

1 AN ACT concerning insurance. 48

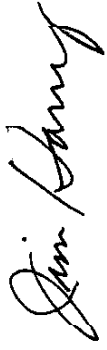
2 Be it enacted by the People of the State of Illinois, 52
3 represented in the General Assembly: 53

4 Section 5. The Illinois Insurance Code is amended by 56
5 changing Sections 537.2, 537.6, 537.7, and 551 as follows: 57

6 (215 ILCS 5/537.2) (from Ch. 73, par. 1065.87-2) 60

7 Sec. 537.2. Obligation of Fund. The Fund shall be 62
8 obligated to the extent of the covered claims existing prior 64
9 to the entry of an Order of Liquidation against an insolvent 65
10 company and arising within 30 days after the entry of such 66
11 Order, or before the policy expiration date if less than 30 67
12 days after the entry of such Order, or before the insured 68
13 replaces the policy or on request effects cancellation, if he 69
14 does so within 30 days after the entry of such Order. If the 70
15 entry of an Order of Liquidation occurs on or after October 71
16 1, 1975 and before October 1, 1977, such obligations shall 72
17 not: (i) exceed \$100,000, or (ii) include any obligation to 73
18 refund the first \$100 of any unearned premium claim; and if 74
19 the entry of an Order of Liquidation occurs on or after 75
20 October 1, 1977 and before January 1, 1988, such obligations 76
21 shall not: (i) exceed \$150,000, except that this limitation 77
22 shall not apply to any workers compensation claims, or (ii) 78
23 include any obligation to refund the first \$100 of any 80
24 unearned premium claim; and if the entry of an Order of 81
25 Liquidation occurs on or after January 1, 1988, such 82
26 obligations shall not: (i) exceed \$300,000, except that this 83
27 limitation shall not apply to any workers compensation 84
28 claims, or (ii) include any obligation to refund the first 85
29 \$100 of any unearned premium claim or to refund any unearned 86
30 premium over \$10,000 under any one policy. In no event shall
31 the Fund be obligated to a policyholder or claimant in an

Secretary of the Senate



Originated in the Senate

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1 amount in excess of the face amount of the policy from which 87
 2 the claim arises.

3 In no event shall the Fund be liable for any interest on 90
 4 any judgment entered against the insured or the insolvent 92
 5 company, or for any other interest claim against the insured 94
 6 or the insolvent company, regardless of whether the insolvent 95
 7 company would have been obligated to pay such interest under 96
 8 the terms of its policy. The Fund shall be liable for
 9 interest at the statutory rate on money judgments entered 97
 10 against the Fund until the judgment is satisfied. 98

11 Any obligation of the Fund to defend an insured shall 100
 12 cease upon the Fund's payment or tender of an amount equal to 101
 13 the lesser of the Fund's covered claim obligation limit or 102
 14 the applicable policy limit.

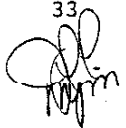
15 (Source: P.A. 85-576; 86-1155; 86-1156; 86-1475.) 104

16 (215 ILCS 5/537.6) (from Ch. 73, par. 1065.87-6) 107

17 Sec. 537.6. Allocation of claims; assessments. The Fund 109
 18 shall allocate covered claims paid and expenses incurred 111
 19 between the accounts established by Section 535 separately,
 20 and assess member companies separately for each account 113
 21 amounts necessary to pay the obligations of the Fund under
 22 Section 537.2 subsequent to the entry of an Order of 114
 23 Liquidation against an insolvent company, the expenses of 115
 24 handling covered claims subsequent to such Order of 116
 25 Liquidation and other expenses authorized by this Article. 118
 26 The assessments of each member company shall be in the
 27 proportion that the net direct written premiums of the member 119
 28 company for the calendar year immediately preceding the year 120
 29 in which the assessment is levied on the kinds of insurance 121
 30 in the account bears to the net direct written premiums of 122
 31 all member companies for such preceding calendar year on the
 32 kinds of insurance in the account. Each member company shall 123
 33 be notified of the assessment not later than 30 days before 124

1 it is due. Before January 1, 2002, no member company may be 126
2 assessed in any year on any account an amount greater than 13 127
3 of that member company's net direct written premiums on the 128
4 kinds of insurance in the account for the calendar year 129
5 preceding the assessment. Beginning January 1, 2002, the
6 amount a member company may be assessed in any year on any 130
7 account shall be a maximum of 2% of that member company's net 131
8 direct written premium on the kinds of insurance in the 132
9 account for the calendar year preceding the assessment. This
10 2% maximum shall apply regardless of the date of any 133
11 insolvency that gives rise to the need for the assessment. 134
12 If the maximum assessment, together with the other assets of 135
13 the Fund in any account, does not provide, in any one year, 136
14 in any account, an amount sufficient to make all necessary 137
15 payments from that account, the funds available shall be paid 138
16 in the manner determined by the Fund and approved by the 139
17 Director and the unpaid portion shall be paid as soon 140
18 thereafter as funds become available. If requested by a
19 member company, the Director may exempt or defer the 141
20 assessment of any member company, if the assessment would 142
21 cause the member company's financial impairment. 143
22 (Source: P.A. 85-576.) 145

23 (215 ILCS 5/537.7) (from Ch. 73, par. 1065.87-7) 148
24 Sec. 537.7. Investigation of claims; disposition. 150
25 (a) The Fund shall investigate claims brought against 152
26 the Fund and adjust, compromise, settle, and pay covered 153
27 claims to the extent of the Fund's obligation and deny all 155
28 other claims ~~and--may--review--settlements,--releases--and~~ 156
29 ~~judgments-to-which-the-insolvent-company-or-its-insureds-were~~ 157
30 ~~parties-to-determine-the-extent-to-which--such--settlements,~~
31 ~~releases-and-judgments-may-be-properly-contested.~~ 158
32 (b) The Fund shall not be bound by a settlement, 160
33 release, compromise, waiver, or final judgment executed or 161



1 entered within 12 months prior to an order of liquidation and 162
 2 shall have the right to assert all defenses available to the 163
 3 Fund including, but not limited to, defenses applicable to
 4 determining and enforcing its statutory rights and 164
 5 obligations to any claim. The Fund shall be bound by a 165
 6 settlement, release, compromise, waiver, or final judgment
 7 executed or entered more than 12 months prior to an order of 166
 8 liquidation, however, if the claim is a covered claim and the 169
 9 settlement or judgment was not a result of fraud, collusion, 170
 10 default, or failure to defend. In addition, with respect to
 11 covered claims arising from a judgment under a decision, 172
 12 verdict, or finding based on the default of the insolvent 173
 13 insurer or its failure to defend, upon application by the 174
 14 Fund, either on its own behalf or on behalf of an insured,
 15 the court shall set aside the judgment, order, decision, 175
 16 verdict, or finding, and the Fund shall be permitted to 176
 17 defend against the claim on the merits. 177

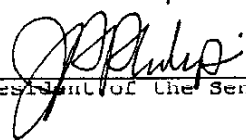
18 (c)(b) The Fund shall have the right to appoint or 179
 19 approve and to direct legal counsel retained under liability 181
 20 insurance policies for the defense of covered claims. 182
 21 (Source: P.A. 85-576.) 184

22 (215 ILCS 5/551) (from Ch. 73, par. 1065.101) 187
 23 Sec. 551. Stay of proceedings. All proceedings arising 190
 24 out of a claim under a policy of insurance written by an 191
 25 insolvent company shall be stayed for 120 days from the date 192
 26 of the entry of the Order of Liquidation to permit proper 193
 27 defense by the Fund of all such pending causes of action. As 194
 28 ~~to any covered claims arising from a judgment under any~~ 194
 29 ~~decision, verdict, or finding based on the default of the~~
 30 ~~insolvent company or its failure to defend an insured, upon~~ 195
 31 ~~application of the Fund, either on its own behalf or on~~ 197
 32 ~~behalf of such insured, the court or administrator that made~~ 198
 such judgment, order, decision, verdict or finding shall set 199

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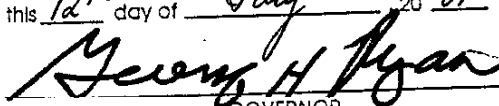

1 ~~aside such judgment, order, decision, verdict or finding--and~~ 201
 2 ~~the Fund--shall be permitted to defend against such claim on~~
 3 ~~the merits.~~
 4 (Source: P.A. 85-576.) 203

5 Section 99. Effective date. This Act takes effect upon 206
 6 becoming law.


 President of the Senate 212
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 Speaker, House of Representatives 217
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APPROVED

this 12th day of July 20 01 A.D.,

 GOVERNOR

