

1 AN ACT concerning disclosure of certain information  
2 relating to insurance companies.

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 changing Sections 35A-50, 131.22, 132.5, 136, 141.4, 186.1,  
7 188.1, 191, 223, 401.5, 404, 502.2, and 511.109 as follows:

8 (215 ILCS 5/35A-50)

9 Sec. 35A-50. Confidentiality and prohibition on  
10 announcements.

11 (a)(1) All RBC Reports, to the extent the information  
12 therein is not required to be set forth in a publicly  
13 available annual statement schedule, and RBC Plans, including  
14 the results or report of any examination or analysis of an  
15 insurer performed under this Article and any Corrective Order  
16 issued by the Director pursuant to the examination or  
17 analysis, with respect to any domestic insurer or foreign  
18 insurer that are in the possession or control of the Director  
19 shall be confidential by law and privileged, shall not be  
20 subject to the Freedom of Information Act, shall not be  
21 subject to subpoena, and shall not be subject to discovery or  
22 admission into evidence in any private civil action. However,  
23 the Director is authorized to use the documents, materials,  
24 or other information in the furtherance of any regulatory or  
25 legal action brought as a part of the Director's official  
26 duties filed--with--the-Director-constitute-information-that  
27 might-be-damaging-to-the-insurer-if--made--available--to--its  
28 competitors--and--shall-be-kept-confidential-by-the-Director.  
29 This-information-shall-not-be-made-public-or--be--subject--to  
30 subpoena,--other--than--by-the-Director-and-then-only-for-the  
31 purpose-of-enforcement-actions-taken-by--the--Director--under

1 ~~this--Code--or--other--provisions--of--the--insurance--laws--of--this~~  
2 State.

3 (2) Neither the Director nor any person who  
4 received documents, materials, or other information while  
5 acting under the authority of the Director shall be  
6 permitted or required to testify in any private civil  
7 action concerning any confidential documents, materials,  
8 or information subject to paragraph (1).

9 (3) In order to assist in the performance of the  
10 Director's duties, the Director:

11 (A) may share documents, materials, or other  
12 information, including the confidential and  
13 privileged documents, materials, or information  
14 subject to paragraph (1), with other state, federal,  
15 and international regulatory agencies, with the  
16 National Association of Insurance Commissioners and  
17 its affiliates or subsidiaries, and with state,  
18 federal, and international law enforcement  
19 authorities, provided that the recipient agrees to  
20 maintain the confidentiality and privileged status  
21 of the document, material, or other information;

22 (B) may receive documents, materials, or  
23 information, including otherwise confidential and  
24 privileged documents, materials, or information,  
25 from the National Association of Insurance  
26 Commissioners and its affiliates or subsidiaries and  
27 from regulatory and law enforcement officials of  
28 other foreign or domestic jurisdictions, and shall  
29 maintain as confidential or privileged any document,  
30 material, or information received with notice or the  
31 understanding that it is confidential or privileged  
32 under the laws of the jurisdiction that is the  
33 source of the document, material, or information;  
34 and

1           (C) may enter into agreements governing the  
2           sharing and use of information consistent with this  
3           subsection.

4           (4) No waiver of any applicable privilege or claim  
5           of confidentiality in the documents, materials, or  
6           information shall occur as a result of disclosure to the  
7           Director under this Section or as a result of sharing  
8           authorized in paragraph (3).

9           (b) It is the judgment of the legislature that the  
10          comparison of an insurer's total adjusted capital to any of  
11          its RBC levels is a regulatory tool that may indicate the  
12          need for possible corrective action with respect to the  
13          insurer and not a means to rank insurers generally.  
14          Therefore, except as otherwise required under the provisions  
15          of this Code, the disclosure, in any manner or form, directly  
16          or indirectly, of information containing an assertion,  
17          representation, or statement regarding the RBC levels of any  
18          insurer or any component derived in the calculation of RBC  
19          levels by any insurer, insurance producer, limited insurance  
20          producer, broker, or other person engaged in any manner in  
21          the insurance business would be misleading and is prohibited.  
22          In the event that a materially false statement with respect  
23          to the comparison regarding an insurer's total adjusted  
24          capital to any of its RBC levels or an inappropriate  
25          comparison of any other amount to the insurer's RBC levels is  
26          published in any written publication and the insurer is able  
27          to demonstrate to the Director with substantial proof the  
28          falsity of the statement or the inappropriateness thereof,  
29          the insurer may publish an announcement in a written  
30          publication if the sole purpose of the announcement is to  
31          rebut the materially false statement.

32          (c) It is the further judgment of the legislature that  
33          the RBC Instructions, RBC Reports, Adjusted RBC Reports, RBC  
34          Plans, and Revised RBC Plans are intended solely for use by

1 the Director in monitoring the solvency of insurers and the  
 2 need for possible corrective action with respect to insurers  
 3 and shall not be used by the Director for ratemaking or  
 4 considered or introduced as evidence in any rate proceeding  
 5 or used by the Director to calculate or derive any elements  
 6 of an appropriate premium level or rate of return for any  
 7 line of insurance that an insurer or an affiliate is  
 8 authorized to write.

9 (Source: P.A. 88-364; 89-97, eff. 7-7-95.)

10 (215 ILCS 5/131.22) (from Ch. 73, par. 743.22)

11 Sec. 131.22. Confidential treatment. All information,  
 12 documents, and copies thereof obtained by or disclosed to the  
 13 Director or any other person in the course of an examination  
 14 or investigation made under Section 131.21 and all  
 15 information submitted under Sections 131.13 or 131.20a and  
 16 all personal financial statement information submitted under  
 17 Section 131.5 must be given confidential treatment and is not  
 18 subject to subpoena and may not be made public by the  
 19 Director or any other person, without the prior written  
 20 consent of the company to which it pertains unless the  
 21 Director, after giving the company and its affiliates who  
 22 would be affected thereby notice and opportunity to be heard,  
 23 determines that the interests of policyholders, shareholders  
 24 or the public will be served by the publication thereof in  
 25 which event he may publish all or any part thereof in such  
 26 manner as he may deem appropriate.

27 Nothing contained in this Section shall prevent or be  
 28 construed as prohibiting the Director from disclosing such  
 29 information to the insurance department of any other state or  
 30 county or to law enforcement officials of this or any other  
 31 state or agency of the federal government at any time upon  
 32 the written agreement of the entity receiving the information  
 33 to hold that information confidential and in a manner

1 ~~eonsistent-with-this-Code-~~

2 (1) Documents, materials, or other information in  
3 the possession or control of the Director that are  
4 obtained by or disclosed to the Director or any other  
5 person in the course of an examination or investigation  
6 made pursuant to Section 131.21 and all information  
7 reported pursuant to Section 131.21 shall be confidential  
8 by law and privileged, shall not be subject to the  
9 Freedom of Information Act, shall not be subject to  
10 subpoena, and shall not be subject to discovery or  
11 admission into evidence in any private civil action.  
12 However, the Director is authorized to use the documents,  
13 materials, or other information in the furtherance of any  
14 regulatory or legal action brought as a part of the  
15 Director's official duties.

16 (2) Neither the Director nor any person who  
17 received documents, materials, or other information while  
18 acting under the authority of the Director shall be  
19 permitted or required to testify in any private civil  
20 action concerning any confidential documents, materials,  
21 or information subject to paragraph (1).

22 (3) In order to assist in the performance of the  
23 Director's duties, the Director:

24 (A) may share documents, materials, or other  
25 information, including the confidential and  
26 privileged documents, materials, or information  
27 subject to paragraph (1), with other state, federal,  
28 and international regulatory agencies, with the  
29 National Association of Insurance Commissioners and  
30 its affiliates or subsidiaries, and with state,  
31 federal, and international law enforcement  
32 authorities, provided that the recipient agrees to  
33 maintain the confidentiality and privileged status  
34 of the document, material, or other information;

1           (B) may receive documents, materials, or  
2           information, including otherwise confidential and  
3           privileged documents, materials, or information,  
4           from the National Association of Insurance  
5           Commissioners and its affiliates or subsidiaries and  
6           from regulatory and law enforcement officials of  
7           other foreign or domestic jurisdictions, and shall  
8           maintain as confidential or privileged any document,  
9           material, or information received with notice or the  
10           understanding that it is confidential or privileged  
11           under the laws of the jurisdiction that is the  
12           source of the document, material, or information;  
13           and

14           (C) may enter into agreements governing the  
15           sharing and use of information consistent with this  
16           subsection.

17           (4) No waiver of any applicable privilege or claim  
18           of confidentiality in the documents, materials, or  
19           information shall occur as a result of disclosure to the  
20           Director under this Section or as a result of sharing  
21           authorized in paragraph (3).

22           (Source: P.A. 88-364.)

23           (215 ILCS 5/132.5) (from Ch. 73, par. 744.5)

24           Sec. 132.5. Examination reports.

25           (a) General description. All examination reports shall  
26           be comprised of only facts appearing upon the books, records,  
27           or other documents of the company, its agents, or other  
28           persons examined or as ascertained from the testimony of its  
29           officers, agents, or other persons examined concerning its  
30           affairs and the conclusions and recommendations as the  
31           examiners find reasonably warranted from those facts.

32           (b) Filing of examination report. No later than 60 days  
33           following completion of the examination, the examiner in

1 charge shall file with the Department a verified written  
2 report of examination under oath. Upon receipt of the  
3 verified report, the Department shall transmit the report to  
4 the company examined, together with a notice that affords the  
5 company examined a reasonable opportunity of not more than 30  
6 days to make a written submission or rebuttal with respect to  
7 any matters contained in the examination report.

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

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

21 (2) Rejecting the examination report with  
22 directions to the examiners to reopen the examination for  
23 purposes of obtaining additional data, documentation, or  
24 information and refiling under subsection (b).

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

29 (d) Order and procedures. All orders entered under  
30 paragraph (1) of subsection (c) shall be accompanied by  
31 findings and conclusions resulting from the Director's  
32 consideration and review of the examination report, relevant  
33 examiner work papers, and any written submissions or  
34 rebuttals. The order shall be considered a final

1 administrative decision and may be appealed in accordance  
2 with the Administrative Review Law. The order shall be served  
3 upon the company by certified mail, together with a copy of  
4 the adopted examination report. Within 30 days of the  
5 issuance of the adopted report, the company shall file  
6 affidavits executed by each of its directors stating under  
7 oath that they have received a copy of the adopted report and  
8 related orders.

9 Any hearing conducted under paragraph (3) of subsection  
10 (c) by the Director or an authorized representative shall be  
11 conducted as a nonadversarial confidential investigatory  
12 proceeding as necessary for the resolution of any  
13 inconsistencies, discrepancies, or disputed issues apparent  
14 upon the face of the filed examination report or raised by or  
15 as a result of the Director's review of relevant work papers  
16 or by the written submission or rebuttal of the company.  
17 Within 20 days of the conclusion of any hearing, the Director  
18 shall enter an order under paragraph (1) of subsection (c).

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



1 agency.

2 The hearing shall proceed with the Director or his  
3 representative posing questions to the persons subpoenaed.  
4 Thereafter the company and the Department may present  
5 testimony relevant to the investigation. Cross-examination  
6 shall be conducted only by the Director or his  
7 representative. The company and the Department shall be  
8 permitted to make closing statements and may be represented  
9 by counsel of their choice.

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

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

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

31 (f) Privilege for and confidentiality of ancillary  
32 information. (1)(A) Except as provided in subsection (e) and  
33 in this subsection, documents, materials, or other  
34 information including, but not limited to, all working

1 papers, recorded-information, documents, and copies thereof,  
2 created, produced, or by, obtained by, or disclosed to the  
3 Director or any other person in the course of any examination  
4 or in the course of analysis by the Director of the financial  
5 condition or market conduct of a company shall be  
6 confidential by law and privileged, shall not be subject to  
7 the Freedom of Information Act, shall not be subject to  
8 subpoena, and shall not be subject to discovery or admission  
9 into evidence in any private civil action. must-be-given  
10 confidential-treatment, -are-not-subject-to-subpoena, -and--may  
11 not--be--made--public--by--the-Director-or-any-other-persons,  
12 except-to-the-extent-provided-in-subsection-(e).--Access--may  
13 also--be--granted--to--the--National-Association-of-Insurance  
14 Commissioners.--These-parties-must--agree--in--writing--before  
15 receiving---the---information--to--provide--to--it--the--same  
16 confidential-treatment-as-required-by--this--Section,--unless  
17 the-prior-written-consent-of-the-company-to-which-it-pertains  
18 has--been--obtained. The Director is authorized to use the  
19 documents, materials, or other information in the furtherance  
20 of any regulatory or legal action brought as part of the  
21 Director's official duties.

22 (B) Documents, materials, or other information,  
23 including, but not limited to, all working papers, and copies  
24 thereof, in the possession or control of the National  
25 Association of Insurance Commissioners and its affiliates and  
26 subsidiaries shall be confidential by law and privileged,  
27 shall not be subject to subpoena, and shall not be subject to  
28 discovery or admission into evidence in any private civil  
29 action, if they are:

30 (i) created, produced, or obtained by or disclosed  
31 to the National Association of Insurance Commissioners  
32 and its affiliates and subsidiaries in the course of the  
33 National Association of Insurance Commissioners and its  
34 affiliates and subsidiaries assisting an examination made

1 under this Code, or assisting a commissioner in the  
2 analysis of the financial condition or market conduct of  
3 a company; or

4 (ii) disclosed to the National Association of  
5 Insurance Commissioners and its affiliates and  
6 subsidiaries under paragraph (3) of this subsection by a  
7 commissioner.

8 (C) For the purposes of paragraph (1)(B), "Code"  
9 includes the law of another state or jurisdiction that is  
10 substantially similar to this Code.

11 (2) Neither the Director nor any person who received the  
12 documents, material, or other information while acting under  
13 the authority of the Director, including the National  
14 Association of Insurance Commissioners and its affiliates and  
15 subsidiaries, shall be permitted to testify in any private  
16 civil action concerning any confidential documents,  
17 materials, or information subject to paragraph (1).

18 (3) In order to assist in the performance of the  
19 Director's duties, the Director:

20 (A) may share documents, materials, or other  
21 information, including the confidential and privileged  
22 documents, materials, or information subject to paragraph  
23 (1), with other state, federal, and international regulatory  
24 agencies, with the National Association of Insurance  
25 Commissioners and its affiliates and subsidiaries, and with  
26 state, federal, and international law enforcement  
27 authorities, provided that the recipient agrees to maintain  
28 the confidentiality and privileged status of the document,  
29 material, or other information;

30 (B) may receive documents, materials, or information,  
31 including otherwise confidential and privileged documents,  
32 materials, or information, from the National Association of  
33 Insurance Commissioners and its affiliates and subsidiaries  
34 and from regulatory and law enforcement officials of other

1 foreign or domestic jurisdictions, and shall maintain as  
2 confidential or privileged any document, material, or  
3 information received with notice or the understanding that it  
4 is confidential or privileged under the laws of the  
5 jurisdiction that is the source of the document, material, or  
6 information; and

7 (C) may enter into agreements governing sharing and use  
8 of information consistent with this subsection.

9 (4) No waiver of any applicable privilege or claim of  
10 confidentiality in the documents, materials, or information  
11 shall occur as a result of disclosure to the Director under  
12 this Section or as result of sharing as authorized in  
13 paragraph (3).

14 (5) A privilege established under the law of any state  
15 or jurisdiction that is substantially similar to the  
16 privilege established under this subsection shall be  
17 available and enforced in any proceeding in, and in any court  
18 of, this State.

19 (6) In this subsection "department," "insurance  
20 department," "law enforcement agency," "regulatory agency,"  
21 and the "National Association of Insurance Commissioners"  
22 include, but are not limited to, their employees, agents,  
23 consultants, and contractors.

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

25 (215 ILCS 5/136) (from Ch. 73, par. 748)

26 Sec. 136. Annual statement.

27 (1) Every company authorized to do business in this  
28 State or accredited by this State shall file with the  
29 Director by March 1st in each year 2 copies of its financial  
30 statement for the year ending December 31st immediately  
31 preceding on forms prescribed by the Director, which shall  
32 conform substantially to the form of statement adopted by the  
33 National Association of Insurance Commissioners. Unless the

1 Director provides otherwise, the annual statement is to be  
2 prepared in accordance with the annual statement instructions  
3 and the Accounting Practices and Procedures Manual adopted by  
4 the National Association of Insurance Commissioners. The  
5 Director shall have power to make such modifications and  
6 additions in this form as he may deem desirable or necessary  
7 to ascertain the condition and affairs of the company. The  
8 Director shall have authority to extend the time for filing  
9 any statement by any company for reasons which he considers  
10 good and sufficient. In every statement the admitted assets  
11 shall be shown at the actual values as of the last day of the  
12 preceding year, in accordance with Section 126.7. The  
13 statement shall be verified by oaths of the president and  
14 secretary of the company or, in their absence, by 2 other  
15 principal officers. In addition, any company may be required  
16 by the Director, when he considers that action to be  
17 necessary and appropriate for the protection of  
18 policyholders, creditors, shareholders, or claimants, to  
19 file, within 60 days after mailing to the company a notice  
20 that such is required, a supplemental summary statement as of  
21 the last day of any calendar month occurring during the 100  
22 days next preceding the mailing of such notice designated by  
23 him on forms prescribed and furnished by the Director. The  
24 Director may require supplemental summary statements to be  
25 certified by an independent actuary deemed competent by the  
26 Director or by an independent certified public accountant.

27 (2) The statement of an alien company shall embrace only  
28 its condition and transactions in the United States and shall  
29 be verified by the oaths of its resident manager or principal  
30 representative in the United States, except that in the case  
31 of any life company organized under the laws of Canada or any  
32 province thereof, the statement may be verified by the oaths  
33 of any of its principal officers designated for that purpose  
34 by its board of directors.

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

11           (4) Each domestic, foreign, and alien insurer authorized  
12 to do business in this State or accredited by this State  
13 shall participate in the National Association of Insurance  
14 Commissioners' Insurance Regulatory Information System,  
15 including the payment of all fees and charges of the system.  
16 Each company shall, on or before March 1 of each year, file  
17 with the National Association of Insurance Commissioners a  
18 copy of its annual financial statement along with any  
19 additional filings prescribed by the Director for the  
20 preceding year. The statement filed with the National  
21 Association of Insurance Commissioners shall be in the same  
22 format and scope as that required by this Code and shall  
23 include a signed jurat page and actuarial certification. Any  
24 amendments and addendums to the annual statement shall also  
25 be filed with the National Association of Insurance  
26 Commissioners. Each company shall also file with the National  
27 Association of Insurance Commissioners annual and quarterly  
28 financial statement information in computer readable format  
29 as required by the Insurance Regulatory Information System.  
30 Failure of a company to file financial statement information  
31 in computer readable format shall subject the company to the  
32 provisions of Section 139.

33           (5)(a) All financial analysis ratios and examination  
34 synopsis concerning insurance companies that are submitted to

1 the Director by the National Association of Insurance  
2 Commissioners' Insurance Regulatory Information System and in  
3 the possession or control of the Director shall be  
4 confidential by law and privileged, shall not be subject to  
5 the Freedom of Information Act, shall not be subject to  
6 subpoena, and shall not be subject to discovery or admission  
7 into evidence in any private civil action. However, the  
8 Director is authorized to use the documents, materials, or  
9 other information in the furtherance of any regulatory or  
10 legal action brought as a part of the Director's official  
11 duties are--confidential--and--may--not--be--disclosed--by--the  
12 Director.

13 (b) Neither the Director nor any person who received  
14 documents, materials, or other information while acting under  
15 the authority of the Director shall be permitted or required  
16 to testify in any private civil action concerning any  
17 confidential documents, materials, or information subject to  
18 paragraph (a).

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

21 (i) may share documents, materials, or other  
22 information, including the confidential and privileged  
23 documents, materials, or information subject to paragraph  
24 (a), with other state, federal, and international  
25 regulatory agencies, with the National Association of  
26 Insurance Commissioner and its affiliates or  
27 subsidiaries, and with state, federal, and international  
28 law enforcement authorities, provided that the recipient  
29 agrees to maintain the confidentiality and privileged  
30 status of the document, material, or other information;

31 (ii) may receive documents, materials, or  
32 information, including otherwise confidential and  
33 privileged documents, materials, or information, from the  
34 National Association of Insurance Commissioners and its

1 affiliates or subsidiaries and from regulatory and law  
2 enforcement officials of other foreign or domestic  
3 jurisdictions, and shall maintain as confidential or  
4 privileged any document, material, or information  
5 received with notice or the understanding that it is  
6 confidential or privileged under the laws of the  
7 jurisdiction that is the source of the document,  
8 material, or information; and

9 (iii) may enter into agreements governing the  
10 sharing and use of information consistent with this  
11 subsection.

12 (d) No waiver of any applicable privilege or claim of  
13 confidentiality in the documents, materials, or information  
14 shall occur as a result of disclosure to the Director under  
15 this Section or as a result of sharing authorized in  
16 paragraph (c).

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

18 (215 ILCS 5/141.4)

19 Sec. 141.4. Disclosure of material transactions.

20 (a) An insurer domiciled in this State shall file a  
21 report with the Director disclosing material acquisitions and  
22 dispositions of assets or material nonrenewals,  
23 cancellations, or revisions of ceded reinsurance agreements  
24 unless the acquisitions and dispositions of assets or the  
25 material nonrenewals, cancellations, or revisions of ceded  
26 reinsurance agreements have been otherwise submitted to the  
27 Director for review, approval, or information purposes. The  
28 report must be filed no later than 15 days after the end of  
29 the calendar month in which a reportable transaction occurs.  
30 A copy of the report, including any exhibits or other  
31 attachments filed as a part of the report, shall be filed  
32 with the National Association of Insurance Commissioners.  
33 ~~All--reports--obtained--by--or--disclosed--to--the--Director--under~~



1 this-Section-shall-be-given-confidential-treatment-and--shall  
2 not--be--subject--to-subpoena-and-shall-not-be-made-public-by  
3 the--Director,--the--National--Association--of--Insurance  
4 Commissioners,--or--any--other--person,--except--to-insurance  
5 departments--of--other--states,--without--the--prior--written  
6 consent-of-the--insurer--to--which--it--pertains--unless--the  
7 Director,--after--giving--the--insurer--who-would-be-affected  
8 notice-and-an-opportunity-to-be-heard,--determines--that--the  
9 interests--of-policyholders,--shareholders,--or-the-public-will  
10 be-served-by-publication,--in-which--event--the--Director--may  
11 publish--all--or-any-part-in-the-manner-the-Director-may-deem  
12 appropriate.

13 (b) Asset acquisitions or dispositions that are not  
14 material do not have to be reported under this Section. For  
15 purposes of this Section, a material acquisition (or the  
16 aggregate of any series of related acquisitions during any 30  
17 day period) or disposition (or the aggregate of any series of  
18 related dispositions during any 30 day period) is one that is  
19 nonrecurring and not in the ordinary course of business and  
20 involves more than 5% of the reporting insurer's total  
21 admitted assets as reported in its most recent statutory  
22 financial statement filed with the Director. Asset  
23 acquisitions subject to this Section include, but are not  
24 limited to, every purchase, lease, exchange, merger,  
25 consolidation, succession, or other acquisition other than  
26 the construction or development of real property by or for  
27 the reporting insurer or the acquisition of materials for  
28 that purpose. Asset dispositions subject to this Section  
29 include, but are not limited to, every sale, lease, exchange,  
30 merger, consolidation, mortgage, hypothecation, assignment  
31 (whether for the benefit of creditors or otherwise),  
32 abandonment, destruction, or other disposition. All of the  
33 following information shall be disclosed in the report of a  
34 material acquisition or disposition of assets:

- 1           (1) Date of the transaction.
- 2           (2) Manner of acquisition or disposition.
- 3           (3) Description of the assets involved.
- 4           (4) Nature and amount of the consideration received
- 5           or given.
- 6           (5) Purpose of, or reason for, the transaction.
- 7           (6) Manner by which the amount of consideration was
- 8           determined.
- 9           (7) Gain or loss recognized or realized as a result
- 10          of the transaction.
- 11          (8) Name of the person from whom the assets were
- 12          acquired or to whom they were disposed.

13          Insurers shall report acquisitions and dispositions on a  
 14          nonconsolidated basis unless the insurer is part of a  
 15          consolidated group of insurers that utilizes a pooling  
 16          arrangement or a 100% reinsurance agreement that affects the  
 17          solvency and integrity of the insurer's reserves and the  
 18          insurer ceded substantially all of its direct and assumed  
 19          business to the pool. An insurer is deemed to have ceded  
 20          substantially all of its direct and assumed business to a  
 21          pool if the insurer has less than \$1,000,000 total direct  
 22          plus assumed written premiums during a calendar year that are  
 23          not subject to a pooling arrangement and the net income of  
 24          the business not subject to the pooling arrangement  
 25          represents less than 5% of the insurer's capital and surplus.

26          (c) Ceded reinsurance agreement nonrenewals,  
 27          cancellations, or revisions that are not material do not have  
 28          to be reported under this Section. For purposes of this  
 29          Section, a material nonrenewal, cancellation, or revision is  
 30          one that affects:

- 31           (1) For property and casualty business, including
- 32           accident and health business written by a property and
- 33           casualty insurer:

- 34           (A) more than 50% of the insurer's total ceded

1 written premium; or

2 (B) more than 50% of the insurer's total ceded  
3 indemnity and loss adjustment reserves.

4 (2) For life, annuity, and accident and health  
5 business: more than 50% of the total reserve credit taken  
6 for business ceded, on an annual basis, as indicated in  
7 the insurer's most recent annual statement.

8 (3) Property and casualty or life, annuity, and  
9 accident and health business:

10 (A) an authorized reinsurer representing more  
11 than 10% of total cession is replaced by one or more  
12 unauthorized reinsurers; or

13 (B) previously established collateral  
14 requirements have been reduced or waived as respects  
15 one or more unauthorized reinsurer representing  
16 collectively more than 10% of a total cession.

17 With respect to property and casualty business, including  
18 accident and health business written by a property and  
19 casualty insurer, no filing shall be required if the  
20 insurer's total ceded written premium represents, on an  
21 annualized basis, less than 10% of its total written premium  
22 for direct and assumed business. With respect to life,  
23 annuity, and accident and health business, no filing shall be  
24 required if the total reserve credit taken for business ceded  
25 represents, on an annualized basis, less than 10% of the  
26 statutory reserve requirement prior to any cession.

27 All of the following information shall be disclosed in  
28 the report of a material nonrenewal, cancellation, or  
29 revision of ceded reinsurance agreements:

30 (1) Effective date of the nonrenewal, cancellation  
31 or revision.

32 (2) The description of the transaction with an  
33 identification of the initiator thereof.

34 (3) Purpose of, or reason for, the transaction.

1           (4) The identity of the replacement insurers, if  
2           applicable.

3           Insurers shall report all material nonrenewals,  
4           cancellations, or revisions of ceded reinsurance agreements  
5           on a nonconsolidated basis unless the insurer is part of a  
6           consolidated group of insurers that utilizes a pooling  
7           arrangement or 100% reinsurance agreement that affects the  
8           solvency and integrity of the insurer's reserves and the  
9           insurer ceded substantially all of its direct and assumed  
10          business to the pool. An insurer is deemed to have ceded  
11          substantially all of its direct and assumed business to a  
12          pool if the insurer has less than \$1,000,000 of total direct  
13          plus assumed written premiums during a calendar year that are  
14          not subject to the pooling arrangement and the net income of  
15          the business not subject to the pooling arrangement  
16          represents less than 5% of the insurer's capital and surplus.

17          (d)(1) All reports obtained by or disclosed to the  
18          Director pursuant to this Section in the possession or  
19          control of the Director, shall be confidential by law and  
20          privileged, shall not be subject to the Freedom of  
21          Information Act, shall not be subject to subpoena, and  
22          shall not be subject to discovery or admission into  
23          evidence in any private civil action without the prior  
24          written consent of the insurer to which it pertains.  
25          However, the Director is authorized to use the documents,  
26          material, or other information in the furtherance of any  
27          regulatory or legal action brought as a part of the  
28          Director's official duties.

29          (2) After giving the insurer who would be affected  
30          notice and an opportunity to be heard, the Director may  
31          determine that the interest of policyholders,  
32          shareholders, or the public will be served by publication  
33          of the information subject to subdivision (d)(1), in  
34          which event the Director may publish all or any part in

1 the manner the Director may deem appropriate.

2 (3) Neither the Director nor any person who  
3 received documents, materials, or other information while  
4 acting under the authority of the Director shall be  
5 permitted or required to testify in any private civil  
6 action concerning any confidential documents, materials,  
7 or information subject to subdivision (d)(1).

8 (4) In order to assist in the performance of the  
9 Director's duties, the Director:

10 (A) may share documents, materials, or other  
11 information, including the confidential and  
12 privileged documents, materials, or information  
13 subject to subdivision (d)(1), with other state,  
14 federal, and international regulatory agencies, with  
15 the National Association of Insurance Commissioners  
16 and its affiliates and subsidiaries, and with state,  
17 federal, and international law enforcement  
18 authorities, provided that the recipient agrees to  
19 maintain the confidentiality and privileged status  
20 of the document, material, or other information.

21 (B) may receive documents, materials, or  
22 information, including otherwise confidential and  
23 privileged documents, materials, or information,  
24 from the National Association of Insurance  
25 Commissioners and its affiliates and subsidiaries  
26 and from regulatory and law enforcement officials or  
27 other foreign or domestic jurisdictions, and shall  
28 maintain as confidential or privileged any document,  
29 material, or information received with notice or the  
30 understanding that it is confidential or privileged  
31 under the laws of the jurisdiction that is the  
32 source of the document, material, or information;  
33 and

34 (C) may enter into agreements governing

1           sharing and use of information consistent with this  
2           subsection.

3           (5) No waiver of any applicable privilege or claim  
4           of confidentiality in the documents, materials, or  
5           information shall occur as a result of disclosure to the  
6           Director under this Section or as a result of sharing as  
7           authorized in subdivision (d)(4).

8           (Source: P.A. 89-97, eff. 7-7-95.)

9           (215 ILCS 5/186.1) (from Ch. 73, par. 798.1)

10          Sec. 186.1. Supervision by the Director.

11          (1) If the Director determines that any domestic  
12 insurance company is operating in a manner, that could lead  
13 to, or is in, a financial condition, which if continued would  
14 make it hazardous to the public, and its policyholders, the  
15 Director may issue an order:

16           (a) notifying the company and its Board of Directors of  
17 his determination and setting forth the specific deficiencies  
18 leading to the determination;

19           (b) setting forth the specific action required or  
20 prohibited to correct the cited deficiencies; and

21           (c) ordering the company to comply with the Director's  
22 order within such reasonable time as the Director shall  
23 prescribe.

24          (2) Operation or financial condition deficiencies  
25 supporting the Director's determination under subsection (1)  
26 may include, but are not limited to, the following:

27           (a) The company has failed to maintain a relationship of  
28 policyholder surplus to premium writings or policyholder  
29 surplus to claim and unearned premium reserves which provides  
30 a reasonable margin of safety for the policyholders  
31 considering the classes of insurance the company is writing.

32           (b) The company's asset liquidity is not adequate to  
33 provide orderly payment of its obligations.

1 (c) The company's current or projected net income is  
2 inadequate to meet its present or projected obligations.

3 (d) The company has a history of claim reserve  
4 inadequacy which affects the reliability of its financial  
5 statements.

6 (e) The company has failed to maintain adequate books  
7 and records or has otherwise conducted its insurance  
8 operation in a manner which impairs the Director's ability to  
9 determine its true financial condition.

10 (3) If a company fails to comply with the Director's  
11 order issued pursuant to subsection (1) within the time  
12 prescribed for such compliance the Director may institute  
13 proceedings for the conservation, rehabilitation or  
14 liquidation of the company under Article XIII of this Code.

15 (4)(a) The Director may require that the company prepare  
16 and file a plan to correct the deficiencies cited by the  
17 Director in his order within such time as the Director may  
18 prescribe. A corrective order may require, prohibit or  
19 permit certain acts subject to conditions including the  
20 Director's prior approval. The scope of a corrective order  
21 may relate to but shall not be limited to:

- 22 (i) the disposition, recovery or mix of assets;
- 23 (ii) the assumption or cession of reinsurance, including  
24 reinsurance of outstanding risks;
- 25 (iii) lending and borrowing;
- 26 (iv) investments;
- 27 (v) restricting underwriting and marketing activities.

28 (b) The Director may require that any company under such  
29 corrective order direct any certified public accountants,  
30 consulting actuary or financial consultant retained by the  
31 company to prepare for the Director such reports, accounting  
32 data and such other reports as the Director may reasonably  
33 require to assist in carrying out the responsibilities of the  
34 Director under this Section.

1           (5)(a) Any company subject to an order under subsections  
2           (1) or (4) may request a hearing before the Director to  
3           review that order. Such request shall be made in writing  
4           within 10 days of the receipt of such order, shall state the  
5           company's objections to the order, and shall be addressed to  
6           the Director. Such hearing shall be convened not less than  
7           10 days nor more than 20 days after receipt of the written  
8           request for hearing unless otherwise agreed to by the  
9           company. The Director shall make a final determination  
10          within 10 days after the conclusion of the hearing. The  
11          Director shall hold all hearings under this subsection  
12          privately in accordance with subsection (6) of this Section.  
13          The pendency of a hearing or pendency of the Director's final  
14          determination shall not stay the effect of the Director's  
15          order.

16          (b) After the Director's final determination pursuant to  
17          any hearing under this subsection, any party to the  
18          proceedings whose interests are affected by the Director's  
19          final determination shall be entitled to judicial review of  
20          such final determination pursuant to the provisions of the  
21          "Administrative Review Law".

22          Notwithstanding the availability of administrative  
23          remedies or judicial review under the "Administrative Review  
24          Law", a company which is subject to an order of the Director  
25          under this Section shall be entitled to immediate judicial  
26          review and injunctive relief in the Circuit Court of Cook  
27          County or the Circuit Court of Sangamon County upon  
28          satisfying the court:

29               (i) that accepting the facts set forth in the order as  
30               true, the order is arbitrary or capricious;

31               (ii) that the company's interests are substantially  
32               impaired by the order; and

33               (iii) that the company will suffer permanent injury in  
34               the absence of immediate injunctive relief.



1           (6)(a) All administrative and judicial proceedings  
2 arising under this Article shall be held privately unless a  
3 public hearing is requested by the company, and all records  
4 of the company, and all records of the Department concerning  
5 the company, so far as they pertain to or are a part of the  
6 record of the proceedings, shall be and remain confidential,  
7 unless the company requests otherwise. Such records shall  
8 not be subject to public disclosure under "The Illinois  
9 Freedom of Information Act", certified December 27, 1983, as  
10 amended, or otherwise, nor shall such records be subject to  
11 subpoena by third parties, unless the company and Director  
12 consent to such disclosure or release under subpoena.

13           (b) The Director may share the notices, correspondence,  
14 reports, records, or information with other state, federal,  
15 and international regulatory agencies, with the National  
16 Association of Insurance Commissioners and its affiliates and  
17 subsidiaries, and with state, federal, and international law  
18 enforcement authorities, if the Director determines that the  
19 disclosure is necessary or proper for the enforcement of the  
20 laws of this or another state of the United States, and  
21 provided that the recipient agrees to maintain the  
22 confidentiality of the documents, materials, or other  
23 information. No waiver of any applicable privilege or claim  
24 of confidentiality shall occur as a result of the sharing of  
25 documents, materials, or other information pursuant to this  
26 subsection.

27           (c) The Director may open the proceedings or hearings or  
28 make public the notices, correspondence, reports, records, or  
29 other information if the Director deems that it is in the  
30 best interest of the public or in the best interest of the  
31 company, its insureds, creditors, or the general public.

32           (7) The powers vested in the Director by this Section  
33 are additional to any and all other powers and remedies  
34 vested in the Director by law, and nothing herein contained

1 shall prohibit the Director from proceeding under any other  
2 applicable law or under this Section in conjunction with any  
3 other law.

4 (Source: P.A. 84-715.)

5 (215 ILCS 5/188.1) (from Ch. 73, par. 800.1)

6 Sec. 188.1. Provisions for conservation of assets of a  
7 domestic, foreign, or alien company.

8 (1) Upon the filing by the Director of a verified  
9 complaint alleging (a) that with respect to a domestic,  
10 foreign, or alien company, whether authorized or  
11 unauthorized, a condition exists that would justify a court  
12 order for proceedings under Section 188, and (b) that the  
13 interests of creditors, policyholders or the public will  
14 probably be endangered by delay, then the circuit court of  
15 Sangamon or Cook County or the circuit court of the county in  
16 which such company has or last had its principal office shall  
17 enter forthwith without a hearing or prior notice an order  
18 directing the director to take possession and control of the  
19 property, business, books, records, and accounts of the  
20 company, and of the premises occupied by it for the  
21 transaction of its business, or such part of each as the  
22 complaint shall specify, and enjoining the company and its  
23 officers, directors, agents, servants, and employees from  
24 disposition of its property and from transaction of its  
25 business except with the concurrence of the Director until  
26 the further order of the court. Copies of the verified  
27 complaint and the seizure order shall be served upon the  
28 company.

29 (2) The order shall continue in force and effect for  
30 such time as the court deems necessary for the Director to  
31 ascertain the condition and situation of the company. On  
32 motion of either party or on its own motion, the court may  
33 from time to time hold such hearings as it deems desirable,

1 and may extend, shorten, or modify the terms of, the seizure  
2 order. So far as the court deems it possible, the parties  
3 shall be given adequate notice of such hearings. As soon as  
4 practicable, the court shall vacate the seizure order or  
5 terminate the conservation proceedings of the company, either  
6 when the Director has failed to institute proceedings under  
7 Section 188 having a reasonable opportunity to do so, or upon  
8 an order of the court pursuant to such proceedings.

9 (3) Entry of a seizure order under this Section shall  
10 not constitute an anticipatory breach of any contract of the  
11 company.

12 (4) The court may hold all hearings in conservation  
13 proceedings privately in chambers, and shall do so on request  
14 of any officer of the company proceeded against.

15 (5) In conservation proceedings and judicial reviews  
16 thereof, all records of the company, other documents, and all  
17 insurance department files and court records and papers, so  
18 far as they pertain to and are a part of the record of the  
19 conservation proceedings, shall be and remain confidential  
20 except as is necessary to obtain compliance therewith, unless  
21 and until the court, after hearing arguments in chambers from  
22 the Director and the company, shall decide otherwise, or  
23 unless the company requests that the matter be made public,  
24 or unless the Director applies for a rehabilitation or  
25 liquidation order. However, the Director may share documents,  
26 materials, or other information in his or her possession or  
27 control pertaining to an insurer that is the subject of a  
28 proceeding under this Code with other state, federal, and  
29 international regulatory agencies, with the National  
30 Association of Insurance Commissioners and its affiliates and  
31 subsidiaries, and with state, federal, and international law  
32 enforcement authorities, provided that the recipient agrees  
33 to maintain the confidentiality of the documents, materials,  
34 or other information. No waiver of any applicable privilege

1 or claim of confidentiality shall occur as a result of  
2 disclosure by the Director under this Section or as a result  
3 of sharing documents, materials, or other information  
4 pursuant to this subsection.

5 (6) Any person having possession of and refusing to  
6 deliver any of the property, business, books, records or  
7 accounts of a company against which a seizure order has been  
8 issued shall be guilty of a Class A misdemeanor.

9 (Source: P.A. 89-206, eff. 7-21-95.)

10 (215 ILCS 5/191) (from Ch. 73, par. 803)

11 Sec. 191. Title to property of company.

12 (a) The Director and his successor and successors in  
13 office shall be vested by operation of law with the title to  
14 all property, contracts, and rights of action of the company  
15 as of the date of the order directing rehabilitation or  
16 liquidation. The Director is entitled to immediate possession  
17 and control of all property, contracts, and rights of action  
18 of the company, and is further authorized and directed to  
19 remove any and all records and property of the company to the  
20 Director's possession and control or to such other place as  
21 may be convenient for the purposes of efficient and orderly  
22 administration of the rehabilitation or liquidation. All  
23 persons, companies, and entities shall immediately release  
24 their possession and control of any and all property,  
25 contracts, and rights of action of the company to the  
26 Director including, but not limited to, bank accounts and  
27 bank records, premium and related records, and claim,  
28 underwriting, accounting, and litigation files. The entry of  
29 an order of rehabilitation or liquidation creates an estate  
30 that comprises all of the liabilities and assets of the  
31 company. The filing or recording of such order in the office  
32 of the recorder or the Registrar of Titles in any county of  
33 this State shall impart the same notice that a deed, bill of

1 sale or other evidence of title duly filed for record by such  
2 company would have imparted.

3 (b) The Director may provide information to other state  
4 insurance regulators and guaranty associations, including  
5 reports and analyses of financial condition and the status of  
6 development of a plan of rehabilitation. The Director may  
7 also permit a state insurance regulator or guaranty  
8 association to obtain a listing of policyholders and  
9 certificate holders residing in the requestor's state,  
10 including current addresses and summary policy information,  
11 provided that the regulator or guaranty association agrees to  
12 maintain the confidentiality of the records, and that the  
13 records will be used only for regulatory or guaranty  
14 association purposes. No waiver of any applicable privilege  
15 shall occur as a result of disclosure to the Director under  
16 this Section or as a result of sharing documents, materials,  
17 or other information pursuant to this Section.

18 (Source: P.A. 89-206, eff. 7-21-95.)

19 (215 ILCS 5/223) (from Ch. 73, par. 835)

20 Sec. 223. Director to value policies; legal standard of  
21 valuation.

22 (1) The Director shall annually value, or cause to be  
23 valued, the reserve liabilities (hereinafter called reserves)  
24 for all outstanding life insurance policies and annuity and  
25 pure endowment contracts of every life insurance company  
26 doing business in this State, except that in the case of an  
27 alien company, such valuation shall be limited to its United  
28 States business, and may certify the amount of any such  
29 reserves, specifying the mortality table or tables, rate or  
30 rates of interest, and methods (net level premium method or  
31 other) used in the calculation of such reserves. In  
32 calculating such reserves, he may use group methods and  
33 approximate averages for fractions of a year or otherwise. In

1 lieu of the valuation of the reserves herein required of any  
2 foreign or alien company, he may accept any valuation made,  
3 or caused to be made, by the insurance supervisory official  
4 of any state or other jurisdiction when such valuation  
5 complies with the minimum standard herein provided and if the  
6 official of such state or jurisdiction accepts as sufficient  
7 and valid for all legal purposes the certificate of valuation  
8 of the Director when such certificate states the valuation to  
9 have been made in a specified manner according to which the  
10 aggregate reserves would be at least as large as if they had  
11 been computed in the manner prescribed by the law of that  
12 state or jurisdiction.

13 Any such company which at any time has adopted any  
14 standard of valuation producing greater aggregate reserves  
15 than those calculated according to the minimum standard  
16 herein provided may, with the approval of the Director, adopt  
17 any lower standard of valuation, but not lower than the  
18 minimum herein provided, however, that, for the purposes of  
19 this subsection, the holding of additional reserves  
20 previously determined by a qualified actuary to be necessary  
21 to render the opinion required by subsection (1a) shall not  
22 be deemed to be the adoption of a higher standard of  
23 valuation. In the valuation of policies the Director shall  
24 give no consideration to, nor make any deduction because of,  
25 the existence or the possession by the company of

26 (a) policy liens created by any agreement given or  
27 assented to by any assured subsequent to July 1, 1937,  
28 for which liens such assured has not received cash or  
29 other consideration equal in value to the amount of such  
30 liens, or

31 (b) policy liens created by any agreement entered  
32 into in violation of Section 232 unless the agreement  
33 imposing or creating such liens has been approved by a  
34 Court in a proceeding under Article XIII, or in the case

1 of a foreign or alien company has been approved by a  
2 court in a rehabilitation or liquidation proceeding or by  
3 the insurance official of its domiciliary state or  
4 country, in accordance with the laws thereof.

5 (1a) This subsection shall become operative at the end  
6 of the first full calendar year following the effective date  
7 of this amendatory Act of 1991.

8 (A) General.

9 (1) Every life insurance company doing  
10 business in this State shall annually submit the  
11 opinion of a qualified actuary as to whether the  
12 reserves and related actuarial items held in support  
13 of the policies and contracts specified by the  
14 Director by regulation are computed appropriately,  
15 are based on assumptions that satisfy contractual  
16 provisions, are consistent with prior reported  
17 amounts and comply with applicable laws of this  
18 State. The Director by regulation shall define the  
19 specifics of this opinion and add any other items  
20 deemed to be necessary to its scope.

21 (2) The opinion shall be submitted with the  
22 annual statement reflecting the valuation of reserve  
23 liabilities for each year ending on or after  
24 December 31, 1992.

25 (3) The opinion shall apply to all business in  
26 force including individual and group health  
27 insurance plans, in form and substance acceptable to  
28 the Director as specified by regulation.

29 (4) The opinion shall be based on standards  
30 adopted from time to time by the Actuarial Standards  
31 Board and on additional standards as the Director  
32 may by regulation prescribe.

33 (5) In the case of an opinion required to be  
34 submitted by a foreign or alien company, the

1 Director may accept the opinion filed by that  
2 company with the insurance supervisory official of  
3 another state if the Director determines that the  
4 opinion reasonably meets the requirements applicable  
5 to a company domiciled in this State.

6 (6) For the purpose of this Section,  
7 "qualified actuary" means a member in good standing  
8 of the American Academy of Actuaries who meets the  
9 requirements set forth in its regulations.

10 (7) Except in cases of fraud or willful  
11 misconduct, the qualified actuary shall not be  
12 liable for damages to any person (other than the  
13 insurance company and the Director) for any act,  
14 error, omission, decision or conduct with respect to  
15 the actuary's opinion.

16 (8) Disciplinary action by the Director  
17 against the company or the qualified actuary shall  
18 be defined in regulations by the Director.

19 (9) A memorandum, in form and substance  
20 acceptable to the Director as specified by  
21 regulation, shall be prepared to support each  
22 actuarial opinion.

23 (10) If the insurance company fails to provide  
24 a supporting memorandum at the request of the  
25 Director within a period specified by regulation or  
26 the Director determines that the supporting  
27 memorandum provided by the insurance company fails  
28 to meet the standards prescribed by the regulations  
29 or is otherwise unacceptable to the Director, the  
30 Director may engage a qualified actuary at the  
31 expense of the company to review the opinion and the  
32 basis for the opinion and prepare the supporting  
33 memorandum as is required by the Director.

34 (11) Except as provided in paragraph 15,



1 documents, materials, or other information in the  
2 possession or control of the Director that are a  
3 memorandum in support of the opinion, and any other  
4 material provided by the company to the Director in  
5 connection with the memorandum, shall be  
6 confidential by law and privileged, shall not be  
7 subject to the Freedom of Information Act, shall not  
8 be subject to subpoena, and shall not be subject to  
9 discovery or admission into evidence in any private  
10 civil action. However, the Director is authorized to  
11 use the documents, materials, or other information  
12 in the furtherance of any regulatory or legal action  
13 brought as a part of the Director's official duties.

14 (12) Neither the Director nor any person who  
15 received documents, materials, or other information  
16 while acting under the authority of the Director  
17 shall be permitted or required to testify in any  
18 private civil action concerning any confidential  
19 documents, materials, or information subject to  
20 paragraph (11).

21 (13) In order to assist in the performance of  
22 the Director's duties, the Director:

23 (i) may share documents, materials, or  
24 other information, including the confidential  
25 and privileged documents, materials, or  
26 information subject to paragraph (11) with  
27 other state, federal, and international  
28 regulatory agencies, with the National  
29 Association of Insurance Commissioners and its  
30 affiliates and subsidiaries, and with state,  
31 federal, and international law enforcement  
32 authorities, provided that the recipient agrees  
33 to maintain the confidentiality and privileged  
34 status of the document, material, or other

1 information;

2 (ii) may receive documents, materials, or  
3 information, including otherwise confidential  
4 and privileged documents, materials, or  
5 information, from the National Association of  
6 Insurance Commissioners and its affiliates and  
7 subsidiaries and from regulatory and law  
8 enforcement officials of other foreign or  
9 domestic jurisdictions, and shall maintain as  
10 confidential or privileged any document,  
11 material, or information received with notice  
12 or the understanding that it is confidential or  
13 privileged under the laws of the jurisdiction  
14 that is the source of the document, material,  
15 or information; and

16 (iii) may enter into agreements governing  
17 sharing and use of information consistent with  
18 paragraphs (11) and (13).

19 (14) No waiver of any applicable privilege or  
20 claim of confidentiality in the documents,  
21 materials, or information shall occur as a result of  
22 disclosure to the Director under this Section or as  
23 a result of the sharing as authorized in paragraph  
24 (13).

25 (15)(11) Any memorandum in support of the  
26 opinion, and any other material provided by the  
27 company to the Director in connection therewith, may  
28 ~~be shall-be-kept-confidential-by--the--Director--and~~  
29 ~~shall-not-be-made-public-and-shall-not-be~~ subject to  
30 subpoena, ~~other~~-than for the purpose of defending an  
31 action seeking damages from the actuary submitting  
32 the memorandum any-person by reason of any action  
33 required by this Section or by regulations  
34 promulgated hereunder. ~~;~~-provided, ~~however,~~-that The

1 memorandum or other material may otherwise be  
2 released by the Director (a) with the written  
3 consent of the company or (b) to the American  
4 Academy of Actuaries upon request stating that the  
5 memorandum or other material is required for the  
6 purpose of professional disciplinary proceedings and  
7 setting forth procedures satisfactory to the  
8 Director for preserving the confidentiality of the  
9 memorandum or other material. Once any portion of  
10 the confidential memorandum is cited by the company  
11 in its marketing or is cited before any governmental  
12 agency other than a state insurance department or is  
13 released by the company to the news media, all  
14 portions of the confidential memorandum shall be no  
15 longer confidential.

16 (B) Actuarial analysis of reserves and assets  
17 supporting those reserves.

18 (1) Every life insurance company, except as  
19 exempted by or under regulation, shall also annually  
20 include in the opinion required by paragraph (A)(1)  
21 of this subsection (1a), an opinion of the same  
22 qualified actuary as to whether the reserves and  
23 related actuarial items held in support of the  
24 policies and contracts specified by the Director by  
25 regulation, when considered in light of the assets  
26 held by the company with respect to the reserves and  
27 related actuarial items including, but not limited  
28 to, the investment earnings on the assets and the  
29 considerations anticipated to be received and  
30 retained under the policies and contracts, make  
31 adequate provision for the company's obligations  
32 under the policies and contracts including, but not  
33 limited to, the benefits under and expenses  
34 associated with the policies and contracts.

1           (2) The Director may provide by regulation for  
2           a transition period for establishing any higher  
3           reserves which the qualified actuary may deem  
4           necessary in order to render the opinion required by  
5           this Section.

6           (2) This subsection shall apply to only those policies  
7           and contracts issued prior to the operative date of Section  
8           229.2 (the Standard Non-forfeiture Law).

9           (a) Except as otherwise in this Article provided,  
10          the legal minimum standard for valuation of contracts  
11          issued before January 1, 1908, shall be the Actuaries or  
12          Combined Experience Table of Mortality with interest at  
13          4% per annum and for valuation of contracts issued on or  
14          after that date shall be the American Experience Table of  
15          Mortality with either Craig's or Buttolph's Extension for  
16          ages under 10 and with interest at 3 1/2% per annum. The  
17          legal minimum standard for the valuation of group  
18          insurance policies under which premium rates are not  
19          guaranteed for a period in excess of 5 years shall be the  
20          American Men Ultimate Table of Mortality with interest at  
21          3 1/2% per annum. Any life company may, at its option,  
22          value its insurance contracts issued on or after January  
23          1, 1938, in accordance with their terms on the basis of  
24          the American Men Ultimate Table of Mortality with  
25          interest not higher than 3 1/2% per annum.

26          (b) Policies issued prior to January 1, 1908, may  
27          continue to be valued according to a method producing  
28          reserves not less than those produced by the full  
29          preliminary term method. Policies issued on and after  
30          January 1, 1908, may be valued according to a method  
31          producing reserves not less than those produced by the  
32          modified preliminary term method hereinafter described in  
33          paragraph (c). Policies issued on and after January 1,  
34          1938, may be valued either according to a method

1 producing reserves not less than those produced by such  
2 modified preliminary term method or by the select and  
3 ultimate method on the basis that the rate of mortality  
4 during the first 5 years after the issuance of such  
5 contracts respectively shall be calculated according to  
6 the following percentages of rates shown by the American  
7 Experience Table of Mortality:

- 8 (i) first insurance year 50% thereof;
- 9 (ii) second insurance year 65% thereof;
- 10 (iii) third insurance year 75% thereof;
- 11 (iv) fourth insurance year 85% thereof;
- 12 (v) fifth insurance year 95% thereof;

13 (c) If the premium charged for the first policy  
14 year under a limited payment life preliminary term policy  
15 providing for the payment of all premiums thereon in less  
16 than 20 years from the date of the policy or under an  
17 endowment preliminary term policy, exceeds that charged  
18 for the first policy year under 20 payment life  
19 preliminary term policies of the same company, the  
20 reserve thereon at the end of any year, including the  
21 first, shall not be less than the reserve on a 20 payment  
22 life preliminary term policy issued in the same year at  
23 the same age, together with an amount which shall be  
24 equivalent to the accumulation of a net level premium  
25 sufficient to provide for a pure endowment at the end of  
26 the premium payment period, equal to the difference  
27 between the value at the end of such period of such a 20  
28 payment life preliminary term policy and the full net  
29 level premium reserve at such time of such a limited  
30 payment life or endowment policy. The premium payment  
31 period is the period during which premiums are  
32 concurrently payable under such 20 payment life  
33 preliminary term policy and such limited payment life or  
34 endowment policy.

1           (d) The legal minimum standard for the valuations  
2 of annuities issued on and after January 1, 1938, shall  
3 be the American Annuitant's Table with interest not  
4 higher than 3 3/4% per annum, and all annuities issued  
5 before that date shall be valued on a basis not lower  
6 than that used for the annual statement of the year 1937;  
7 but annuities deferred 10 or more years and written in  
8 connection with life insurance shall be valued on the  
9 same basis as that used in computing the consideration or  
10 premiums therefor, or upon any higher standard at the  
11 option of the company.

12           (e) The Director may vary the standards of interest  
13 and mortality as to contracts issued in countries other  
14 than the United States and may vary standards of  
15 mortality in particular cases of invalid lives and other  
16 extra hazards.

17           (f) The legal minimum standard for valuation of  
18 waiver of premium disability benefits or waiver of  
19 premium and income disability benefits issued on and  
20 after January 1, 1938, shall be the Class (3) Disability  
21 Table (1926) modified to conform to the contractual  
22 waiting period, with interest at not more than 3 1/2% per  
23 annum; but in no event shall the values be less than  
24 those produced by the basis used in computing premiums  
25 for such benefits. The legal minimum standard for the  
26 valuation of such benefits issued prior to January 1,  
27 1938, shall be such as to place an adequate value, as  
28 determined by sound insurance practices, on the  
29 liabilities thereunder and shall be such that the value  
30 of the benefits under each and every policy shall in no  
31 case be less than the value placed upon the future  
32 premiums.

33           (g) The legal minimum standard for the valuation of  
34 industrial policies issued on or after January 1, 1938,

1 shall be the American Experience Table of Mortality or  
2 the Standard Industrial Mortality Table or the  
3 Substandard Industrial Mortality Table with interest at 3  
4 1/2% per annum by the net level premium method, or in  
5 accordance with their terms by the modified preliminary  
6 term method hereinabove described.

7 (h) Reserves for all such policies and contracts  
8 may be calculated, at the option of the company,  
9 according to any standards which produce greater  
10 aggregate reserves for all such policies and contracts  
11 than the minimum reserves required by this subsection.

12 (3) This subsection shall apply to only those policies  
13 and contracts issued on or after January 1, 1948 or such  
14 earlier operative date of Section 229.2 (the Standard  
15 Non-forfeiture Law) as shall have been elected by the  
16 insurance company issuing such policies or contracts.

17 (a) Except as otherwise provided in subsections  
18 (4), (6), and (7), the minimum standard for the valuation  
19 of all such policies and contracts shall be the  
20 Commissioners Reserve valuation method defined in  
21 paragraphs (b) and (f) of this subsection and in  
22 subsection 5, 3 1/2% interest for such policies issued  
23 prior to September 8, 1977, 5 1/2% interest for single  
24 premium life insurance policies and 4 1/2% interest for  
25 all other such policies issued on or after September 8,  
26 1977, and the following tables:

27 (i) The Commissioners 1941 Standard Ordinary  
28 Mortality Table for all Ordinary policies of life  
29 insurance issued on the standard basis, excluding  
30 any disability and accidental death benefits in such  
31 policies, for such policies issued prior to the  
32 operative date of subsection (4a) of Section 229.2  
33 (Standard Non-forfeiture Law); and the Commissioners  
34 1958 Standard Ordinary Mortality Table for such

1 policies issued on or after such operative date but  
2 prior to the operative date of subsection (4c) of  
3 Section 229.2 provided that for any category of such  
4 policies issued on female risks all modified net  
5 premiums and present values referred to in this Act  
6 may, prior to September 8, 1977, be calculated  
7 according to an age not more than 3 years younger  
8 than the actual age of the insured and, after  
9 September 8, 1977, calculated according to an age  
10 not more than 6 years younger than the actual age of  
11 the insured; and for such policies issued on or  
12 after the operative date of subsection (4c) of  
13 Section 229.2, (i) the Commissioners 1980 Standard  
14 Ordinary Mortality Table, or (ii) at the election of  
15 the company for any one or more specified plans of  
16 life insurance, the Commissioners 1980 Standard  
17 Ordinary Mortality Table with Ten-Year Select  
18 Mortality Factors, or (iii) any ordinary mortality  
19 table adopted after 1980 by the National Association  
20 of Insurance Commissioners and approved by  
21 regulations promulgated by the Director for use in  
22 determining the minimum standard of valuation for  
23 such policies.

24 (ii) For all Industrial Life Insurance  
25 policies issued on the standard basis, excluding any  
26 disability and accidental death benefits in such  
27 policies--the 1941 Standard Industrial Mortality  
28 Table for such policies issued prior to the  
29 operative date of subsection 4 (b) of Section 229.2  
30 (Standard Non-forfeiture Law); and for such policies  
31 issued on or after such operative date the  
32 Commissioners 1961 Standard Industrial Mortality  
33 Table or any industrial mortality table adopted  
34 after 1980 by the National Association of Insurance



1           Commissioners and approved by regulations  
2           promulgated by the Director for use in determining  
3           the minimum standard of valuation for such policies.

4           (iii) For Individual Annuity and Pure  
5           Endowment contracts, excluding any disability and  
6           accidental death benefits in such policies--the 1937  
7           Standard Annuity Mortality Table--or, at the option  
8           of the company, the Annuity Mortality Table for  
9           1949, Ultimate, or any modification of either of  
10          these tables approved by the Director.

11          (iv) For Group Annuity and Pure Endowment  
12          contracts, excluding any disability and accidental  
13          death benefits in such policies--the Group Annuity  
14          Mortality Table for 1951, any modification of such  
15          table approved by the Director, or, at the option of  
16          the company, any of the tables or modifications of  
17          tables specified for Individual Annuity and Pure  
18          Endowment contracts.

19          (v) For Total and Permanent Disability  
20          Benefits in or supplementary to Ordinary policies or  
21          contracts for policies or contracts issued on or  
22          after January 1, 1966, the tables of Period 2  
23          disablement rates and the 1930 to 1950 termination  
24          rates of the 1952 Disability Study of the Society of  
25          Actuaries, with due regard to the type of benefit,  
26          or any tables of disablement rates and termination  
27          rates adopted after 1980 by the National Association  
28          of Insurance Commissioners and approved by  
29          regulations promulgated by the Director for use in  
30          determining the minimum standard of valuation for  
31          such policies; for policies or contracts issued on  
32          or after January 1, 1961, and prior to January 1,  
33          1966, either such tables or, at the option of the  
34          company, the Class (3) Disability Table (1926); and

1 for policies issued prior to January 1, 1961, the  
2 Class (3) Disability Table (1926). Any such table  
3 shall, for active lives, be combined with a  
4 mortality table permitted for calculating the  
5 reserves for life insurance policies.

6 (vi) For Accidental Death benefits in or  
7 supplementary to policies--for policies issued on or  
8 after January 1, 1966, the 1959 Accidental Death  
9 Benefits Table or any accidental death benefits  
10 table adopted after 1980 by the National Association  
11 of Insurance Commissioners and approved by  
12 regulations promulgated by the Director for use in  
13 determining the minimum standard of valuation for  
14 such policies; for policies issued on or after  
15 January 1, 1961, and prior to January 1, 1966, any  
16 of such tables or, at the option of the company, the  
17 Inter-Company Double Indemnity Mortality Table; and  
18 for policies issued prior to January 1, 1961, the  
19 Inter-Company Double Indemnity Mortality Table.  
20 Either table shall be combined with a mortality  
21 table permitted for calculating the reserves for  
22 life insurance policies.

23 (vii) For Group Life Insurance, life insurance  
24 issued on the substandard basis and other special  
25 benefits--such tables as may be approved by the  
26 Director.

27 (b) Except as otherwise provided in paragraph (f)  
28 of subsection (3), subsection (5), and subsection (7)  
29 reserves according to the Commissioners reserve valuation  
30 method, for the life insurance and endowment benefits of  
31 policies providing for a uniform amount of insurance and  
32 requiring the payment of uniform premiums shall be the  
33 excess, if any, of the present value, at the date of  
34 valuation, of such future guaranteed benefits provided

1 for by such policies, over the then present value of any  
2 future modified net premiums therefor. The modified net  
3 premiums for any such policy shall be such uniform  
4 percentage of the respective contract premiums for such  
5 benefits that the present value, at the date of issue of  
6 the policy, of all such modified net premiums shall be  
7 equal to the sum of the then present value of such  
8 benefits provided for by the policy and the excess of (A)  
9 over (B), as follows:

10 (A) A net level annual premium equal to the  
11 present value, at the date of issue, of such  
12 benefits provided for after the first policy year,  
13 divided by the present value, at the date of issue,  
14 of an annuity of one per annum payable on the first  
15 and each subsequent anniversary of such policy on  
16 which a premium falls due; provided, however, that  
17 such net level annual premium shall not exceed the  
18 net level annual premium on the 19 year premium  
19 whole life plan for insurance of the same amount at  
20 an age one year higher than the age at issue of such  
21 policy.

22 (B) A net one year term premium for such  
23 benefits provided for in the first policy year.

24 For any life insurance policy issued on or after  
25 January 1, 1987, for which the contract premium in the  
26 first policy year exceeds that of the second year with no  
27 comparable additional benefit being provided in that  
28 first year, which policy provides an endowment benefit or  
29 a cash surrender value or a combination thereof in an  
30 amount greater than such excess premium, the reserve  
31 according to the Commissioners reserve valuation method  
32 as of any policy anniversary occurring on or before the  
33 assumed ending date, defined herein as the first policy  
34 anniversary on which the sum of any endowment benefit and

1 any cash surrender value then available is greater than  
2 such excess premium, shall, except as otherwise provided  
3 in paragraph (f) of subsection (3), be the greater of the  
4 reserve as of such policy anniversary calculated as  
5 described in the preceding part of this paragraph (b) and  
6 the reserve as of such policy anniversary calculated as  
7 described in the preceding part of this paragraph (b)  
8 with (i) the value defined in subpart A of the preceding  
9 part of this paragraph (b) being reduced by 15% of the  
10 amount of such excess first year premium, (ii) all  
11 present values of benefits and premiums being determined  
12 without reference to premiums or benefits provided for by  
13 the policy after the assumed ending date, (iii) the  
14 policy being assumed to mature on such date as an  
15 endowment, and (iv) the cash surrender value provided on  
16 such date being considered as an endowment benefit. In  
17 making the above comparison, the mortality and interest  
18 bases stated in paragraph (a) of subsection (3) and in  
19 subsection 6 shall be used.

20 Reserves according to the Commissioners reserve  
21 valuation method for (i) life insurance policies  
22 providing for a varying amount of insurance or requiring  
23 the payment of varying premiums, (ii) group annuity and  
24 pure endowment contracts purchased under a retirement  
25 plan or plan of deferred compensation, established or  
26 maintained by an employer (including a partnership or  
27 sole proprietorship) or by an employee organization, or  
28 by both, other than a plan providing individual  
29 retirement accounts or individual retirement annuities  
30 under Section 408 of the Internal Revenue Code, as now or  
31 hereafter amended, (iii) disability and accidental death  
32 benefits in all policies and contracts, and (iv) all  
33 other benefits, except life insurance and endowment  
34 benefits in life insurance policies and benefits provided

1 by all other annuity and pure endowment contracts, shall  
2 be calculated by a method consistent with the principles  
3 of this paragraph (b), except that any extra premiums  
4 charged because of impairments or special hazards shall  
5 be disregarded in the determination of modified net  
6 premiums.

7 (c) In no event shall a company's aggregate  
8 reserves for all life insurance policies, excluding  
9 disability and accidental death benefits be less than the  
10 aggregate reserves calculated in accordance with the  
11 methods set forth in paragraphs (b), (f), and (g) of  
12 subsection (3) and in subsection (5) and the mortality  
13 table or tables and rate or rates of interest used in  
14 calculating non-forfeiture benefits for such policies.

15 (d) In no event shall the aggregate reserves for  
16 all policies, contracts, and benefits be less than the  
17 aggregate reserves determined by the qualified actuary to  
18 be necessary to render the opinion required by subsection  
19 (1a).

20 (e) Reserves for any category of policies,  
21 contracts or benefits as established by the Director, may  
22 be calculated, at the option of the company, according to  
23 any standards which produce greater aggregate reserves  
24 for such category than those calculated according to the  
25 minimum standard herein provided, but the rate or rates  
26 of interest used for policies and contracts, other than  
27 annuity and pure endowment contracts, shall not be higher  
28 than the corresponding rate or rates of interest used in  
29 calculating any nonforfeiture benefits provided for  
30 therein.

31 (f) If in any contract year the gross premium  
32 charged by any life insurance company on any policy or  
33 contract is less than the valuation net premium for the  
34 policy or contract calculated by the method used in

1 calculating the reserve thereon but using the minimum  
2 valuation standards of mortality and rate of interest,  
3 the minimum reserve required for such policy or contract  
4 shall be the greater of either the reserve calculated  
5 according to the mortality table, rate of interest, and  
6 method actually used for such policy or contract, or the  
7 reserve calculated by the method actually used for such  
8 policy or contract but using the minimum standards of  
9 mortality and rate of interest and replacing the  
10 valuation net premium by the actual gross premium in each  
11 contract year for which the valuation net premium exceeds  
12 the actual gross premium. The minimum valuation  
13 standards of mortality and rate of interest referred to  
14 in this paragraph (f) are those standards stated in  
15 subsection (6) and paragraph (a) of subsection (3).

16 For any life insurance policy issued on or after  
17 January 1, 1987, for which the gross premium in the first  
18 policy year exceeds that of the second year with no  
19 comparable additional benefit provided in that first  
20 year, which policy provides an endowment benefit or a  
21 cash surrender value or a combination thereof in an  
22 amount greater than such excess premium, the foregoing  
23 provisions of this paragraph (f) shall be applied as if  
24 the method actually used in calculating the reserve for  
25 such policy were the method described in paragraph (b) of  
26 subsection (3), ignoring the second paragraph of said  
27 paragraph (b). The minimum reserve at each policy  
28 anniversary of such a policy shall be the greater of the  
29 minimum reserve calculated in accordance with paragraph  
30 (b) of subsection (3), including the second paragraph of  
31 said paragraph (b), and the minimum reserve calculated in  
32 accordance with this paragraph (f).

33 (g) In the case of any plan of life insurance which  
34 provides for future premium determination, the amounts of

1 which are to be determined by the insurance company based  
2 on then estimates of future experience, or in the case of  
3 any plan of life insurance or annuity which is of such a  
4 nature that the minimum reserves cannot be determined by  
5 the methods described in paragraphs (b) and (f) of  
6 subsection (3) and subsection (5), the reserves which are  
7 held under any such plan shall:

8 (i) be appropriate in relation to the benefits  
9 and the pattern of premiums for that plan, and

10 (ii) be computed by a method which is  
11 consistent with the principles of this Standard  
12 Valuation Law, as determined by regulations  
13 promulgated by the Director.

14 (4) Except as provided in subsection (6), the minimum  
15 standard for the valuation of all individual annuity and pure  
16 endowment contracts issued on or after the operative date of  
17 this subsection, as defined herein, and for all annuities and  
18 pure endowments purchased on or after such operative date  
19 under group annuity and pure endowment contracts shall be the  
20 Commissioners Reserve valuation methods defined in paragraph  
21 (b) of subsection (3) and subsection (5) and the following  
22 tables and interest rates:

23 (a) For individual single premium immediate annuity  
24 contracts, excluding any disability and accidental death  
25 benefits in such contracts, the 1971 Individual Annuity  
26 Mortality Table, any individual annuity mortality table  
27 adopted after 1980 by the National Association of  
28 Insurance Commissioners and approved by regulations  
29 promulgated by the Director for use in determining the  
30 minimum standard of valuation for such contracts, or any  
31 modification of those tables approved by the Director,  
32 and 7 1/2% interest.

33 (b) For individual and pure endowment contracts  
34 other than single premium annuity contracts, excluding

1 any disability and accidental death benefits in such  
2 contracts, the 1971 Individual Annuity Mortality Table,  
3 any individual annuity mortality table adopted after 1980  
4 by the National Association of Insurance Commissioners  
5 and approved by regulations promulgated by the Director  
6 for use in determining the minimum standard of valuation  
7 for such contracts, or any modification of those tables  
8 approved by the Director, and 5 1/2% interest for single  
9 premium deferred annuity and pure endowment contracts and  
10 4 1/2% interest for all other such individual annuity and  
11 pure endowment contracts.

12 (c) For all annuities and pure endowments purchased  
13 under group annuity and pure endowment contracts,  
14 excluding any disability and accidental death benefits  
15 purchased under such contracts, the 1971 Group Annuity  
16 Mortality Table, any group annuity mortality table  
17 adopted after 1980 by the National Association of  
18 Insurance Commissioners and approved by regulations  
19 promulgated by the Director for use in determining the  
20 minimum standard of valuation for such annuities and pure  
21 endowments, or any modification of those tables approved  
22 by the Director, and 7 1/2% interest.

23 After September 8, 1977, any company may file with the  
24 Director a written notice of its election to comply with the  
25 provisions of this subsection after a specified date before  
26 January 1, 1979, which shall be the operative date of this  
27 subsection for such company; provided, a company may elect a  
28 different operative date for individual annuity and pure  
29 endowment contracts from that elected for group annuity and  
30 pure endowment contracts. If a company makes no election,  
31 the operative date of this subsection for such company shall  
32 be January 1, 1979.

33 (5) This subsection shall apply to all annuity and pure  
34 endowment contracts other than group annuity and pure



1 endowment contracts purchased under a retirement plan or plan  
 2 of deferred compensation, established or maintained by an  
 3 employer (including a partnership or sole proprietorship) or  
 4 by an employee organization, or by both, other than a plan  
 5 providing individual retirement accounts or individual  
 6 retirement annuities under Section 408 of the Internal  
 7 Revenue Code, as now or hereafter amended.

8 Reserves according to the Commissioners annuity reserve  
 9 method for benefits under annuity or pure endowment  
 10 contracts, excluding any disability and accidental death  
 11 benefits in such contracts, shall be the greatest of the  
 12 respective excesses of the present values, at the date of  
 13 valuation, of the future guaranteed benefits, including  
 14 guaranteed nonforfeiture benefits, provided for by such  
 15 contracts at the end of each respective contract year, over  
 16 the present value, at the date of valuation, of any future  
 17 valuation considerations derived from future gross  
 18 considerations, required by the terms of such contract, that  
 19 become payable prior to the end of such respective contract  
 20 year. The future guaranteed benefits shall be determined by  
 21 using the mortality table, if any, and the interest rate, or  
 22 rates, specified in such contracts for determining guaranteed  
 23 benefits. The valuation considerations are the portions of  
 24 the respective gross considerations applied under the terms  
 25 of such contracts to determine nonforfeiture values.

26 (6) (a) Applicability of this subsection. (i) The  
 27 interest rates used in determining the minimum standard  
 28 for the valuation of

29 (A) all life insurance policies issued in a  
 30 particular calendar year, on or after the operative  
 31 date of subsection (4c) of Section 229.2 (Standard  
 32 Nonforfeiture Law),

33 (B) all individual annuity and pure endowment  
 34 contracts issued in a particular calendar year

1 ending on or after December 31, 1983,

2 (C) all annuities and pure endowments  
3 purchased in a particular calendar year ending on or  
4 after December 31, 1983, under group annuity and  
5 pure endowment contracts, and

6 (D) the net increase in a particular calendar  
7 year ending after December 31, 1983, in amounts held  
8 under guaranteed interest contracts

9 shall be the calendar year statutory valuation interest  
10 rates, as defined in this subsection.

11 (b) Calendar Year Statutory Valuation Interest  
12 Rates.

13 (i) The calendar year statutory valuation  
14 interest rates shall be determined according to the  
15 following formulae, rounding "I" to the nearest  
16 .25%.

17 (A) For life insurance,

18 
$$I = .03 + W (R1 - .03) + W/2 (R2 - .09).$$

19 (B) For single premium immediate  
20 annuities and annuity benefits involving life  
21 contingencies arising from other annuities with  
22 cash settlement options and from guaranteed  
23 interest contracts with cash settlement  
24 options,

25 
$$I = .03 + W (R - .03)$$
 or with prior  
26 approval of the Director 
$$I = .03 + W (Rq -$$
  
27 
$$.03).$$

28 For the purposes of this subparagraph (i), "I"  
29 equals the calendar year statutory valuation  
30 interest rate, "R" is the reference interest rate  
31 defined in this subsection, "R1" is the lesser of R  
32 and .09, "R2" is the greater of R and .09, "Rq" is  
33 the quarterly reference interest rate defined in  
34 this subsection, and "W" is the weighting factor

1 defined in this subsection.

2 (C) For other annuities with cash  
3 settlement options and guaranteed interest  
4 contracts with cash settlement options, valued  
5 on an issue year basis, except as stated in  
6 (B), the formula for life insurance stated in  
7 (A) applies to annuities and guaranteed  
8 interest contracts with guarantee durations in  
9 excess of 10 years, and the formula for single  
10 premium immediate annuities stated in (B) above  
11 applies to annuities and guaranteed interest  
12 contracts with guarantee durations of 10 years  
13 or less.

14 (D) For other annuities with no cash  
15 settlement options and for guaranteed interest  
16 contracts with no cash settlement options, the  
17 formula for single premium immediate annuities  
18 stated in (B) applies.

19 (E) For other annuities with cash  
20 settlement options and guaranteed interest  
21 contracts with cash settlement options, valued  
22 on a change in fund basis, the formula for  
23 single premium immediate annuities stated in  
24 (B) applies.

25 (ii) If the calendar year statutory valuation  
26 interest rate for any life insurance policy issued  
27 in any calendar year determined without reference to  
28 this subparagraph differs from the corresponding  
29 actual rate for similar policies issued in the  
30 immediately preceding calendar year by less than  
31 .5%, the calendar year statutory valuation interest  
32 rate for such life insurance policy shall be the  
33 corresponding actual rate for the immediately  
34 preceding calendar year. For purposes of applying

1 this subparagraph, the calendar year statutory  
 2 valuation interest rate for life insurance policies  
 3 issued in a calendar year shall be determined for  
 4 1980, using the reference interest rate defined for  
 5 1979, and shall be determined for each subsequent  
 6 calendar year regardless of when subsection (4c) of  
 7 Section 229.2 (Standard Nonforfeiture Law) becomes  
 8 operative.

9 (c) Weighting Factors.

10 (i) The weighting factors referred to in the  
 11 formulae stated in paragraph (b) are given in the  
 12 following tables.

13 (A) Weighting Factors for Life Insurance.

14 Guarantee	15 Weighting
16 Duration	16 Factors
17 (Years)	
17 10 or less	.50
18 More than 10, but not more than 20	.45
19 More than 20	.35

20 For life insurance, the guarantee duration  
 21 is the maximum number of years the life  
 22 insurance can remain in force on a basis  
 23 guaranteed in the policy or under options to  
 24 convert to plans of life insurance with premium  
 25 rates or nonforfeiture values or both which are  
 26 guaranteed in the original policy.

27 (B) The weighting factor for single  
 28 premium immediate annuities and for annuity  
 29 benefits involving life contingencies arising  
 30 from other annuities with cash settlement  
 31 options and guaranteed interest contracts with  
 32 cash settlement options is .80.

33 (C) The weighting factors for other  
 34 annuities and for guaranteed interest

1 contracts, except as stated in (B) of this  
 2 subparagraph (i), shall be as specified in  
 3 tables (1), (2), and (3) of this subpart (C),  
 4 according to the rules and definitions in (4),  
 5 (5) and (6) of this subpart (C).

6 (1) For annuities and guaranteed interest  
 7 contracts valued on an issue year basis.

8 Guarantee	Weighting Factor		
9 Duration	for Plan Type		
10 (Years)	A	B	C
11 5 or less.	.80	.60	.50
12 More than 5, but not			
13 more than 10.	.75	.60	.50
14 More than 10, but not			
15 more than 20.	.65	.50	.45
16 More than 20.	.45	.35	.35

17 (2) For annuities and guaranteed interest  
 18 contracts valued on a change in fund basis, the  
 19 factors shown in (1) for Plan Types A, B and C  
 20 are increased by .15, .25 and .05,  
 21 respectively.

22 (3) For annuities and guaranteed interest  
 23 contracts valued on an issue year basis, other  
 24 than those with no cash settlement options,  
 25 which do not guarantee interest on  
 26 considerations received more than one year  
 27 after issue or purchase, and for annuities and  
 28 guaranteed interest contracts valued on a  
 29 change in fund basis which do not guarantee  
 30 interest rates on considerations received more  
 31 than 12 months beyond the valuation date, the  
 32 factors shown in (1), or derived in (2), for  
 33 Plan Types A, B and C are increased by .05.

34 (4) For other annuities with cash

1 settlement options and guaranteed interest  
2 contracts with cash settlement options, the  
3 guarantee duration is the number of years for  
4 which the contract guarantees interest rates in  
5 excess of the calendar year statutory valuation  
6 interest rate for life insurance policies with  
7 guarantee durations in excess of 20 years. For  
8 other annuities with no cash settlement  
9 options, and for guaranteed interest contracts  
10 with no cash settlement options, the guarantee  
11 duration is the number of years from the date  
12 of issue or date of purchase to the date  
13 annuity benefits are scheduled to commence.

14 (5) The plan types used in the above  
15 tables are defined as follows.

16 Plan Type A is a plan under which the  
17 policyholder may not withdraw funds, or may  
18 withdraw funds at any time but only (a) with an  
19 adjustment to reflect changes in interest rates  
20 or asset values since receipt of the funds by  
21 the insurance company, (b) without such an  
22 adjustment but in installments over 5 years or  
23 more, or (c) as an immediate life annuity.

24 Plan Type B is a plan under which the  
25 policyholder may not withdraw funds before  
26 expiration of the interest rate guarantee, or  
27 may withdraw funds before such expiration but  
28 only (a) with an adjustment to reflect changes  
29 in interest rates or asset values since receipt  
30 of the funds by the insurance company, or (b)  
31 without such adjustment but in installments  
32 over 5 years or more. At the end of the  
33 interest rate guarantee, funds may be withdrawn  
34 without such adjustment in a single sum or

1 installments over less than 5 years.

2 Plan Type C is a plan under which the  
3 policyholder may withdraw funds before  
4 expiration of the interest rate guarantee in a  
5 single sum or installments over less than 5  
6 years either (a) without adjustment to reflect  
7 changes in interest rates or asset values since  
8 receipt of the funds by the insurance company,  
9 or (b) subject only to a fixed surrender charge  
10 stipulated in the contract as a percentage of  
11 the fund.

12 (6) A company may elect to value  
13 guaranteed interest contracts with cash  
14 settlement options and annuities with cash  
15 settlement options on either an issue year  
16 basis or on a change in fund basis. Guaranteed  
17 interest contracts with no cash settlement  
18 options and other annuities with no cash  
19 settlement options shall be valued on an issue  
20 year basis. As used in this Section, "issue  
21 year basis of valuation" refers to a valuation  
22 basis under which the interest rate used to  
23 determine the minimum valuation standard for  
24 the entire duration of the annuity or  
25 guaranteed interest contract is the calendar  
26 year valuation interest rate for the year of  
27 issue or year of purchase of the annuity or  
28 guaranteed interest contract. "Change in fund  
29 basis of valuation", as used in this Section,  
30 refers to a valuation basis under which the  
31 interest rate used to determine the minimum  
32 valuation standard applicable to each change in  
33 the fund held under the annuity or guaranteed  
34 interest contract is the calendar year

1 valuation interest rate for the year of the  
2 change in the fund.

3 (d) Reference Interest Rate. (i) The reference  
4 interest rate referred to in paragraph (b) of this  
5 subsection is defined as follows.

6 (A) For all life insurance, the reference  
7 interest rate is the lesser of the average over a  
8 period of 36 months, and the average over a period  
9 of 12 months, with both periods ending on June 30,  
10 or with prior approval of the Director ending on  
11 December 31, of the calendar year next preceding the  
12 year of issue, of Moody's Corporate Bond Yield  
13 Average - Monthly Average Corporates, as published  
14 by Moody's Investors Service, Inc.

15 (B) For single premium immediate annuities and  
16 for annuity benefits involving life contingencies  
17 arising from other annuities with cash settlement  
18 options and guaranteed interest contracts with cash  
19 settlement options, the reference interest rate is  
20 the average over a period of 12 months, ending on  
21 June 30, or with prior approval of the Director  
22 ending on December 31, of the calendar year of issue  
23 or year of purchase, of Moody's Corporate Bond Yield  
24 Average - Monthly Average Corporates, as published  
25 by Moody's Investors Service, Inc.

26 (C) For annuities with cash settlement options  
27 and guaranteed interest contracts with cash  
28 settlement options, valued on a year of issue basis,  
29 except those described in (B), with guarantee  
30 durations in excess of 10 years, the reference  
31 interest rate is the lesser of the average over a  
32 period of 36 months and the average over a period of  
33 12 months, ending on June 30, or with prior approval  
34 of the Director ending on December 31, of the



1 calendar year of issue or purchase, of Moody's  
2 Corporate Bond Yield Average-Monthly Average  
3 Corporates, as published by Moody's Investors  
4 Service, Inc.

5 (D) For other annuities with cash settlement  
6 options and guaranteed interest contracts with cash  
7 settlement options, valued on a year of issue basis,  
8 except those described in (B), with guarantee  
9 durations of 10 years or less, the reference  
10 interest rate is the average over a period of 12  
11 months, ending on June 30, or with prior approval of  
12 the Director ending on December 31, of the calendar  
13 year of issue or purchase, of Moody's Corporate Bond  
14 Yield Average-Monthly Average Corporates, as  
15 published by Moody's Investors Service, Inc.

16 (E) For annuities with no cash settlement  
17 options and for guaranteed interest contracts with  
18 no cash settlement options, the reference interest  
19 rate is the average over a period of 12 months,  
20 ending on June 30, or with prior approval of the  
21 Director ending on December 31, of the calendar year  
22 of issue or purchase, of Moody's Corporate Bond  
23 Yield Average-Monthly Average Corporates, as  
24 published by Moody's Investors Service, Inc.

25 (F) For annuities with cash settlement options  
26 and guaranteed interest contracts with cash  
27 settlement options, valued on a change in fund  
28 basis, except those described in (B), the reference  
29 interest rate is the average over a period of 12  
30 months, ending on June 30, or with prior approval of  
31 the Director ending on December 31, of the calendar  
32 year of the change in the fund, of Moody's Corporate  
33 Bond Yield Average-Monthly Average Corporates, as  
34 published by Moody's Investors Service, Inc.

1 (G) For annuities valued by a formula based on  
 2 Rq, the quarterly reference interest rate is, with  
 3 the prior approval of the Director, the average  
 4 within each of the 4 consecutive calendar year  
 5 quarters ending on March 31, June 30, September 30  
 6 and December 31 of the calendar year of issue or  
 7 year of purchase of Moody's Corporate Bond Yield  
 8 Average-Monthly Average Corporates, as published by  
 9 Moody's Investors Service, Inc.

10 (e) Alternative Method for Determining Reference  
 11 Interest Rates. In the event that the Moody's Corporate  
 12 Bond Yield Average-Monthly Average Corporates is no  
 13 longer published by Moody's Investors Services, Inc., or  
 14 in the event that the National Association of Insurance  
 15 Commissioners determines that Moody's Corporate Bond  
 16 Yield Average-Monthly Average Corporates as published by  
 17 Moody's Investors Service, Inc. is no longer appropriate  
 18 for the determination of the reference interest rate,  
 19 then an alternative method for determination of the  
 20 reference interest rate, which is adopted by the National  
 21 Association of Insurance Commissioners and approved by  
 22 regulations promulgated by the Director, may be  
 23 substituted.

24 (7) Minimum Standards for Health (Disability, Accident  
 25 and Sickness) Plans. The Director shall promulgate a  
 26 regulation containing the minimum standards applicable to the  
 27 valuation of health (disability, sickness and accident)  
 28 plans.

29 (Source: P.A. 91-357, eff. 7-29-99.)

30 (215 ILCS 5/401.5)

31 Sec. 401.5. Investigation of insurance law violations.

32 (a) If the Director of Insurance has cause to believe  
 33 that a person has engaged in, or is engaging in, an act,

1 activity, or practice that constitutes a business offense,  
2 misdemeanor, or felony violation of the Illinois Insurance  
3 Code or related insurance laws, he or she shall designate  
4 appropriate investigators or agents to investigate the  
5 violations. For purposes of carrying out investigations  
6 under this Section, the Department of Insurance is deemed a  
7 criminal justice agency under all federal and State laws and  
8 regulations, and as such shall have access to any information  
9 that concerns or relates to a violation of the Illinois  
10 Insurance Code or related insurance laws and that is  
11 available to criminal justice agencies.

12 (b) The Director of Insurance may transmit or receive  
13 written or oral information relating to possible violations  
14 of the insurance laws of this State received by or from any  
15 other criminal justice agencies, whether federal, State, or  
16 local, if, in the opinion of the Director, the transmittal is  
17 appropriate and may further the effective prevention of  
18 criminal activities.

19 (c)(1) The Department of Insurance's papers, documents,  
20 reports, or evidence relevant to the subject of an  
21 investigation under this Section is not subject to public  
22 inspection for so long as the Director Department deems  
23 reasonably necessary to complete the investigation, to  
24 protect the person investigated from unwarranted injury, or  
25 to be in the public interest. Documents, materials, or other  
26 information in the possession or control of the Director that  
27 are provided pursuant to this Section or obtained by the  
28 Director in an investigation of suspected fraudulent  
29 insurance acts shall be confidential by law and privileged,  
30 shall not be subject to the Freedom of Information Act, shall  
31 not be subject to subpoena, and shall not be subject to  
32 discovery or admission into evidence in any private civil  
33 action. However, the Director is authorized to use the  
34 documents, materials, or other information in the furtherance

1 of any regulatory or legal action brought as a part of the  
 2 Director's official duties. Further, the papers, documents,  
 3 reports, or evidence relevant to the subject of an  
 4 investigation under this Section is not subject to subpoena  
 5 until opened for public inspection by the Department, unless  
 6 the Department consents, or until, after notice to the  
 7 Department and a hearing, the court determines the Department  
 8 would not be unnecessarily hindered by the subpoena. No  
 9 officer, agent, or employee of the Department is subject to  
 10 subpoena in civil actions by a court of this State to testify  
 11 concerning a matter of which they have knowledge under a  
 12 pending insurance fraud investigation by the Department.

13 (2) Neither the Director nor any person who  
 14 received documents, materials, or other information while  
 15 acting under the authority of the Director shall be  
 16 permitted or required to testify in any private civil  
 17 action concerning any confidential documents, materials,  
 18 or information subject to paragraph (1).

19 (3) In order to assist in the performance of the  
 20 Director's duties, the Director:

21 (A) may share documents, materials, or other  
 22 information, including the confidential and  
 23 privileged documents, materials, or information  
 24 subject to paragraph (1), with other state, federal,  
 25 and international regulatory agencies, with the  
 26 National Association of Insurance Commissioners and  
 27 its affiliates or subsidiaries, and with state,  
 28 federal, and international law enforcement  
 29 authorities, provided that the recipient agrees to  
 30 maintain the confidentiality and privileged status  
 31 of the document, material, or other information;

32 (B) may receive documents, materials, or  
 33 information, including otherwise confidential and  
 34 privileged documents, materials, or information,

1           from the National Association of Insurance  
2           Commissioners and its affiliates or subsidiaries and  
3           from regulatory and law enforcement officials of  
4           other foreign or domestic jurisdictions, and shall  
5           maintain as confidential or privileged any document,  
6           material, or information received with notice or the  
7           understanding that it is confidential or privileged  
8           under the laws of the jurisdiction that is the  
9           source of the document, material, or information;  
10          and

11           (C) may enter into agreements governing the  
12           sharing and use of information consistent with this  
13           subsection.

14           (4) No waiver of any applicable privilege or claim  
15           of confidentiality in the documents, materials, or  
16           information shall occur as a result of disclosure to the  
17           Director under this Section or as a result of sharing  
18           authorized in paragraph (3).

19           (d) No insurer, or employees or agents of an insurer,  
20 are subject to civil liability for libel or otherwise by  
21 virtue of furnishing information required by the insurance  
22 laws of this State or required by the Department of Insurance  
23 as a result of its investigation. No cause of action exists  
24 and no liability may be imposed, either civil or criminal,  
25 against the State, the Director, any officer, agent, or  
26 employee of the Department of Insurance, or individuals  
27 employed or retained by the Director, for an act or omission  
28 by them in the performance of a power or duty authorized by  
29 this Section, unless the act or omission was performed in bad  
30 faith and with intent to injure a particular person.

31           (e) The powers vested in the Director by this Section  
32 are additional to other powers and remedies vested in the  
33 Director by law, and nothing in this Section shall be  
34 construed as requiring that the Director shall employ the

1 powers conferred in this Section instead of or as a condition  
2 precedent to the exercise of any other power or remedy vested  
3 in the Director. The Director may establish systems and  
4 procedures for carrying out investigations under this Section  
5 as are necessary to avoid the impairment or compromise of his  
6 or her authority under this Section or any other law relating  
7 to the regulation of insurance.

8 (Source: P.A. 89-234, eff. 1-1-96.)

9 (215 ILCS 5/404) (from Ch. 73, par. 1016)

10 Sec. 404. Office of Director; A public office;  
11 destruction or disposal of records, papers, documents, and  
12 memoranda.

13 (1) (a) The office of the Director shall be a public  
14 office and the records, books, and papers thereof on file  
15 therein, except those records or documents containing or  
16 disclosing any analysis, opinion, calculation, ratio,  
17 recommendation, advice, viewpoint, or estimation by any  
18 Department staff regarding the financial or market condition  
19 of an insurer not otherwise made part of the public record by  
20 the Director, shall be accessible to the inspection of the  
21 public, except as the Director, for good reason, may decide  
22 otherwise, or except as may be otherwise provided in this  
23 Code.

24 (b) Except where another provision of this Code  
25 expressly prohibits a disclosure of confidential information  
26 to the specific officials or organizations described in this  
27 subsection, the Director may disclose or share any  
28 confidential records or information in his custody and  
29 control with any insurance regulatory officials of any state  
30 or country, with the law enforcement officials of this State,  
31 any other state, or the federal government, or with the  
32 National Association of Insurance Commissioners, upon the  
33 written agreement of the official or organization receiving

1 the information to hold the information or records  
2 confidential and in a manner consistent with this Code,  
3 including a requirement that any recipient of the documents,  
4 materials, or other information shall not be permitted or  
5 required to testify in any private civil action concerning  
6 those documents, materials, or other information received.

7 (c) The Director shall maintain as confidential any  
8 records or information received from the National Association  
9 of Insurance Commissioners or insurance regulatory officials  
10 of other states which is confidential in that other  
11 jurisdiction.

12 (2) Upon the filing of the examination to which  
13 they relate, the Director is authorized to destroy or  
14 otherwise dispose of all working papers relative to any  
15 company which has been examined at any time prior to that  
16 last examination by the Department, so that in such  
17 circumstances only current working papers of that last  
18 examination may be retained by the Department.

19 (3) Five years after the conclusion of the  
20 transactions to which they relate, the Director is  
21 authorized to destroy or otherwise dispose of all books,  
22 records, papers, memoranda and correspondence directly  
23 related to consumer complaints or inquiries.

24 (4) Two years after the conclusion of the  
25 transactions to which they relate, the Director is  
26 authorized to destroy or otherwise dispose of all books,  
27 records, papers, memoranda, and correspondence directly  
28 related to all void, obsolete, or superseded rate filings  
29 and schedules required to be filed by statute; and all  
30 individual company rating experience data and all  
31 records, papers, documents and memoranda in the  
32 possession of the Director relating thereto.

33 (5) Five years after the conclusion of the  
34 transactions to which they relate, the Director is

1 authorized to destroy or otherwise dispose of all  
2 examination reports of companies made by the insurance  
3 supervisory officials of states other than Illinois;  
4 applications, requisitions, and requests for licenses;  
5 all records of hearings; and all similar records, papers,  
6 documents, and memoranda in the possession of the  
7 Director.

8 (6) Ten years after the conclusion of the  
9 transactions to which they relate, the Director is  
10 authorized to destroy or otherwise dispose of all  
11 official correspondence of foreign and alien companies,  
12 all foreign companies' and alien companies' annual  
13 statements, valuation reports, tax reports, and all  
14 similar records, papers, documents and memoranda in the  
15 possession of the Director.

16 (7) Whenever any records, papers, documents or  
17 memoranda are destroyed or otherwise disposed of pursuant  
18 to the provisions of this section, the Director shall  
19 execute and file in a separate, permanent office file a  
20 certificate listing and setting forth by summary  
21 description the records, papers, documents or memoranda  
22 so destroyed or otherwise disposed of, and the Director  
23 may, in his discretion, preserve copies of any such  
24 records, papers, documents or memoranda by means of  
25 microfilming or photographing the same.

26 (8) This Section shall apply to records, papers,  
27 documents, and memoranda presently in the possession of  
28 the Director as well as to records, papers, documents,  
29 and memoranda hereafter coming into his possession.

30 (Source: P.A. 89-97, eff. 7-7-95.)

31 (215 ILCS 5/502.2) (from Ch. 73, par. 1065.49-2)  
32 Sec. 502.2. Termination reports.

33 (a) Insurance producer. Any insurance company which



1 terminates an agency contract or agreement with an insurance  
2 producer, shall, if the cause for such termination is any of  
3 the causes for revocation or suspension of a license listed  
4 in Section 505.1, notify the Director of such termination  
5 within 30 days thereafter. The insurance company shall  
6 provide the Director with information, documents, records or  
7 statements pertaining to the termination which may be used by  
8 the Director in any action taken pursuant to Section 505.1.  
9 There shall be no liability on the part of, nor shall a cause  
10 of action of any nature arise against, the Director, the  
11 insurance company or an authorized representative of either  
12 for any information, documents, records or statements  
13 provided pursuant to this Section.

14 (b) Limited insurance representative. (1) If an  
15 appointment of a limited insurance representative is  
16 terminated, the terminating insurance company shall, within  
17 30 days after the date of termination, give to the Director  
18 written notice of such termination, including the date and  
19 the reasons and circumstances behind the termination.

20 (2) If the termination is for any of the causes listed  
21 in Section 505.1, the insurance company shall provide to the  
22 Director any information, documents, records or statements  
23 pertaining to the termination which may be used by the  
24 Director in any action taken pursuant to Section 505.1.  
25 There shall be no liability on the part of, nor shall a cause  
26 of action of any nature arise against the Director, the  
27 insurance company or an authorized representative of either  
28 for any information, documents, records or statements  
29 provided pursuant to this Section.

30 (3) The Director shall terminate forthwith the license  
31 of a limited insurance representative whose terminated  
32 appointment has been duly reported by the terminating  
33 insurance company under this Section.

34 (c) Failure of any insurance company to comply with the

1 requirements of subsection paragraph (a) or (b) results in a  
2 civil penalty of \$1,000 for each violation, in addition to  
3 such other penalties as may be provided by this Code.

4 (d) Confidentiality. (1) Any documents, materials, or  
5 other information in the possession or control of the  
6 Director that are furnished by an insurer, producer, or an  
7 employee or agent thereof acting on behalf of the insurer or  
8 producer, or obtained by the Director in an investigation  
9 pursuant to this Section shall be confidential by law and  
10 privileged, shall not be subject to the Freedom of  
11 Information Act, shall not be subject to subpoena, and shall  
12 not be subject to discovery or admission into evidence in any  
13 private civil action. However, the Director is authorized to  
14 use the documents, materials, or other information in the  
15 furtherance of any regulatory or legal action brought as a  
16 part of the Director's official duties.

17 (2) Neither the Director nor any person who received  
18 documents, materials, or other information while acting under  
19 the authority of the Director shall be permitted or required  
20 to testify in any private civil action concerning any  
21 confidential documents, materials, or information subject to  
22 paragraph (1).

23 (3) In order to assist in the performance of the  
24 Director's duties, the Director:

25 (A) may share documents, materials, or other  
26 information, including the confidential and  
27 privileged documents, materials, or information  
28 subject to paragraph (1), with other state, federal,  
29 and international regulatory agencies, with the  
30 National Association of insurance Commissioners, its  
31 affiliates or subsidiaries, and with state, federal,  
32 and international law enforcement authorities,  
33 provided that the recipient agrees to maintain the  
34 confidentiality and privileged status of the

1 document, material, or other information;

2 (B) may receive documents, materials, or  
3 information, including otherwise confidential and  
4 privileged documents, materials, or information,  
5 from the National Association of Insurance  
6 Commissioners, its affiliates or subsidiaries and  
7 from regulatory and law enforcement officials of  
8 other foreign or domestic jurisdictions, and shall  
9 maintain as confidential or privileged any document,  
10 material, or information received with notice or the  
11 understanding that it is confidential or privileged  
12 under the laws of the jurisdiction that is the  
13 source of the document, material, or information;  
14 and

15 (C) may enter into agreements governing the  
16 sharing and use of information consistent with this  
17 subsection.

18 (4) No waiver of any applicable privilege or claim of  
19 confidentiality in the documents, materials, or information  
20 shall occur as a result of disclosure to the Director under  
21 this Section or as a result of sharing authorized in  
22 paragraph (3).

23 (5) Nothing in this Section shall prohibit the Director  
24 from releasing final, adjudicated actions, including for  
25 cause terminations that are open to public inspection, to a  
26 database or other clearinghouse service maintained by the  
27 National Association of Insurance Commissioners or affiliates  
28 or subsidiaries of the National Association of Insurance  
29 Commissioners.

30 (Source: P.A. 83-801.)

31 (215 ILCS 5/511.109) (from Ch. 73, par. 1065.58-109)  
32 Sec. 511.109. Examination.

33 (a) The Director or his designee may examine any

1 applicant for or holder of an administrator's license.

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

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

10 (d) The examiners designated by the Director pursuant to  
11 this Section may make reports to the Director. Any report  
12 alleging substantive violations of this Article, any  
13 applicable provisions of the Illinois Insurance Code, or any  
14 applicable Part of Title 50 of the Illinois Administrative  
15 Code shall be in writing and be based upon facts obtained by  
16 the examiners. The report shall be verified by the  
17 examiners.

18 (e) If a report is made, the Director shall either  
19 deliver a duplicate thereof to the administrator being  
20 examined or send such duplicate by certified or registered  
21 mail to the administrator's address specified in the records  
22 of the Department. The Director shall afford the  
23 administrator an opportunity to request a hearing to object  
24 to the report. The administrator may request a hearing  
25 within 30 days after receipt of the duplicate of the  
26 examination report by giving the Director written notice of  
27 such request together with written objections to the report.  
28 Any hearing shall be conducted in accordance with Sections  
29 402 and 403 of this Code. The right to hearing is waived if  
30 the delivery of the report is refused or the report is  
31 otherwise undeliverable or the administrator does not timely  
32 request a hearing. After the hearing or upon expiration of  
33 the time period during which an administrator may request a  
34 hearing, if the examination reveals that the administrator is

1 operating in violation of any applicable provision of the  
2 Illinois Insurance Code, any applicable Part of Title 50 of  
3 the Illinois Administrative Code or prior order, the  
4 Director, in the written order, may require the administrator  
5 to take any action the Director considers necessary or  
6 appropriate in accordance with the report or examination  
7 hearing. If the Director issues an order, it shall be issued  
8 within 90 days after the report is filed, or if there is a  
9 hearing, within 90 days after the conclusion of the hearing.  
10 The order is subject to review under the Administrative  
11 Review Law.

12 (f)(1) Any documents, materials or other information in  
13 the possession or control of the Director that are furnished  
14 by a third party administrator, insurer, producer, or an  
15 employee or agent thereof acting on behalf of the third party  
16 administrator, insurer, producer, or obtained by the Director  
17 in an examination shall be confidential by law and  
18 privileged, shall not be subject to the Freedom of  
19 Information Act, shall not be subject to subpoena, and shall  
20 not be subject to discovery or admission into evidence in any  
21 private civil action. However, the Director is authorized to  
22 use the documents, materials, or other information in the  
23 furtherance of any regulatory or legal action brought as a  
24 part of the Director's official duties.

25 (2) Neither the Director nor any person who received  
26 documents, materials, or other information while acting under  
27 the authority of the Director shall be permitted or required  
28 to testify in any private civil action concerning any  
29 confidential documents, materials, or information subject to  
30 paragraph (1).

31 (3) In order to assist in the performance of the  
32 Director's duties, the Director:

33 (A) may share documents, materials, or other  
34 information, including the confidential and

1 privileged documents, materials, or information  
2 subject to paragraph (1), with other state, federal,  
3 and international regulatory agencies, with the  
4 National Association of Insurance Commissioners and  
5 its affiliates or subsidiaries, and with state,  
6 federal, and international law enforcement  
7 authorities, provided that the recipient agrees to  
8 maintain the confidentiality and privileged status  
9 of the document, material, or other information;

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

23 (C) may enter into agreements governing the  
24 sharing and use of information consistent with this  
25 subsection.

26 (4) No waiver of any applicable privilege or claim  
27 of confidentiality in the documents, materials, or  
28 information shall occur as a result of disclosure to the  
29 Director under this Section or as a result of sharing  
30 authorized in paragraph (3).

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

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