

AN ACT concerning insurance.

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

Section 5. The Illinois Insurance Code is amended by changing Sections 537.4 and 546 as follows:

(215 ILCS 5/537.4) (from Ch. 73, par. 1065.87-4)

Sec. 537.4. Fund assumes obligations of insolvent companies. The Fund shall be deemed the insolvent company to the extent of the Fund's obligation for covered claims and to such extent shall have all rights, duties, and obligations of the insolvent company, subject to the limitations provided in this Article, as if the company had not become insolvent, with the exception that the liquidator shall retain the sole right to recover any reinsurance proceeds. The Fund's rights under this Section include, but are not limited to, the right to pursue and retain salvage and subrogation recoveries on paid covered claim obligations to the extent paid by the Fund. The extent of the Fund's subrogation rights and any other rights of reimbursement with respect to its covered claims payments shall not be limited as if the Fund were the insolvent company, but shall be determined independently by taking into account the Fund's rights under Section 546 of this Article.

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

(215 ILCS 5/546) (from Ch. 73, par. 1065.96)

Sec. 546. Other insurance.

(a) An insured or claimant shall be required first to exhaust all coverage provided by any other insurance policy, regardless of whether or not such other insurance policy was written by a member company, if the claim under such other policy arises from the same facts, injury, or loss that gave rise to the covered claim against the Fund. The Fund's obligation under Section 537.2 shall be reduced by the amount recovered or recoverable, whichever is greater, under such other insurance policy. Where such other insurance policy provides uninsured or underinsured motorist coverage, the amount recoverable shall be deemed to be the full applicable limits of such coverage. To the extent that the Fund's obligation under Section 537.2 is reduced by application of this Section, the liability of the person insured by the insolvent insurer's policy for the claim shall be reduced in the same amount. If the Fund pays a covered claim without the exhaustion of all other coverage that could have been exhausted under this Section, the Fund shall have an independent right of recovery against each insurer whose coverage was not exhausted in the amount the Fund would not have had to pay if that insurer's coverage had been exhausted first.

(b) Any insured or claimant having a claim which may be recovered under more than one insurance guaranty fund or its

equivalent shall seek recovery first from the Fund of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, he shall first seek recovery from the Fund of the location of the property; if it is a workers' compensation claim, he shall first seek recovery from the Fund of the residence of the claimant. Any recovery under this Article shall be reduced by the amount of the recovery from any other insurance guaranty fund or its equivalent.

(Source: P.A. 89-97, eff. 7-7-95; 90-499, eff. 8-19-97.)

Section 98. Applicability. This amendatory Act applies to pending actions as well as actions commenced on or after the effective date of this amendatory Act of the 99th General Assembly.

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