

INSURANCE
(215 ILCS 5/) Illinois Insurance Code.

(215 ILCS 5/Art. XXXI.25 heading)

ARTICLE XXXI 1/4. THIRD PARTY ADMINISTRATORS

(215 ILCS 5/511.100) (from Ch. 73, par. 1065.58-100)

Sec. 511.100. Purpose. The purpose of this Article is to recognize and provide reasonable public supervision and licensing of persons who provide administrative services in connection with insurance or alternatives to insurance.
(Source: P.A. 84-887.)

(215 ILCS 5/511.101) (from Ch. 73, par. 1065.58-101)

Sec. 511.101. Definitions. For the purpose of this Article:

(a) "Administrator" means any person who on behalf of a plan sponsor or insurer receives or collects charges, contributions or premiums for, or adjusts or settles claims on residents of this State in connection with any type of life or accident or health benefit provided through or as an alternative to insurance within the scope of Class 1(a), 1(b) or 2(a) of Section 4 of the Illinois Insurance Code, other than any of the following:

(1) A corporation, association, trust or partnership which is administering a plan (i) on behalf of the employees of such corporation, association, trust or partnership or (ii) for the employees of one or more subsidiaries or affiliated corporations or affiliated associations, trusts or partnerships;

(2) A union administering a plan for its members;

(3) A plan sponsor administering its own plan;

(4) An insurer to the extent regulated by the Illinois Insurance Code;

(5) A producer licensed in this State whose insurance activities are limited to the scope of such license;

(6) A trust and its trustees and employees acting pursuant to its trust agreement established in conformity with 29 U.S.C. 186;

(7) A person who adjusts or settles claims in the normal course of such person's practice or employment as an attorney-at-law, and who does not collect contributions or premiums in connection with life or accident or health coverage;

(8) A person who administers only self-insured workers' compensation plans, or single employer self insured life or accident or health benefit plans;

(9) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized such collection, if such company does not adjust or settle claims;

(10) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

(b) "Covered Individual" means any individual eligible for life or accident or health benefits under a plan.

(c) "Contributions" means any money charged a covered individual, plan sponsor or other entity to fund the

self-insured portion of any plan in accordance with written provisions of the plan or contracts of insurance. Contributions shall include administrative fees charged to a covered individual. Administrative fee means any compensation paid by a covered individual for services performed by the administrator.

(d) "Premiums" means any money charged a covered individual, plan sponsor or other entity to provide life or accident or health insurance under a plan. The term premium shall include amounts paid by or charged to a covered individual plan sponsor or other entity for stop loss or excess insurance.

(e) "Charges" means any compensation paid by a plan sponsor or insurer for services performed by the administrator.

(f) "Administrator Trust Fund", hereinafter referred to as "ATF", means a special fiduciary account established and maintained by an administrator pursuant to Section 511.112 in which contributions and premiums are deposited.

(g) "Claims Administration Services Account", hereinafter referred to as "CASA", means a special fiduciary account established and maintained by an administrator pursuant to Section 511.112 of this Code from which claims and claims adjustment expenses are disbursed.

(h) "Plan Sponsor" means any person other than an insurer, who establishes or maintains a plan covering residents of this State, including but not limited to plans established or maintained by 2 or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Provided, however, that "Plan Sponsor" shall not include:

(1) The employer in the case of a plan established or maintained by a single employer; or

(2) The employee organization in the case of a plan established or maintained by an employee organization.

No plan sponsor covered in whole by provisions of the Employee Retirement Income Security Act of 1974 (ERISA) shall be covered by any of the provisions of this Act to the extent that such provisions are inconsistent with or in conflict with any provisions of ERISA as now or hereafter amended.

(i) "Financial Institution" means any federal or state chartered bank or savings and loan institution which is insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

(j) "Plan" means any plan, fund or program established or maintained by a plan sponsor or insurer to the extent that such plan, fund or program was established or is maintained to provide through insurance or alternatives to insurance any type of life or accident or health benefit within the scope of Class 1(a), 1(b) or 2(a) of Section 4 of the Illinois Insurance Code.

(k) "Insurer" means any person who transacts insurance or health care service business authorized under the laws of this State.

(l) "Quasi-resident" means a nonresident licensee who produces 50% or more of his contributions and premium volume during a calendar year from residents of this State.

(Source: P.A. 84-1431.)

(215 ILCS 5/511.102) (from Ch. 73, par. 1065.58-102)

Sec. 511.102. License Required. (a) No person may act as or hold himself out to be an administrator after July 1, 1986 unless duly licensed in accordance with this Article. An administrator doing business in this State on July 1, 1986 shall apply for a license within 90 days thereafter.

(b) In addition to any other penalty set forth in this Article, any person violating subsection (a) above is guilty of a Class A misdemeanor.

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

(215 ILCS 5/511.103) (from Ch. 73, par. 1065.58-103)

Sec. 511.103. Application. The applicant for a license shall file with the Director an application upon a form prescribed by the Director, which shall include or have attached the following:

(1) The names, addresses and official positions of the individuals who are responsible for the conduct of the affairs of the administrator, including but not limited to all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation or the partners in the case of a partnership; and

(2) A non-refundable filing fee of \$200 which shall become the initial administrator license fee should the Director issue an administrator license.

(Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 5/511.104) (from Ch. 73, par. 1065.58-104)

Sec. 511.104. Bond Requirements for Administrators. (a) Every applicant for an administrator's license shall file with the application and shall thereafter maintain in force while so licensed, a fidelity bond in favor of the people of the State of Illinois executed by a surety company and payable to any party injured under the terms of the bond. The bond shall be continuous in form and in one of the following amounts:

(1) For an administrator which maintains an ATF but does not maintain a CASA, the greater of \$50,000 or 5% of contributions and premiums projected to be received or collected in the ATF for the forthcoming plan year from Illinois residents, but not to exceed \$1,000,000;

(2) For an administrator which maintains a CASA but does not maintain an ATF, the greater of \$50,000 or 5% of the claims and claim expenses projected to be held in the CASA for the forthcoming year to pay claims and claim expenses for Illinois residents, but not to exceed \$1,000,000;

(3) For an administrator which maintains both an ATF and a CASA, the greater of the amounts in subparagraphs (1) or (2) above, but not to exceed \$1,000,000.

Such bond is required of an administrator who maintains or should maintain funds in a fiduciary capacity as set forth in Section 511.112 of this Code unless the administrator is contracted with the insurer as an administrator and if the plan is fully insured by the insurer on whose behalf the funds are held.

(b) Such bond shall remain in force and effect until the surety is released from liability by the Director or until the bond is cancelled by the surety. The surety may cancel the

bond and be released from further liability thereunder upon 30 days' written notice in advance to the Director. Such cancellation shall not affect any liability incurred or accrued thereunder before the termination of the 30-day period. Upon receipt of any notice of cancellation, the Director shall immediately notify the licensee.

(c) The license required by Section 511.102 shall automatically terminate if the bond required by this Section is not in force. Within 30 days thereafter, the administrator shall return the license to the Director for cancellation. (Source: P.A. 84-1431.)

(215 ILCS 5/511.105) (from Ch. 73, par. 1065.58-105)
Sec. 511.105. License.

(a) The Director shall cause a license to be issued to each applicant that has demonstrated to the Director's satisfaction compliance with the requirements of this Article.

(b) Each administrator license shall remain in effect as long as the holder of the license maintains in force and effect the bond required by Section 511.104 and pays the annual fee of \$200 prior to the anniversary date of the license, unless the license is revoked or suspended pursuant to Section 511.107.

(c) Each license shall contain the name, business address and identification number of the licensee, the date the license was issued and any other information the Director considers proper.

(Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 5/511.106) (from Ch. 73, par. 1065.58-106)

Sec. 511.106. Administrator Requirements. (a) Each administrator shall identify to the Director any ownership interest or affiliation of any kind with any plan sponsor or insurer responsible directly or through reinsurance for providing benefits to any plan for which it provides services as an administrator.

(b) An administrator shall provide services as an administrator pursuant to a written agreement. The written agreement shall be between the administrator and the plan sponsor or insurer and shall be retained as part of the official records of the administrator for the duration of said agreement and for 5 years thereafter.

(c) An administrator shall maintain in its principal office for the duration of the written agreement with any plan sponsor or insurer and for 5 years thereafter adequate books and records of all transactions involving a plan sponsor or insurer and covered individuals or beneficiaries. Such books and records shall be maintained in accordance with generally accepted standards of business recordkeeping. An administrator is not required to maintain copies of books and records if such originals are returned to the plan sponsor or insurer prior to the end of such 5 year period. The administrator shall maintain evidence of the return of the originals for the balance of the 5 year period.

(d) The administrator shall file with the Director the names and addresses of the insurers and plan sponsors with whom the administrator has written agreements. If an insurer or plan sponsor does not assume or bear the risk, the administrator must disclose the name and address of the

ultimate risk bearer. This filing requirement shall apply to the initial application for an administrator's license and the renewal of such license.

(e) An administrator shall use only advertising pertaining to the plan which has been approved in advance by the plan sponsor or insurer.

(f) Upon receipt of instructions from the plan sponsor or insurer, an administrator shall deliver promptly to covered individuals or beneficiaries all policies, certificate booklets, termination notices or other written communications.

(g) An administrator shall not receive compensation from a plan sponsor or insurer which is contingent upon the loss ratio of the plan. This subsection shall not, however, prevent the administrator from engaging in cost containment activities with a plan sponsor or insurer.

(h) An administrator shall not receive from any plan sponsor, insurer, covered individual or beneficiary under a plan any compensation or other payments except as expressly set forth in the written agreement between the administrator and the plan sponsor or insurer.

(i) Upon request of the Director, an administrator shall make available for examination, either in the City of Springfield or at the licensee's principal place of business, all basic organizational documents including but not limited to articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement and other applicable documents and all amendments thereto, bylaws, rules and regulations or similar documents regulating the conduct of its internal affairs.

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

(215 ILCS 5/511.107) (from Ch. 73, par. 1065.58-107)

Sec. 511.107. License Suspension, Revocation or Denial.

(a) Any license issued under this Article may be suspended or revoked, after notice to the licensee and an opportunity for hearing, and any application for a license may be denied, after notice and an opportunity for hearing, if the Director finds that the licensee or applicant:

(1) Has wilfully violated any applicable provisions of the Illinois Insurance Code or applicable Part of Title 50 of the Illinois Administrative Code; or

(2) Has intentionally made a material misstatement in its application for a license; or

(3) Has obtained or attempted to obtain a license through misrepresentation or fraud; or

(4) Has misappropriated or converted to its own use, or improperly withheld, money required to be held in a fiduciary capacity; or

(5) Has, in the transaction of business under its license, used fraudulent, coercive or dishonest practices, or has demonstrated incompetence, untrustworthiness or financial irresponsibility; or is not of good personal and business reputation; or

(6) Has been, within the past 3 years, convicted of a felony, unless the individual demonstrates to the Director sufficient rehabilitation to warrant the public trust; or

(7) Has failed to appear without reasonable cause or excuse in response to a subpoena, examination warrant or any other order lawfully issued by the Director; or

(8) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this State hazardous or injurious to covered individuals or the public; or

(9) Is affiliated with and is under the same general management as another administrator which transacts business in this State without being licensed under this Article; or

(10) Has had its license suspended or revoked or its application denied in any other state, district, territory or province on grounds similar to those stated in this Section; or

(11) Has failed to report under Section 511.108 a felony conviction.

(b) Denial of an application or suspension or revocation of a license, pursuant to this Section shall be by written order sent to the applicant or licensee by certified or registered mail at the address specified in the records of the Department. The written order shall state the grounds, charges or conduct on which denial, suspension or revocation is based. The applicant or licensee may in writing request a hearing within 30 days from the date of mailing. Upon receipt of a written request, the Director shall issue an order setting (i) a specific time for the hearing, which may not be less than 20 nor more than 30 days after receipt of the request and (ii) a specific place for the hearing, which may be in either the City of Springfield or in the county in Illinois where the applicant's or licensee's principal place of business is located. If no written request is received by the Director, such order shall be final upon the expiration of said 30 days.

(c) Upon revocation of a license, the licensee or other person having possession or custody of such license shall deliver it to the Director in person or by mail within 30 days of such revocation.

(d) Any administrator whose license is revoked or whose application is denied pursuant to this Section shall be ineligible to reapply for any license for 2 years. A suspension pursuant to this Section may be for a period of up to 2 years.

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

(215 ILCS 5/511.108) (from Ch. 73, par. 1065.58-108)

Sec. 511.108. Felony Convictions. (a) Any administrator and any individual listed on the application as required by Section 511.103, who is convicted of a felony shall report such conviction to the Director within 30 days of the entry date of the judgment. Within that 30 day period, the administrator shall also provide the Director with a copy of the judgment, the probation or commitment order and any other relevant documents.

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

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

Sec. 511.109. Examination. (a) The Director or his designee may examine any applicant for or holder of an administrator's license.

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

business affairs.

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

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

(e) If a report is made, the Director shall either deliver a duplicate thereof to the administrator being examined or send such duplicate by certified or registered mail to the administrator's address specified in the records of the Department. The Director shall afford the administrator an opportunity to request a hearing to object to the report. The administrator may request a hearing within 30 days after receipt of the duplicate of the examination report by giving the Director written notice of such request together with written objections to the report. Any hearing shall be conducted in accordance with Sections 402 and 403 of this Code. The right to hearing is waived if the delivery of the report is refused or the report is otherwise undeliverable or the administrator does not timely request a hearing. After the hearing or upon expiration of the time period during which an administrator may request a hearing, if the examination reveals that the administrator is operating in violation of any applicable provision of the Illinois Insurance Code, any applicable Part of Title 50 of the Illinois Administrative Code or prior order, the Director, in the written order, may require the administrator to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. If the Director issues an order, it shall be issued within 90 days after the report is filed, or if there is a hearing, within 90 days after the conclusion of the hearing. The order is subject to review under the Administrative Review Law.

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

(215 ILCS 5/511.110) (from Ch. 73, par. 1065.58-110)
Sec. 511.110. Administrative Fine.

(a) If the Director finds that one or more grounds exist for the revocation or suspension of a license issued under this Article, the Director may, in lieu of or in addition to such suspension or revocation, impose a fine upon the administrator.

(b) With respect to any knowing and wilful violation of a lawful order of the Director, any applicable portion of the Illinois Insurance Code or Part of Title 50 of the Illinois Administrative Code, or a provision of this Article, the Director may impose a fine upon the administrator in an amount not to exceed \$10,000 for each such violation. In no event shall such fine exceed an aggregate amount of \$50,000 for all knowing and wilful violations arising out of the same action.

(Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 5/511.111) (from Ch. 73, par. 1065.58-111)

Sec. 511.111. Insurance Producer Administration Fund. All fees and fines paid to and collected by the Director under

this Article shall be paid promptly after receipt thereof, together with a detailed statement of such fees, into a special fund in the State Treasury to be known as the Insurance Producer Administration Fund. The monies deposited into the Insurance Producer Administration Fund shall be used only for payment of the expenses of the Department and shall be appropriated as otherwise provided by law for the payment of such expenses. Moneys in the Insurance Producers Administration Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.
(Source: P.A. 94-91, eff. 7-1-05.)

(215 ILCS 5/511.112) (from Ch. 73, par. 1065.58-112)

Sec. 511.112. Fiduciary Accounts and Duties. (a) Administrators shall hold in a fiduciary capacity all contributions and premiums received or collected on behalf of a plan sponsor or insurer. Such funds shall not be used as general operating funds of the administrator. All contributions and premiums received or collected by the administrator from residents of this State, which the Administrator holds more than 15 days or deposits into an account which is not under the control of the plan sponsor or insurer, shall be placed in a special fiduciary account, which account shall be designated an "Administrator Trust Fund Account" ("ATF"). All resident and quasi-resident licensees required to maintain an ATF pursuant to this Section shall maintain such ATF with one or more financial institutions located within the State of Illinois and subject to jurisdiction of the Illinois courts. Funds belonging to 2 or more plans may be held in the same ATF, provided the administrator's records clearly indicate the funds belonging to each plan. Checks drawn on the ATF shall indicate on their face that they are drawn on the ATF of the administrator.

(b) The administrator may make the following disbursements from the ATF:

(1) Contributions and premiums due insurers or other persons providing life, accident and health coverage for a plan;

(2) Return contributions and premiums to a plan or covered individual;

(3) Commissions or administrative fees due to the administrator when earned pursuant to written agreement; and

(4) Transfers into the CASA of the administrator.

(c) For each plan where an ATF is required, the balance in the ATF shall at all times be the amount deposited plus accrued interest, if any, less authorized disbursements. If the balance at the financial institution with respect to the ATF is less than the amount deposited plus accrued interest, if any, less authorized disbursements, the administrator shall be deemed to have misappropriated fiduciary funds and to have acted in a financially irresponsible manner.

(d) If the ATF is interest bearing or income producing, the full nature of the account must first be disclosed to the plan sponsors or insurers on whose behalf the funds are or will be held. The administrator must secure written consent and authorization from the plan sponsors or insurers for the investment of the money and disposition of the interest or earnings. No investment shall be made which assumes any risk

other than the risk that the obligor shall not pay the principal when due. The use of specialized techniques or strategies which incur additional risks to generate higher returns or to extend maturities is not permitted. Such techniques would include, but not be limited to, the following: Use of financial futures or options, buying on margins and pledging of ATF balances.

(e) Administrators may place ATF funds in interest bearing or income producing investments and retain the interest or income thereon, providing the administrator obtains the prior written authorization of the plan sponsors or insurers on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:

(1) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year;

(2) Certificates of deposit, with a maturity of not more than one year, issued by financial institutions which are insured by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), so long as any such deposit does not exceed the maximum level of insurance protection provided to certificates of deposits held by such institutions;

(3) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided:

(A) The value of the repurchase agreement is collateralized with assets which are allowable investments for ATF funds; and

(B) The collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement; and

(C) The repurchase agreement does not exceed 30 days.

(4) Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation;

(5) Money Market Funds, provided the money market fund invests exclusively in assets which are allowable investments pursuant to (1) through (4) above for ATF funds;

(6) Each investment transaction must be made in the name of the administrator's ATF. The administrator must maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.

(f) The administrator shall hold in a fiduciary capacity all moneys which the administrator receives to pay claims and claim adjustment expenses. All resident and quasi-resident licensees shall place all such money for claims and claim adjustment expenses for residents of this State, whether received from a plan sponsor or insurer or from the ATF of the administrator, in a special fiduciary account in a financial institution located in this State. The account shall be designated a "Claims Administration Service Account" ("CASA"). Funds belonging to 2 or more plans may be held in the same CASA, provided the administrator's records clearly indicate the funds belonging to each plan. Checks drawn on the CASA shall indicate on their face that they are drawn on the CASA of the administrator.

(g) No deposit shall be made into a CASA and no disbursement shall be made from a CASA except for claims and

claims adjustment expenses. For each plan where a CASA is required, the balance in the CASA shall at all times be the amount deposited less claims and claims adjustment expenses paid. If the CASA balance is less than such amount, the administrator shall be deemed to have misappropriated fiduciary funds and to have acted in a financially irresponsible manner.

(h) (1) Administrators shall maintain detailed books and records which reflect all transactions involving the receipt and disbursement of:

(i) Contributions and premiums received on behalf of a plan sponsor or insurer; and

(ii) Claims and claim adjustment expenses received and paid on behalf of a plan sponsor or insurer.

(2) The detailed preparation, journalizing and posting of such books and records must be maintained on a timely basis and all journal entries for receipts and disbursements shall be supported by evidential matter, which must be referenced in the journal entry so that it may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF and CASA established by the administrator. The minimum detail required shall be as follows:

(i) The sources, amounts and dates of any moneys received and deposited by the administrator.

(ii) The date and person to whom a disbursement is made. If the amount disbursed does not agree with the amount billed or authorized, the administrator shall prepare a written record as to the reason.

(iii) A description of the disbursement in such detail to identify the source document substantiating the purpose of the disbursement.

(i) Failure to maintain accurately and timely the books and records required above shall be deemed untrustworthy, hazardous or injurious to participants in the plan or the public and financially irresponsible.

(j) This Section shall not apply to nonresident administrators who are subject to substantially similar requirements in their state of domicile.

(Source: P.A. 84-1431.)

(215 ILCS 5/511.113) (from Ch. 73, par. 1065.58-113)

Sec. 511.113. Unauthorized Activities. Nothing in this Article shall be construed to permit any person or entity to receive, or collect charges, contributions or premiums for, or adjust or settle claims in connection with any type of life or accident or health benefit unless such person or entity is authorized through the insurance laws of a state or the ERISA of 1974, 29 USC par. 1001 et seq. as amended, to provide such benefits.

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

(215 ILCS 5/511.114)

Sec. 511.114. Drug formulary; notice. All administrators must comply with Section 155.37 of this Code.

(Source: P.A. 92-440, eff. 8-17-01.)

(215 ILCS 5/511.118)

Sec. 511.118. Managed Care Reform and Patient Rights Act. All administrators are subject to the provisions of Sections

55 and 85 of the Managed Care Reform and Patient Rights Act.
(Source: P.A. 91-617, eff. 1-1-00.)