer that fails to comply with the terms of
27 this Section shall pay a civil penalty of a fine of \$10,000
28 and thereafter a fine of \$200 daily until it complies with
29 this Section.

30 (215 ILCS 5/371A-95 new)

31 Sec. 371A-95. Examination of rating and advisory
32 organizations, joint underwriters, and reinsurers; acceptance
33 of report from another state; compliance with Article.

1 (a) At least once every 5 years and may as often as may
2 be reasonable and necessary, the Director shall make or cause
3 to be made an examination of each licensed rating
4 organization. The Director may, as often as may be
5 reasonable and necessary, make or cause to be made an
6 examination of any advisory organization or group,
7 association, or other organization of companies that engages
8 in joint underwriting or joint reinsurance.

9 (b) Instead of making an examination, the Director may
10 accept the report of an examination made by the insurance
11 supervisory official of another state.

12 (c) In examining any organization, group or association
13 pursuant to this Section, the Director shall ascertain
14 whether the organization, group, or association and, in the
15 case of a rating organization, any rate or rating system made
16 or used by it complies with this Article.

17 (215 ILCS 5/371A-100 new)

18 Sec. 371A-100. Examination of Admitted companies; rate
19 overcharge refunds.

20 (a) A company found to have failed or refused to refund
21 any overcharges as determined pursuant to Section 371A-20
22 shall pay a penalty to the Department of Insurance of \$100
23 per day for each such violation. A refusal to refund
24 overcharges to any one policyholder is a violation under this
25 Article and additional refusals shall be considered
26 additional violations under this Article.

27 (b) Continued refusal by a company to refund
28 policyholder overcharges after an Order of the Director to so
29 refund under this Article may subject a company to suspension
30 of its certificate of authority until it has complied with
31 the Order of the Director and refunded the overcharges.

32 (215 ILCS 5/371A-105 new)

1 Sec. 371A-105. Examination of officers, managers,
2 agents, and employees; exhibition of books. The officers,
3 managers, agents, and employees of any organization, group,
4 association, or company subject to this Article may be
5 examined at any time under oath and shall exhibit all books,
6 records, accounts, documents, or agreements governing its
7 methods of operation, together with all data, statistics and
8 information of every kind and character collected or
9 considered by the organization, group, association, or
10 company in the conduct of the operations to which the
11 examination relates.

12 (215 ILCS 5/371A-110 new)

13 Sec. 371A-110. Payment of cost of examination. The
14 reasonable cost of any examination authorized by this Article
15 shall be paid by the organization, group, association, or
16 company to be examined.

17 (215 ILCS 5/371A-115 new)

18 Sec. 371A-115. Noncompliance of rate, rating plan or
19 system; notice by Director. If after examination of a
20 company, rating organization, advisory organization, or
21 group, association, or other organization of companies that
22 engages in joint underwriting or joint reinsurance the
23 Director has good cause to believe that the company, rating
24 or advisory organization, group, or association or any rate,
25 rating plan, or rating system made or used by the company,
26 rating or advisory organization, group, or association does
27 not comply with the requirements and standards of this
28 Article, he shall, unless he has good cause to believe the
29 noncompliance is wilful, give notice in writing to the
30 company, rating or advisory organization, group, or
31 association stating to the extent possible the manner in
32 which the noncompliance is alleged to exist and specifying a

1 reasonable time of not fewer than 10 days within which the
2 noncompliance may be corrected.

3 (215 ILCS 5/371A-120 new)

4 Sec. 371A-120. Hearing; notice; hearing not to include
5 additional subjects. If the Director has good cause to
6 believe noncompliance to be wilful or if, within the period
7 prescribed by the Director in the notice required by Section
8 371A-115, the company, rating or advisory organization,
9 group, or association does not make the changes necessary to
10 correct the noncompliance specified by the Director or
11 establish to the satisfaction of the Director that the
12 specified noncompliance does not exist, then the Director may
13 hold a public hearing regarding the noncompliance. Within a
14 reasonable period of time, which shall be not less than 10
15 days before the date of the hearing, the Director shall mail
16 written notice specifying the matters to be considered at the
17 hearing to the company, rating or advisory organization,
18 group, or association. If no notice has been given as
19 provided in Section 371A-115, the notice shall state to the
20 extent possible in what manner the noncompliance is alleged
21 to exist. The hearing shall not include any additional
22 subjects not specified in the notices required by Section
23 371A-115 or this Section.

24 (215 ILCS 5/371A-125 new)

25 Sec. 371A-125. Issuance of Orders; suspension or
26 revocation of certificate of authority or license.

27 (a) If after a hearing pursuant to Section 371A-120, the
28 Director finds that a rate, rating plan, or rating system
29 violates the provisions of this Article, he may issue an
30 order to the company or rating organization specifying in
31 what respects the violation exists and stating when, within a
32 reasonable period of time, the further use of the rate or

1 rating system by the company or rating organization in
2 contracts of insurance made thereafter shall be prohibited.

3 (b) If after a hearing pursuant to Section 371A-120, the
4 Director finds that a company, rating organization, advisory
5 organization, or a group, association, or other organization
6 of companies that engages in joint underwriting or joint
7 reinsurance is in violation of the provisions of the Article
8 other than the provisions dealing with rates, rating plans,
9 or rating systems, he may issue an order to the company,
10 rating or advisory organization, group, or association
11 specifying in what respects the violation exists and
12 requiring compliance within a reasonable time thereafter.

13 (c) If after a hearing pursuant to Section 371A-120, the
14 Director finds that a violation of any of the provisions of
15 this Article by a company or rating organization was wilful,
16 he may suspend or revoke, in whole or in part, the
17 certificate of authority of the company or the license of the
18 rating organization.

19 (d) If after a hearing pursuant to Section 371A-120, the
20 Director finds that a rating organization has wilfully
21 engaged in any fraudulent or dishonest act or practices, he
22 may suspend or revoke, in whole or in part, the license of
23 the organization in addition to any other penalty provided in
24 this Code.

25 (215 ILCS 5/371A-130 new)

26 Sec. 371A-130. Failure to comply with Order; suspension
27 or revocation of license or certificate. In addition to other
28 penalties provided in this Code, the Director may suspend or
29 revoke, in whole or in part, the license of any rating
30 organization or the certificate of authority of any company
31 that fails to comply, within the time specified by the order
32 or any extension thereof that the Director may grant, with an
33 order of the Director lawfully made by him pursuant to

1 Section 371A-125 and not reversed or modified pursuant to
2 Section 371A-135.

3 (215 ILCS 5/371A-135 new)

4 Sec. 371A-135. Conduct or proceedings; powers of
5 Director; judicial review.

6 (a) Except as otherwise provided in this Code, all
7 administrative proceedings in connection with the denial,
8 suspension, or revocation of a license or certificate of
9 authority under this Article shall be conducted in accordance
10 with the provisions of Sections 401, 402, 403, and 405 of
11 this Code.

12 (b) All orders or decisions of the Director under this
13 Article are subject to judicial review under the
14 Administrative Review Law.

15 (215 ILCS 5/371A-140 new)

16 Sec. 371A-140. Rebates prohibited; exclusion of
17 commissions, dividends. An insurance producer may not
18 knowingly charge, demand, or receive a premium for any policy
19 of insurance except in accordance with the provisions of this
20 Article. A company, employee of a company, and an insurance
21 producer may not pay, allow, or give, directly or indirectly,
22 as an inducement to insurance or after insurance has been
23 effected, any rebate, discount, abatement, credit, or
24 reduction of the premium named in a policy of insurance or
25 any special favor or advantage in the dividends or other
26 benefits to accrue thereon, or any valuable consideration or
27 inducement whatever, not specified in the policy of
28 insurance, except to the extent provided for in an applicable
29 filing. An insured named in a policy of insurance and any
30 employee of the insured may not knowingly receive or accept,
31 directly or indirectly, any rebate, discount, abatement,
32 credit or reduction of premium, or any such special favor or

1 advantage or valuable consideration or inducement. Nothing in
2 this Section shall be construed as prohibiting the payment of
3 commissions or other compensation to duly licensed insurance
4 producers nor as prohibiting any company from allowing or
5 returning to its participating policyholders, members, or
6 subscribers dividends, savings, or unabsorbed premium
7 deposits.

8 (215 ILCS 5/371A-145 new)

9 Sec. 371A-145. Information not to be wilfully withheld.
10 No person, company, or organization shall wilfully withhold
11 information from, or knowingly give false or misleading
12 information to, the Director or to any rating organization,
13 advisory organization, company, or group, association, or
14 other organization of companies that will affect the rates,
15 rating systems, or premiums for the classes of insurance
16 subject to this Article.

17 (215 ILCS 5/371A-150 new)

18 Sec. 371A-150. Failure to comply with final order of
19 Director; penalty.

20 (a) A person, company, organization, group, or
21 association that fails to comply with a final order of the
22 Director under this Article shall be liable to the State in
23 an amount not exceeding \$50, but if the failure is wilful he
24 or it shall be liable to the State in an amount not exceeding
25 \$5,000 for such failure. The Director shall collect the
26 amount so payable and may bring an action in the name of the
27 people of the State of Illinois to enforce collection. These
28 penalties may be in addition to any other penalties provided
29 by law.

30 (b) A wilful violation of the provisions of this Article
31 by any person is a misdemeanor.

1 (215 ILCS 5/371A-155 new)

2 Sec. 371A-155. Payment of dividends not prohibited or
3 regulated; plan for payment not rating system. Nothing in
4 this Article shall be construed to prohibit or regulate the
5 payment of dividends, savings, or unabsorbed premium deposits
6 allowed or returned by companies to their policyholders,
7 members, or subscribers. A plan for the payment of dividends,
8 savings, or unabsorbed premium deposits allowed or returned
9 by companies to their policyholders, members or subscribers
10 shall not be deemed a rating plan or system.

11 (215 ILCS 5/371A-160 new)

12 Sec. 371A-160. Acts done by authority of Article not
13 violation of other laws. No act done, action taken, or
14 agreement made pursuant to the authority conferred by this
15 Article shall constitute a violation of or grounds for
16 prosecution or civil proceedings under any other law of this
17 State heretofore or hereafter enacted which does not
18 specifically refer to insurance.

19 (215 ILCS 5/371A-165 new)

20 Sec. 371A-165. Submission of rates, rating plans, and
21 rating manuals. The Director may require submission of copies
22 of the rates, rating schedules, and rating manuals of a
23 company as he deems necessary and proper. The submission of
24 rates, rating schedules, and rating manuals to the Director
25 by a licensed rating organization of which a company is a
26 member or subscriber is sufficient compliance with this
27 Section for any company maintaining membership or
28 subscribership in the organization, to the extent that the
29 company uses the rates, rating schedules, and rating manuals
30 of the organization. Submission to the Director by a company
31 or rating organization within a reasonable time after the
32 date that the rates, rating schedules, or rating manuals

1 become effective shall be deemed sufficient compliance with
2 the requirements of this Section.

3 Section 99. Effective date. This Act takes effect
4 January 1, 2002.

1 INDEX

2 Statutes amended in order of appearance

3 SEE INDEX

- 4 215 ILCS 5/Art. XXA heading new
- 5 215 ILCS 5/371A-1 new
- 6 215 ILCS 5/371A-5 new
- 7 215 ILCS 5/371A-10 new
- 8 215 ILCS 5/371A-15 new
- 9 215 ILCS 5/371A-20 new
- 10 215 ILCS 5/371A-25 new
- 11 215 ILCS 5/371A-30 new
- 12 215 ILCS 5/371A-35 new
- 13 215 ILCS 5/371A-40 new
- 14 215 ILCS 5/371A-45 new
- 15 215 ILCS 5/371A-50 new
- 16 215 ILCS 5/371A-55 new
- 17 215 ILCS 5/371A-60 new
- 18 215 ILCS 5/371A-65 new
- 19 215 ILCS 5/371A-70 new
- 20 215 ILCS 5/371A-75 new
- 21 215 ILCS 5/371A-80 new
- 22 215 ILCS 5/371A-85 new
- 23 215 ILCS 5/371A-90 new
- 24 215 ILCS 5/371A-95 new
- 25 215 ILCS 5/371A-100 new
- 26 215 ILCS 5/371A-105 new
- 27 215 ILCS 5/371A-110 new
- 28 215 ILCS 5/371A-115 new
- 29 215 ILCS 5/371A-120 new
- 30 215 ILCS 5/371A-125 new
- 31 215 ILCS 5/371A-130 new
- 32 215 ILCS 5/371A-135 new
- 33 215 ILCS 5/371A-140 new
- 34 215 ILCS 5/371A-145 new

- 1 215 ILCS 5/371A-150 new
- 2 215 ILCS 5/371A-155 new
- 3 215 ILCS 5/371A-160 new
- 4 215 ILCS 5/371A-165 new