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**INSURANCE
(215 ILCS 5/) Illinois Insurance Code.**

(215 ILCS 5/35B-1)

Sec. 35B-1. Short title. This Article may be cited as the Domestic Stock Company Division Law.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-5)

Sec. 35B-5. Purpose. The purpose of this Article is to stimulate economic development in the State of Illinois by creating and sustaining employment opportunities and increasing and sustaining taxable revenue, through improving the competitive position of domestic stock companies, maintaining the competitiveness of this State as a state of domicile for domestic stock companies, and enhancing the desirability of this State as a jurisdiction of domicile for newly incorporating and existing foreign stock companies.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-10)

Sec. 35B-10. Definitions. As used in this Article:

"Assets" means all assets or property, whether real, personal or mixed, tangible or intangible, and any right or interest therein, including all rights under contracts and other agreements.

"Capital" means the capital stock component of statutory surplus, as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, version effective January 1, 2001, and subsequent revisions.

"Divide" or "division" means the act by operation of law by which a domestic stock company divides into 2 or more resulting companies in accordance with a plan of division and this Article;

"Dividing company" means a domestic stock company that approves a plan of division pursuant to Section 35B-20;

"Domestic stock company" means a domestic stock company transacting or being organized to transact any of the kinds of insurance business enumerated in Section 4.

"Liability" means a liability or obligation of any kind, character, or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, determined, determinable, or otherwise.

"New company" means a domestic stock company that is created by a division occurring on or after the effective date of this amendatory Act of the 100th General Assembly.

"Plan of division" means a plan of division approved by a dividing company in accordance Section 35B-20.

"Policy liability" means a liability as defined in this Section arising out of or related to an insurance policy, contract of insurance, or reinsurance agreement.

"Recorder" means the office of the recorder of the county where the principal office of a domestic stock company is located.

"Resulting company" means a domestic stock company created by a division or a dividing company that survives a division.

"Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

"Sign" or "signature" includes a manual, facsimile, or conformed or electronic signature.

"Surplus" means total statutory surplus less capital, calculated in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, version effective January 1, 2001, and subsequent revisions.

"Transfer" includes an assignment, assumption, conveyance, sale, lease, encumbrance, including a mortgage or security interest, gift, or transfer by operation of law.
(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-15)

Sec. 35B-15. Plan of division.

(a) A domestic stock company may, in accordance with the requirements of this Article, divide into 2 or more resulting companies pursuant to a plan of division.

(b) Each plan of division shall include:

(1) the name of the domestic stock company seeking to divide;

(2) the name of each resulting company that will be created by the proposed division;

(3) for each new company that will be created by the proposed division, a copy of its:

(A) proposed articles of incorporation;

(B) proposed bylaws; and

(C) the kinds of insurance business enumerated in Section 4 that the new company would be authorized to conduct;

(4) the manner of allocating between or among the resulting companies:

(A) the assets of the domestic stock company that will not be owned by all of the resulting companies as tenants in common pursuant to Section 35B-35; and

(B) the liabilities of the domestic stock company, including policy liabilities, to which not all of the resulting companies will become jointly and severally liable pursuant to paragraph (3) of subsection (a) of Section 35B-40;

(5) the manner of distributing shares in the new companies to the dividing company or its shareholders;

(6) a reasonable description of the liabilities, including policy liabilities, and items of capital, surplus, or other assets, in each case, that the domestic stock company proposes to allocate to each resulting company, including specifying the reinsurance contract, reinsurance coverage obligations, and related claims that are applicable to those policies;

(7) all terms and conditions required by the laws of this State or the articles of incorporation and bylaws of the domestic stock company;

(8) evidence demonstrating that the interest of all classes of policyholders of the dividing company will be properly protected; and

(9) all other terms and conditions of the division.

Nothing in this subsection (b) shall expand or reduce the allocation and assignment of reinsurance as stated in the reinsurance contract.

(c) If the domestic stock company survives the division, the plan of division shall include, in addition to the information required by subsection (b):

(1) all proposed amendments to the dividing company's articles of incorporation and bylaws, if any;

(2) if the dividing company desires to cancel some, but less than all, shares in the dividing company, the manner in which it will cancel such shares; and

(3) if the dividing company desires to convert some, but less than all, shares in the dividing company into shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof, a statement disclosing the manner in which it will convert the shares.

(d) If the domestic stock company does not survive the proposed division, the plan of division shall contain, in addition to the information required by subsection (b), the manner in which the dividing company will cancel or convert shares in the dividing company into shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof.

(e) Terms of a plan of division may be made dependent on facts objectively ascertainable outside of the plan of division.

(f) A dividing company may amend a plan of division in accordance with any procedures set forth in the plan of division or, if no such procedures are set forth in the plan of division, in any manner determined by the board of directors of the dividing company, except that a shareholder that was entitled to vote on or consent to approval of the plan of division is entitled to vote on or consent to any amendment of the plan of division that will change:

(1) the amount or kind of shares, securities, obligations, money, other property, rights to acquire shares or securities, or any combination thereof, to be received by any of the shareholders of the dividing company under the plan of division;

(2) the articles of incorporation or bylaws of any resulting company that will be in effect when the division becomes effective, except for changes that do not require approval of the shareholders of the resulting company under its articles of incorporation or bylaws; or

(3) any other terms or conditions of the plan of division, if the change would adversely affect the shareholders in any material respect.

(g) A dividing company may abandon a plan of division after it has approved the plan of division without any action by the shareholders and in accordance with any procedures set forth in the plan of division or, if no such procedures are set forth in the plan of division, in a manner determined by the board of directors of the dividing company.

(h) A dividing company may abandon a plan of division after it has filed a certificate of division with the recorder by filing with the recorder, with concurrent copy to the director, a certificate of abandonment signed by the dividing company. The certificate of abandonment shall be effective on the date it is filed with the recorder and the dividing company shall be deemed to have abandoned its plan of division on such date.

(i) A dividing company may not abandon or amend its plan of division once the division becomes effective.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-20)

Sec. 35B-20. Requirements of a plan of division.

(a) A domestic stock company shall not file a plan of division with the Director unless the plan of division has been approved in accordance with:

(1) any applicable provisions of its articles of incorporation and bylaws; and

(2) all laws of this State governing the internal affairs of a domestic stock company that provide for approval of a merger.

(b) If any provision of the articles of incorporation or bylaws of a domestic stock company requires that a specific number or percentage of board of directors or shareholders approve the proposal or adoption of a plan of merger, or imposes other special procedures for the proposal or adoption of a plan of merger, such domestic stock company shall adhere to such provision in proposing or adopting a plan of division. If any provision of the articles of incorporation or bylaws of a domestic stock company is amended, such amendment shall thereafter apply to a division only in accordance with its express terms.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-25)

(Text of Section before amendment by P.A. 101-549)

Sec. 35B-25. Plan of division approval.

(a) A division shall not become effective until it is approved by the Director after reasonable notice and a public hearing, if the notice and hearing are deemed by the Director to be in the public interest. The Director shall hold a public hearing if one is requested by the dividing company. A hearing conducted under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

(b) The Director shall approve a plan of division unless the Director finds that:

(1) the interest of any class of policyholder or shareholder of the dividing company will not be properly protected;

(2) each new company created by the proposed division, except a new company that is a nonsurviving party to a merger pursuant to subsection (b) of Section 156, would be ineligible to receive a license to do insurance business in this State pursuant to Section 5;

(3) the proposed division violates a provision of the Uniform Fraudulent Transfer Act;

(4) the division is being made for purposes of hindering, delaying, or defrauding any policyholders or other creditors of the dividing company;

(5) one or more resulting companies will not be solvent upon the consummation of the division; or

(6) the remaining assets of one or more resulting companies will be, upon consummation of a division, unreasonably small in relation to the business and transactions in which the resulting company was engaged or is about to engage.

(c) In determining whether the standards set forth in paragraph (3) of subsection (b) have been satisfied, the Director shall only apply the Uniform Fraudulent Transfer Act to a dividing company in its capacity as a resulting company and shall not apply the Uniform Fraudulent Transfer Act to any dividing company that is not proposed to survive the division.

(d) In determining whether the standards set forth in

paragraphs (3), (4), (5), and (6) of subsection (b) have been satisfied, the Director may consider all proposed assets of the resulting company, including, without limitation, reinsurance agreements, parental guarantees, support or keep well agreements, or capital maintenance or contingent capital agreements, in each case, regardless of whether the same would qualify as an admitted asset as defined in Section 3.1.

(e) In determining whether the standards set forth in paragraph (3) of subsection (b) have been satisfied, with respect to each resulting company, the Director shall, in applying the Uniform Fraudulent Transfer Act, treat:

(1) the resulting company as a debtor;

(2) liabilities allocated to the resulting company as obligations incurred by a debtor;

(3) the resulting company as not having received reasonably equivalent value in exchange for incurring the obligations; and

(4) assets allocated to the resulting company as remaining property.

(f) All information, documents, materials, and copies thereof submitted to, obtained by, or disclosed to the Director in connection with a plan of division or in contemplation thereof, including any information, documents, materials, or copies provided by or on behalf of a domestic stock company in advance of its adoption or submission of a plan of division, shall be confidential and shall be subject to the same protection and treatment in accordance with Section 131.14d as documents and reports disclosed to or filed with the Director pursuant to Section 131.14b until such time, if any, as a notice of the hearing contemplated by subsection (a) is issued.

(g) From and after the issuance of a notice of the hearing contemplated by subsection (a), all business, financial, and actuarial information that the domestic stock company requests confidential treatment, other than the plan of division, shall continue to be confidential and shall not be available for public inspection and shall be subject to the same protection and treatment in accordance with Section 131.14d as documents and reports disclosed to or filed with the Director pursuant to Section 131.14b.

(h) All expenses incurred by the Director in connection with proceedings under this Section, including expenses for the services of any attorneys, actuaries, accountants, and other experts as may be reasonably necessary to assist the Director in reviewing the proposed division, shall be paid by the dividing company filing the plan of division. A dividing company may allocate expenses described in this subsection in a plan of division in the same manner as any other liability.

(i) If the Director approves a plan of division, the Director shall issue an order that shall be accompanied by findings of fact and conclusions of law.

(j) The conditions in this Section for freeing one or more of the resulting companies from the liabilities of the dividing company and for allocating some or all of the liabilities of the dividing company shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Director in a final order that is not subject to further appeal. (Source: P.A. 100-1118, eff. 11-27-18.)

(Text of Section after amendment by P.A. 101-549)

Sec. 35B-25. Plan of division approval.

(a) A division shall not become effective until it is approved by the Director after reasonable notice and a public hearing, if the notice and hearing are deemed by the Director to be in the public interest. The Director shall hold a public

hearing if one is requested by the dividing company. A hearing conducted under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.

(b) The Director shall approve a plan of division unless the Director finds that:

(1) the interest of any class of policyholder or shareholder of the dividing company will not be properly protected;

(2) each new company created by the proposed division, except a new company that is a nonsurviving party to a merger pursuant to subsection (b) of Section 156, would be ineligible to receive a license to do insurance business in this State pursuant to Section 5;

(2.5) each new company created by the proposed division, except a new company that is a nonsurviving party to a merger pursuant to subsection (b) of Section 156, that will be a member insurer of the Illinois Life and Health Insurance Guaranty Association and that will have policy liabilities allocated to it will not be licensed to do insurance business in each state where such policies were written by the dividing company;

(3) the proposed division violates a provision of the Uniform Fraudulent Transfer Act;

(4) the division is being made for purposes of hindering, delaying, or defrauding any policyholders or other creditors of the dividing company;

(5) one or more resulting companies will not be solvent upon the consummation of the division; or

(6) the remaining assets of one or more resulting companies will be, upon consummation of a division, unreasonably small in relation to the business and transactions in which the resulting company was engaged or is about to engage.

(c) In determining whether the standards set forth in paragraph (3) of subsection (b) have been satisfied, the Director shall only apply the Uniform Fraudulent Transfer Act to a dividing company in its capacity as a resulting company and shall not apply the Uniform Fraudulent Transfer Act to any dividing company that is not proposed to survive the division.

(d) In determining whether the standards set forth in paragraphs (3), (4), (5), and (6) of subsection (b) have been satisfied, the Director may consider all proposed assets of the resulting company, including, without limitation, reinsurance agreements, parental guarantees, support or keep well agreements, or capital maintenance or contingent capital agreements, in each case, regardless of whether the same would qualify as an admitted asset as defined in Section 3.1.

(e) In determining whether the standards set forth in paragraph (3) of subsection (b) have been satisfied, with respect to each resulting company, the Director shall, in applying the Uniform Fraudulent Transfer Act, treat:

(1) the resulting company as a debtor;

(2) liabilities allocated to the resulting company as obligations incurred by a debtor;

(3) the resulting company as not having received reasonably equivalent value in exchange for incurring the obligations; and

(4) assets allocated to the resulting company as remaining property.

(f) All information, documents, materials, and copies thereof submitted to, obtained by, or disclosed to the Director in connection with a plan of division or in contemplation thereof, including any information, documents, materials, or copies provided by or on behalf of a domestic stock company in

advance of its adoption or submission of a plan of division, shall be confidential and shall be subject to the same protection and treatment in accordance with Section 131.14d as documents and reports disclosed to or filed with the Director pursuant to Section 131.14b until such time, if any, as a notice of the hearing contemplated by subsection (a) is issued.

(g) From and after the issuance of a notice of the hearing contemplated by subsection (a), all business, financial, and actuarial information that the domestic stock company requests confidential treatment, other than the plan of division, shall continue to be confidential and shall not be available for public inspection and shall be subject to the same protection and treatment in accordance with Section 131.14d as documents and reports disclosed to or filed with the Director pursuant to Section 131.14b.

(h) All expenses incurred by the Director in connection with proceedings under this Section, including expenses for the services of any attorneys, actuaries, accountants, and other experts as may be reasonably necessary to assist the Director in reviewing the proposed division, shall be paid by the dividing company filing the plan of division. A dividing company may allocate expenses described in this subsection in a plan of division in the same manner as any other liability.

(i) If the Director approves a plan of division, the Director shall issue an order that shall be accompanied by findings of fact and conclusions of law.

(j) The conditions in this Section for freeing one or more of the resulting companies from the liabilities of the dividing company and for allocating some or all of the liabilities of the dividing company shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Director in a final order that is not subject to further appeal. (Source: P.A. 100-1118, eff. 11-27-18; 101-549, eff. 1-1-20.)

(215 ILCS 5/35B-30)

Sec. 35B-30. Certificate of division.

(a) After a plan of division has been adopted and approved, an officer or duly authorized representative of the dividing company shall sign a certificate of division.

(b) The certificate of division shall set forth:

- (1) the name of the dividing company;
- (2) a statement disclosing whether the dividing company will survive the division;
- (3) the name of each new company that will be created by the division;
- (4) the kinds of insurance business enumerated in Section 4 that the new company will be authorized to conduct;
- (5) the date that the division is to be effective, which shall not be more than 90 days after the dividing company has filed the certificate of division with the recorder, with a concurrent copy to the Director;
- (6) a statement that the division was approved by the Director in accordance with Section 35B-25;
- (6) a statement that the dividing company provided, no later than 10 business days after the dividing company filed the plan of division with the Director, reasonable notice to each reinsurer that is party to a reinsurance contract that is applicable to the policies included in the plan of division;
- (7) if the dividing company will survive the division, an amendment to its articles of incorporation or bylaws approved as part of the plan of division;
- (8) for each new company created by the division, its

articles of incorporation and bylaws, provided that the articles of incorporation and bylaws need not state the name or address of an incorporator; and

(9) a reasonable description of the capital, surplus, other assets and liabilities, including policy liabilities, of the dividing company that are to be allocated to each resulting company.

(c) The articles of incorporation and bylaws of each new company must satisfy the requirements of the laws of this State, provided that the documents need not be signed or include a provision that need not be included in a restatement of the document.

(d) A certificate of division is effective when filed with the recorder, with a concurrent copy to the Director, as provided in this Section or on another date specified in the plan of division, whichever is later, provided that a certificate of division shall become effective not more than 90 days after it is filed with the recorder. A division is effective when the relevant certificate of division is effective.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-35)

Sec. 35B-35. Effects of division.

(a) When a division becomes effective pursuant to Section 35B-30:

- (1) if the dividing company has survived the division:
 - (A) it continues to exist;
 - (B) its articles of incorporation shall be amended, if necessary, as provided in the plan of division; and
 - (C) its bylaws shall be amended, if necessary, as provided in the plan of division;
- (2) if the dividing company has not survived the division, its separate existence ceases to exist;
- (3) each new company:
 - (A) comes into existence;
 - (B) shall hold any capital, surplus, and other assets allocated to such new company by the plan of division as a successor to the dividing company, automatically, by operation of law and not by transfer, whether directly or indirectly; and
 - (C) its articles of incorporation, if any, and bylaws, if any, shall be effective;
- (4) capital, surplus, and other assets of the dividing company:
 - (A) that is allocated by the plan of division either:
 - (i) vests in the applicable new company as provided in the plan of division; or
 - (ii) remains vested in the dividing company as provided in the plan of division;
 - (B) that is not allocated by the plan of division either:
 - (i) remains vested in the dividing company, if the dividing company survives the division; or
 - (ii) is allocated to and vests equally in the resulting companies as tenants in common, if the dividing company does not survive the division; or
 - (C) otherwise vests as provided in this subsection without transfer, reversion, or impairment;
- (5) a resulting company to which a cause of action is allocated as provided in paragraph (4) of this subsection

(a) may be substituted or added in any pending action or proceeding to which the dividing company is a party when the division becomes effective;

(6) the liabilities, including policy liabilities, of the dividing company are allocated between or among the resulting companies as provided in Section 35B-40 and each resulting company to which liabilities are allocated is liable only for those liabilities, including policy liabilities, so allocated as successors to the dividing company, automatically, by operation of law, and not by transfer (or, for the avoidance of doubt, assumption), whether directly or indirectly; and

(7) the shares in the dividing company that are to be converted or canceled in the division are converted or canceled, and the shareholders of those shares are entitled only to the rights provided to them under the plan of division and any appraisal rights that they may have pursuant to Section 35B-45.

(b) Except as provided in the articles of incorporation or bylaws of the dividing company, the division does not give rise to any rights that a shareholder, director of a domestic stock company, or third party would have upon a dissolution, liquidation, or winding up of the dividing company.

(c) The allocation to a new company of capital, surplus, or other assets that is collateral covered by an effective financing statement shall not be effective until a new financing statement naming the new company as a debtor is effective under the Uniform Commercial Code.

(d) Unless otherwise provided in the plan of division, the shares in and any securities of each new company shall be distributed to:

(1) the dividing company, if it survives the division; or

(2) shareholders of the dividing company that do not assert any appraisal rights that they may have pursuant to Section 35B-45, pro rata.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-40)

Sec. 35B-40. Resulting company liabilities.

(a) Except as otherwise expressly provided in this Section, when a division becomes effective, each resulting company is responsible, automatically, by operation of law, for:

(1) individually, the liabilities, including policy liabilities, that the resulting company issues, undertakes, or incurs in its own name after the division;

(2) individually, the liabilities, including policy liabilities, of the dividing company that are allocated to or remain the liability of the resulting company to the extent specified in the plan of division; and

(3) jointly and severally with the other resulting companies, the liabilities, including policy liabilities, of the dividing company that are not allocated by the plan of division.

(b) Except as otherwise expressly provided in this Section, when a division becomes effective, no resulting company is responsible for or shall have any liability or obligation in respect of:

(1) any liabilities, including policy liabilities, that another resulting company issues, undertakes, or incurs in its own name after the division; or

(2) any liabilities, including policy liabilities, of the dividing company that are allocated to or remain the liability of another resulting company in accordance with

the plan of division.

(c) If a provision of a debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, indenture or other contract relating to indebtedness, or a provision of any other type of contract other than an insurance policy, annuity, or reinsurance agreement, that was issued, incurred, or executed by the domestic stock company before requires the consent of the obligee to a merger of the dividing company or treats the merger as a default, that provision applies to a division of the dividing company as if the division was a merger.

(d) If a division breaches a contractual obligation of the dividing company at the time the division becomes effective, all of the resulting companies are liable, jointly and severally, for the contractual breach, but the validity and effectiveness of the division, including, without limitation, the allocation of liabilities in accordance with the plan of division, shall not be affected by the contractual breach.

(e) A direct or indirect allocation of capital, surplus, assets, or liabilities, including policy liabilities, in a division shall occur automatically, by operation of law, and shall not be treated as a distribution or transfer for any purpose with respect to either the dividing company or any of the resulting companies.

(f) Liens, security interests, and other charges on the capital, surplus, or other assets of the dividing company are not impaired by the division, notwithstanding any otherwise enforceable allocation of liabilities, including policy liabilities, of the dividing company.

(g) If the dividing company is bound by a security agreement governed by Article 9 of the Uniform Commercial Code as enacted in this State or in any other jurisdiction, and the security agreement provides that the security interest attaches to after-acquired collateral, each resulting company is bound by the security agreement.

(h) An allocation of a policy or other liability does not:

(1) except as provided in the plan of division and specifically approved by the Director, affect the rights that a policyholder or creditor has under other law in respect of the policy or other liability, except that those rights are available only against a resulting company responsible for the policy or liability under this Section; or

(2) release or reduce the obligation of a reinsurer, surety, or guarantor of the policy or liability.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-45)

Sec. 35B-45. Shareholder rights. If the dividing company does not survive the division, an objecting shareholder of a dividing company is entitled to appraisal rights and to obtain payment of the fair value of that shareholder's shares, in the same manner and to the extent provided for pursuant to Section 167.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/35B-50)

Sec. 35B-50. Rules. The Director may adopt such rules as are necessary or appropriate to carry out this Article.

(Source: P.A. 100-1118, eff. 11-27-18.)

(215 ILCS 5/Art. III heading)

ARTICLE III. DOMESTIC MUTUAL COMPANIES

(Article scheduled to be repealed on January 1, 2027)

(215 ILCS 5/36) (from Ch. 73, par. 648)

(Section scheduled to be repealed on January 1, 2027)

Sec. 36. Scope of Article. This Article shall apply to all domestic mutual companies transacting or being organized to transact any of the kinds of business enumerated in Section 4.

(Source: Laws 1937, p. 696.)

(215 ILCS 5/37) (from Ch. 73, par. 649)

(Section scheduled to be repealed on January 1, 2027)

Sec. 37. Name. The corporate name of any company organized under this Article shall contain the word "Mutual" and shall not be the same as, or deceptively similar to, the name of any domestic company, or of any foreign or alien company authorized to transact business in this State.

(Source: Laws 1937, p. 696.)

(215 ILCS 5/38) (from Ch. 73, par. 650)

(Section scheduled to be repealed on January 1, 2027)

Sec. 38. Principal office and place of business. The principal office of any company organized under this Article shall be located in this State. Unless the Director has approved otherwise, the principal place of business of any company organized under this Article shall be located in this State.

(Source: P.A. 82-498.)

(215 ILCS 5/39) (from Ch. 73, par. 651)

(Section scheduled to be repealed on January 1, 2027)

Sec. 39. Authorized kinds of business.

(1) Companies may be organized under this Article either for the purpose of transacting any of the kind or kinds of business enumerated in Class 1 of Section 4, or for the purpose of transacting any of the kind or kinds of business enumerated in Classes 2 and 3 of that Section.

(2) A domestic company may, notwithstanding limitations otherwise applicable, and provided it maintains books and records which account for such business, engage directly in any of the following businesses: (a) rendering investment advice; (b) rendering services related to the functions involved in the operation of its insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal and collection services; (c) acting as administrative agent for a health or welfare program; (d) any other business activity reasonably complementary or supplementary to its insurance business; either to the extent necessarily or properly incidental to the insurance business the company is authorized to do in this State or to the extent approved by the Director and subject to any limitations he may prescribe for the protection of the interests of the policyholders of the company taking into account the effect of such business on the company's existing insurance business and its surplus, the proposed allocation of the estimated cost of such business and the risks inherent in such business as well as relative advantages to the company and its policyholders of conducting such business directly instead of through a subsidiary.

(Source: P.A. 77-673.)

(215 ILCS 5/40) (from Ch. 73, par. 652)

(Section scheduled to be repealed on January 1, 2027)

Sec. 40. Directors or trustees.

(1) After the date of incorporation, as determined by Section 48, and until the first meeting of the members, the incorporators shall have the powers and perform the duties ordinarily possessed and exercised by a board of directors.

(2) Upon the issuance of a certificate of authority to a company organized under this Article, the corporate powers shall be exercised by, and its business and affairs shall be under the control of, a board of directors or trustees composed of not less than 3 nor more than 21 natural persons who are members and who are at least 18 years of age and at least 3 of whom are residents and citizens of this State. After June 30, 2002, at least 20%, but not less than one, of the directors of a company that is not subject to Section 131.20b shall be persons who are not officers or employees of the company. A person convicted of a felony may not be a director, and all directors shall be of good character and known professional, administrative, or business ability, such business ability to include a practical knowledge of insurance, finance, or investment. The first board of directors or trustees shall be elected at the first meeting of the members, and all directors or trustees shall be elected annually thereafter, except only as provided in subsection (3).

(3) The articles of incorporation may provide for the division of the board into classes, as nearly equal in number as possible, and fix the term of office for each class, but no term shall be for more than 3 years.

(4) Meetings of the board of directors or trustees, regular or special, may be held either within or without the State. Meetings of the board of directors or trustees shall be upon such notice as the by-laws may prescribe. Attendance of a director or trustee at any meeting shall constitute a waiver of notice of such meeting except where a director or trustee attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or trustees need be specified in the notice or waiver of notice of such meeting, unless expressly otherwise provided by this Code. Unless specifically prohibited by the articles of incorporation or by-laws, members of the board of directors or of any committee of the board of directors may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating. Unless specifically prohibited by the articles of incorporation or by-laws, members of the board of directors or of any committee of the board of directors may take action without a meeting, if a consent in writing setting forth the action so taken shall be signed by all of the directors entitled to vote with respect to the subject matter thereof, or by all of the members of such committee, as the case may be. The consent shall be evidenced by one or more written approvals, each of which sets forth the action taken and bears the signature of one or more directors or committee members. All approvals evidencing the consent shall be filed in the company's corporate records. The action taken shall be effective when all of the directors, or members of the committee, have approved the consent unless the consent specifies a different effective date.

(5) A company may indemnify any person in conformance with subsection (7) of Section 10.

(Source: P.A. 92-140, eff. 7-24-01.)

(215 ILCS 5/41) (from Ch. 73, par. 653)

(Section scheduled to be repealed on January 1, 2027)

Sec. 41. Executive committee. If the by-laws so provide, the board of directors or trustees, by a resolution adopted by a majority of the whole board, may designate three or more of their number to constitute an executive committee, which committee shall, to the extent provided in the resolution or in the by-laws, have and exercise, during the interim between the meetings of the board, all of the authority of the board in the management of the company, but the designation of such committee shall not relieve the board or any member thereof of any responsibility imposed by law.

(Source: Laws 1937, p. 696.)

(215 ILCS 5/42) (from Ch. 73, par. 654)

(Section scheduled to be repealed on January 1, 2027)

Sec. 42. By-laws.

(1) The incorporators shall adopt by-laws for the company which shall not be altered, amended, or repealed prior to the issuance of a certificate of authority to the company without the approval of the Director. The by-laws shall provide that each policyholder of the company shall be a member of the company and shall be entitled to one or more votes in person or by proxy, based upon the amount of insurance in force, the number of policies held or the amount of premium paid, as shall be stated in such by-laws.

(2) After a certificate of authority is issued to the company, the power to make, alter, amend or repeal by-laws shall be vested in the board of directors or trustees unless reserved to the members by the articles of incorporation.

(3) The by-laws of a mutual legal reserve life company shall provide for a specific premium and that there shall be no assessment or contingent liability on the part of the member.

(4) The by-laws of a mutual company other than life shall provide

(a) for a specific premium or premium deposit; and

(b) except as provided in section 55, for a contingent liability of each member in an amount not less than one nor more than ten times the specific premium or premium deposit stated in the policy.

(Source: Laws 1937, p. 696.)

(215 ILCS 5/43) (from Ch. 73, par. 655)

(Section scheduled to be repealed on January 1, 2027)

Sec. 43. Minimum surplus requirements.

(1) No company organized after December 31, 1985 under this Article may receive a certificate of authority from the Director to issue policies or contracts of insurance until it has complied with the requirements in respect of original surplus applicable to the class or classes and clause or clauses of section 4 describing the kind or kinds of insurance it is organized to write, as set forth in the following table:

Life, Accident, Health and Legal Expense

(a) Class 1, Clauses (a), (b) or (c), a surplus of at least \$2,000,000; more than one clause, a surplus of at least \$2,000,000.

Casualty, Fidelity and Surety

(b) Class 2, Clauses (a), (b), (c), (d), (g), (h), (i) or (j), a surplus of at least \$2,000,000; more than one clause, a surplus of at least \$2,000,000.

Fire, Marine and Legal Expense

(c) Class 2, Clauses (e), (f), (k), (l) or Class 3,

any or all clauses or any combination thereof, a surplus of at least \$1,000,000.

Multiple Line

(d) Class 2, any or all clauses other than those specified in (c) above, and Class 3, any or all clauses, a surplus of at least \$2,000,000.

Glass and Livestock and Domestic Animals

(e) Class 2, Clause (f) only or (k) only, \$250,000; provided any company to which this subparagraph is applicable shall not expose itself to any loss on any one risk in an amount exceeding \$5,000.

(2) Every company subject to this Article and organized on or after June 28, 1965 must have and at all times maintain a minimum surplus equal to 2/3 of the original surplus required for that particular company at the time it was organized. Any such company organized prior to June 28, 1965 must have and at all times maintain a minimum surplus equal to that which would have been required for that particular company at the time it was issued a Certificate of Authority. Any company which has added any clause or clauses must have and at all times maintain minimum surplus not less than the minimum surplus requirement applicable to the class or classes and clause or clauses of Section 4 at the time that the additional clause or clauses are authorized. Any company organized prior to October 1, 1972 must have and at all times maintain, in addition to the minimum surplus required to be maintained by that particular company, additional minimum surplus of not less than \$300,000.

(3) Any company organized prior to January 1, 1986 and regulated under this Article, in addition to the minimum surplus which is required by paragraph (2) of this Section must have by December 31, 1986 and at all times maintain until December 31, 1990 additional minimum surplus of \$200,000.

(4) Provided, however, mutual companies organized prior to October 1, 1972 and authorized to engage only in insurance business as specified in Class 2(f) of Section 4 on an assessable basis shall not be required to establish an additional minimum surplus as provided herein.

(5) Subsections (2) and (3) shall be applicable until December 31, 1990 for all companies organized prior to January 1, 1986; thereafter, such companies must have and maintain surplus as required by subsections (7) and (8).

(6) Every company subject to this Article and organized after December 31, 1985 under this Article must maintain minimum surplus applicable to the class or classes and clause or clauses of Section 4 describing the kind or kinds of insurance which it is authorized to write, as follows:

Life, Accident, Health and Legal Expense

(a) Class 1, Clauses (a), (b) or (c), a surplus of at least \$1,500,000; more than one clause, a surplus of at least \$1,500,000.

Casualty, Fidelity and Surety

(b) Class 2, Clauses (a), (b), (c), (d), (g), (h), (i) or (j), a surplus of at least \$1,500,000; more than one clause, a surplus of at least \$1,500,000.

Fire, Marine and Legal Expense

(c) Class 2, Clauses (e), (f), (k), (l) or Class 3, any or all clauses or any combination thereof, a surplus of at least \$700,000.

Multiple Line

(d) Class 2, any or all clauses other than those specified in (c) above, and Class 3, any or all clauses, a surplus of at least \$1,500,000.

Glass and Livestock and Domestic Animals

(e) Class 2, Clause (f) only or (k) only, \$150,000;

provided any company to which this subparagraph is applicable shall not expose itself to any loss on any one risk in an amount exceeding \$5,000.

(7) Any company organized prior to January 1, 1986, regulated under this Article must have by December 31, 1990, and thereafter maintain until December 31, 1995, surplus not less than the minimum applicable to the class or classes and clause or clauses of Section 4 describing the kind or kinds of insurance which it is authorized to write, as follows:

Life, Accident, Health and Legal Expense

(a) Class 1, Clauses (a), (b) or (c), a surplus of at least \$1,200,000; more than one clause, a surplus of at least \$1,200,000.

Casualty, Fidelity and Surety

(b) Class 2, Clauses (a), (b), (c), (d), (g), (h), (i) or (j), a surplus of at least \$1,200,000; more than one clause, a surplus of at least \$1,200,000.

Fire, Marine and Legal Expense

(c) Class 2, Clauses (e), (f), (k), (l) or Class 3, any or all clauses or any combination thereof, a surplus of at least \$600,000.

Multiple Line

(d) Class 2, any or all clauses other than those specified in (c) above, and Class 3, any or all clauses, a surplus of at least \$1,200,000.

Glass and Livestock and Domestic Animals

(e) Class 2, Clause (f) only or (k) only, \$100,000; provided any company to which this subparagraph is applicable shall not expose itself to any loss on any one risk in an amount exceeding \$5,000.

(8) Any company organized prior to January 1, 1986, regulated under this Article must have by December 31, 1995, and thereafter maintain at all times, surplus not less than the minimum applicable to the class or classes and clause or clauses of Section 4 describing the kind or kinds of insurance which it is authorized to write, as follows:

Life, Accident, Health and Legal Expense

(a) Class 1, Clauses (a), (b) or (c), a surplus of at least \$1,500,000; more than one clause, a surplus of at least \$1,500,000.

Casualty, Fidelity and Surety

(b) Class 2, Clauses (a), (b), (c), (d), (g), (h), (i) or (j), a surplus of at least \$1,500,000; more than one clause, a surplus of at least \$1,500,000.

Fire, Marine and Legal Expense

(c) Class 2, Clauses (e), (f), (k), (l) or Class 3, any or all clauses or any combination thereof, a surplus of at least \$700,000.

Multiple Line

(d) Class 2, any or all clauses other than those specified in (c) above, and Class 3, any or all clauses, a surplus of at least \$1,500,000.

Glass and Livestock and Domestic Animals

(e) Class 2, Clause (f) only or (k) only, \$150,000; provided any company to which this subparagraph is applicable shall not expose itself to any loss on any one risk in an amount exceeding \$5,000.

(9) The Director shall take action under Section 60 of this Code against any company which fails to maintain the minimum surplus required by this section. The words "minimum surplus" mean the "surplus as regards policyholders", as it appears on the annual statement of a mutual company on the usual and proper annual statement form prescribed by the National Association of

Insurance Commissioners.
(Source: P.A. 84-934.)

(215 ILCS 5/44) (from Ch. 73, par. 656)

(Section scheduled to be repealed on January 1, 2027)

Sec. 44. Articles of incorporation. Any one or more natural persons, at least one of whom is a resident of Illinois, who desire to form a company under this Article, shall sign and acknowledge before an officer authorized to take acknowledgments articles of incorporation in duplicate. The articles shall set forth

- (a) the corporate name;
- (b) the location of its principal office;
- (c) the period of duration, which may be perpetual;
- (d) the class or classes of insurance business, as provided in Section 4, in which it proposes to engage, and the kinds of insurance in each class it proposes to write;
- (e) the name of the governing body of the company, whether board of trustees or board of directors, and the number, the terms of office of and the manner of electing the members of the board; and
- (f) such other provisions not inconsistent with law as may be deemed by the incorporators to be necessary or advisable.

(Source: P.A. 84-502.)

(215 ILCS 5/45) (from Ch. 73, par. 657)

(Section scheduled to be repealed on January 1, 2027)

Sec. 45. Documents to be delivered to Director by incorporators. Upon the execution of the articles of incorporation, there shall be delivered to the Director

- (a) duplicate originals of the articles of incorporation;
- (b) a copy of the by-laws adopted by the incorporators;
- (c) 2 organization bonds, or the cash or securities, provided for in Section 46;
- (d) the form of guaranty fund agreements and of guaranty capital shares, if any, as provided in Section 56 to be issued in connection with solicitation of surplus; and
- (e) the form of escrow agreement for the deposit of cash or securities.

(Source: P.A. 84-502.)

(215 ILCS 5/45.1) (from Ch. 73, par. 657.1)

(Section scheduled to be repealed on January 1, 2027)

Sec. 45.1. Escrow agreements. The company shall designate a bank or trust company with whom it will enter into an escrow agreement, which agreement shall state that the organization surplus shall be placed in escrow and remain so, until an organization examination has been completed. When the examination has been completed the escrow agent is authorized to purchase securities for deposit as required by Section 53 and forward them to the Director. The escrow agent is authorized to release the balance of the escrowed funds to the company only upon notification that a Certificate of Authority or similar documentation has been issued by the Director.

(Source: P.A. 84-502.)

(215 ILCS 5/46) (from Ch. 73, par. 658)

(Section scheduled to be repealed on January 1, 2027)

Sec. 46. Organization bonds. The incorporators shall deliver

to the Director two bonds in the same penalties and containing the same provisions, so far as applicable, as the bonds required for the organization of a stock company by Section 16, for the use and benefit of the State of Illinois and subscribers, members and creditors, or in lieu of delivering such bonds, the incorporators may deposit cash or securities of the same kind and amount on the same terms and conditions, so far as applicable, as provided by said Section.
(Source: Laws 1937, p. 696.)

(215 ILCS 5/47) (from Ch. 73, par. 659)
(Section scheduled to be repealed on January 1, 2027)
Sec. 47. Publication of intention.

(1) Upon compliance with the provisions of Section 45, the incorporators shall cause to be published in a newspaper of general circulation in this State, in the county where the principal office of the company is to be located, once each week for three consecutive weeks, a notice setting forth

(a) their intent to form the company and the proposed name thereof;

(b) the class or classes of insurance business in which the company proposes to engage; and

(c) the address where its principal office shall be located.

(2) Proof of such publication made by a certificate of the publisher or his agent shall be delivered to the Director.
(Source: Laws 1937, p. 696.)

(215 ILCS 5/48) (from Ch. 73, par. 660)
(Section scheduled to be repealed on January 1, 2027)

Sec. 48. Approval of documents. The documents and papers so delivered to the Director may be approved or disapproved by the Director and the incorporators are entitled to a hearing in the same manner as provided in Section 18 in the case of documents delivered for approval in connection with the organization of stock companies. If the documents and papers so delivered are approved by the Director, the Director must file in his office the bylaws, bond or securities and one of the duplicate originals of the articles of incorporation, and endorse upon the other duplicate original his approval and the month, day and year of approval and deliver it to the incorporators. The company is deemed to be fully organized on the date of the approval of the articles of incorporation by the Director, and that date is the date of incorporation of the company.
(Source: P.A. 82-498.)

(215 ILCS 5/49) (from Ch. 73, par. 661)
(Section scheduled to be repealed on January 1, 2027)

Sec. 49. Recording of articles of incorporation. The duplicate original of the articles of incorporation returned by the Director shall be filed for record, within 15 days after it is delivered to the company, in the office of the recorder of the county where the principal office of the company is to be located.
(Source: P.A. 83-358.)

(215 ILCS 5/50) (from Ch. 73, par. 662)
(Section scheduled to be repealed on January 1, 2027)

Sec. 50. Authority to solicit subscriptions to surplus.

(1) Upon the approval of the articles of incorporation by the Director he shall issue to the company a permit which shall expire at the end of two years from its date, authorizing it to solicit subscriptions to surplus in accordance with this Code

and to do such other acts as may be necessary and proper in order to complete its organization and to entitle it to receive a certificate of authority to transact an insurance business.

(2) If the Director finds that any company in process of organization has failed to comply with, or has violated any provision of the Code, he may proceed against the company under Article XIII, and may after notice and hearing revoke the permit issued to it under subsection (1) of this Section.

(Source: Laws 1951, p. 1565.)