AN ACT concerning insurance producers.

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

Section 5. The Illinois Insurance Code is amended by changing Section 445 and adding Sections 500-5, 500-10, 500-15, 500-20, 500-25, 500-30, 500-35, 500-40, 500-45, 500-50, 500-55, 500-60, 500-65, 500-70, 500-75, 500-80, 500-85, 500-90, 500-95, 500-100, 500-105, 500-110, 500-115, 500-120, 500-125, 500-130, 500-135, 500-140, 500-145, and 500-150 as follows:

(215 ILCS 5/445) (from Ch. 73, par. 1057)

Sec. 445. Surplus line.

(1) Surplus line defined; surplus line insurer requirements. Surplus line insurance is insurance on an Illinois risk of the kinds specified in Classes 2 and 3 of Section 4 of this Code procured from an unauthorized insurer ~~company~~ or a domestic surplus line insurer as defined in Section 445a after the insurance producer representing the insured or the surplus line producer is unable, after diligent effort, to procure said insurance from insurers ~~companies~~ which are authorized to transact business in this State other than domestic surplus line insurers as defined in Section 445a.

Insurance producers may procure surplus line insurance only if licensed as a surplus line producer under this Section and may procure that insurance only from an unauthorized insurer ~~company~~ or from a domestic surplus line insurer as defined in Section 445a:

(a) that based upon information available to the surplus line producer has a policyholders surplus of not less than $15,000,000 determined in accordance with

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Originated in the House of Representatives
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accounting rules that are applicable to authorized insurers ~~companies~~; and

(b) that has standards of solvency and management that are adequate for the protection of policyholders; and

(c) where an unauthorized insurer ~~company~~ does not meet the standards set forth in (a) and (b) above, a surplus line producer may, if necessary, procure insurance from that insurer ~~company~~ only if prior written warning of such fact or condition is given to the insured by the insurance producer or surplus line producer.

(2) Surplus line producer; license. Any licensed producer who is a resident of this State, or any nonresident who qualifies under Section 500-40, may be licensed as a surplus line producer upon:

(a) completing a prelicensing course of study ~~passing a written examination. The examination shall reasonably test the knowledge of the applicant concerning the surplus line law and the responsibilities assumed by a surplus line producer thereunder~~. The course ~~examination~~ provided for by this Section shall be conducted under rules and regulations prescribed by the Director. The Director may administer the course ~~examination~~ or may make arrangements, including contracting with an outside educational ~~testing~~ service, for administering the course and collecting the non-refundable application fee provided for in this subsection ~~such examinations~~. Any charges assessed by the Director or the educational ~~testing~~ service for administering the course ~~such examinations~~ shall be paid directly by the individual applicants. Each applicant required to take the course ~~an examination~~ shall~~, at the time of request for examination,~~ enclose with the application a non-refundable $10 application fee payable

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to the Director plus a separate course ~~an examination~~ administration fee. ~~If the Director administers the examination, the application fee and examination administration fee shall be combined and made payable to the Director. If the Director designates an outside testing service to administer the examination, the applicant shall make a separate examination administration fee remittance payable to the designated testing service for the total fees the testing service charges for each of the various services being requested by the applicant.~~ An applicant who fails to appear for the course ~~examination~~ as scheduled, or appears but fails to complete the course ~~pass~~, shall not be entitled to any refund, and shall be required to submit a new request to attend the course ~~for examination~~ together with all the requisite fees before being rescheduled for another course ~~examination~~ at a later date; and

(b) payment of an annual license fee of $200; and

(c) procurement of the surety bond required in subsection (4) of this Section.

A ~~Each~~ surplus line producer so licensed shall keep a separate account of the business transacted thereunder which shall be open at all times to the inspection of the Director or his representative.

The prelicensing course of study ~~examination~~ requirement in (a) above shall not apply to insurance producers who were licensed under the Illinois surplus line law ~~or individuals designated to act for a partnership, association or corporation licensed under the Illinois surplus line law~~ on or before the effective date of this amendatory Act of the 92nd General Assembly ~~February 27, 1985~~.

(3) Taxes and reports.

(a) Surplus line tax and penalty for late payment.

A ~~Each~~ surplus line producer shall file with the

Director on or before February 1 and August 1 of each year a report in the form prescribed by the Director on all surplus line insurance procured from unauthorized insurers during the preceding 6 month period ending December 31 or June 30 respectively, and on the filing of such report shall pay to the Director for the use and benefit of the State a sum equal to 3% of the gross premiums less returned premiums upon all surplus line insurance procured or cancelled during the preceding 6 months.

Any surplus line producer who fails to pay the full amount due under this subsection is liable, in addition to the amount due, for such penalty and interest charges as are provided for under Section 412 of this Code. The Director, through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction, for the recovery of the amount of such taxes and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same.

(b) Fire Marshal Tax.

Each surplus line producer shall file with the Director on or before March 31 of each year a report in the form prescribed by the Director on all fire insurance procured from unauthorized insurers subject to tax under Section 12 of the Fire Investigation Act and shall pay to the Director the fire marshal tax required thereunder.

(c) Taxes and fees charged to insured. The taxes imposed under this subsection and the countersigning fees charged by the Surplus Line Association of Illinois may be charged to and collected from surplus line insureds.

(4) Bond. Each surplus line producer, as a condition to receiving a surplus line producer's license, shall execute and deliver to the Director a surety bond to the People of

the State in the penal sum of $20,000, with a surety which is authorized to transact business in this State, conditioned that the surplus line producer will pay to the Director the tax, interest and penalties levied under subsection (3) of this Section.

(5) Submission of documents to Surplus Line Association of Illinois. A ~~Each~~ surplus line producer shall submit every insurance contract issued under his or her license to the Surplus Line Association of Illinois for recording and countersignature. The submission and countersignature may be effected through electronic means. The submission ~~insurance contracts submitted~~ shall set forth:

(a) the name of the insured;

(b) the description and location of the insured property or risk;

(c) the amount insured;

(d) the gross premiums charged or returned;

(e) the name of the unauthorized insurer or domestic surplus line insurer as defined in Section 445a from whom coverage has been procured;

(f) the kind or kinds of insurance procured; and

(g) amount of premium subject to tax required by Section 12 of the Fire Investigation Act.

Proposals, endorsements, and other documents which are incidental to the insurance but which do ~~does~~ not affect the premium charged are exempted from filing and countersignature.

The submission of insuring contracts to the Surplus Line Association of Illinois constitutes a certification by the surplus line producer or by the insurance producer who presented the risk to the surplus line producer for placement as a surplus line risk that after diligent effort the required insurance could not be procured from insurers ~~companies~~ which are authorized to transact

business in this State other than domestic surplus line insurers as defined in Section 445a and that such procurement was otherwise in accordance with the surplus line law.

(6) Countersignature required. It shall be unlawful for an insurance producer to deliver any unauthorized ~~company~~ insurer ~~insurance~~ contract or domestic surplus line insurer contract unless such insurance contract is countersigned by the Surplus Line Association of Illinois.

(7) Inspection of records. A ~~Each~~ surplus line producer shall maintain separate records of the business transacted under his or her license, including complete copies of surplus line insurance contracts maintained on paper or by electronic means, which records shall be open at all times for inspection by the Director and by the Surplus Line Association of Illinois.

(8) Violations and penalties. The Director may suspend or revoke or refuse to renew a surplus line producer license for any violation of this Code. In addition to or in lieu of suspension or revocation, the Director may subject a surplus line producer to a civil penalty of up to $1,000 for each cause for suspension or revocation. Such penalty is enforceable under subsection (5) of Section 403A of this Code.

(9) Director may declare insurer ineligible. If the Director determines that the further assumption of risks might be hazardous to the policyholders of an unauthorized insurer, the Director may order the Surplus Line Association of Illinois not to countersign insurance contracts evidencing insurance in such insurer and order surplus line producers to cease procuring insurance from such insurer.

(10) Service of process upon Director. ~~All~~ Insurance contracts delivered under this Section from unauthorized insurers shall contain a provision designating the Director

and his successors in office the true and lawful attorney of the insurer upon whom may be served all lawful process in any action, suit or proceeding arising out of such insurance ~~and further designate the surplus line producer or other resident of this State an agent of the unauthorized insurer to which a copy of such process shall be forwarded by the Director for delivery to the insurer~~. Service of process made upon the Director to be valid hereunder must state the name of the insured, the name of the unauthorized insurer and identify the contract of insurance. The Director at his option is authorized to forward a copy of the process to the Surplus Line Association of Illinois for delivery to the unauthorized insurer ~~surplus line producer or other designated resident of this State~~ or the Director may deliver the process to the unauthorized insurer by other means which he considers to be reasonably prompt and certain.

(11) The Illinois Surplus Line law does not apply to insurance of property and operations of railroads or aircraft engaged in interstate or foreign commerce, insurance of vessels, crafts or hulls, cargoes, marine builder's risks, marine protection and indemnity, or other risks including strikes and war risks insured under ocean or wet marine forms of policies.

(12) Surplus line insurance procured under this Section, including insurance procured from a domestic surplus line insurer, is not subject to the provisions of the Illinois Insurance Code other than Sections 123, 123.1, 401, 401.1, 402, 403, 403A, 408, 412, 445, 445.1, 445.2, 445.3, 445.4, and all of the provisions of Article XXXI to the extent that the provisions of Article XXXI are not inconsistent with the terms of this Act.

(Source: P.A. 90-794, eff. 8-14-98.)

(215 ILCS 5/500-5 new)

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Sec. 500-5. Scope of Article. This Article applies to all persons and insurance companies as defined in this Code. This Article does not apply to surplus lines producers licensed pursuant to Section 445 except as provided in Section 500-40 and subsection (b) of Section 500-90 of this Article.

(215 ILCS 5/500-10 new)

Sec. 500-10. Definitions. In addition to the definitions in Section 2 of the Code, the following definitions apply to this Article:

"Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

"Car rental limited line licensee" means a person authorized under the provisions of Section 500-105 to sell certain coverages relating to the rental of vehicles.

"Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

"Insurance" means any of the lines of authority in Section 500-35, any health care plan under the Health Maintenance Organization Act, or any limited health care plan under the Limited Health Service Organization Act.

"Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance.

"Insurer" means a company as defined in subsection (e) of Section 2 of this Code, a health maintenance organization as defined in the Health Maintenance Organization Act, or a limited health service organization as defined in the Limited Health Service Organization Act.

"License" means a document issued by the Director authorizing an individual to act as an insurance producer for the lines of authority specified in the document or authorizing a business entity to act as an insurance producer. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.

"Limited lines insurance" means those lines of insurance defined in Section 500-100 or any other line of insurance that the Director may deem it necessary to recognize for the purposes of complying with subsection (e) of Section 500-40.

"Limited lines producer" means a person authorized by the Director to sell, solicit, or negotiate limited lines insurance.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

"Person" means an individual or a business entity.

"Rental agreement" means a written agreement setting forth the terms and conditions governing the use of a vehicle provided by a rental company for rental or lease.

"Rental company" means a person, or a franchisee of the person, in the business of providing primarily private passenger vehicles to the public under a rental agreement for a period not to exceed 30 days.

"Rental period" means the term of the rental agreement.

"Renter" means a person obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed 30 days.

"Sell" means to exchange a contract of insurance by any

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means, for money or its equivalent, on behalf of an insurance company.

"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

"Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

"Uniform Business Entity Application" means the current version of the National Association of Insurance Commissioners' Uniform Business Entity Application for nonresident business entities.

"Uniform Application" means the current version of the National Association of Insurance Commissioners' Uniform Application for nonresident producer licensing.

"Vehicle" or "rental vehicle" means a motor vehicle of (1) the private passenger type, including passenger vans, mini vans, and sport utility vehicles or (2) the cargo type, including cargo vans, pickup trucks, and trucks with a gross vehicle weight of less than 26,000 pounds the operation of which does not require the operator to possess a commercial driver's license.

(215 ILCS 5/500-15 new)

Sec. 500-15. License required.

(a) A person may not sell, solicit, or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this Article.

(b) A person may not, for a fee, engage in the business of offering any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages under any policy of insurance that could be issued in Illinois, unless that person is:

(1) engaged or employed as an attorney licensed to practice law and performing duties incidental to that position;

(2) a licensed insurance producer, limited insurance representative, or temporary insurance producer offering advice concerning a class of insurance as to which he or she is licensed to transact business;

(3) a trust officer of a bank performing duties incidental to his or her position;

(4) an actuary or a certified public accountant engaged or employed in a consulting capacity, performing duties incidental to that position; or

(5) a licensed public adjuster acting within the scope of his or her license.

(c) In addition to any other penalty set forth in this Article, an individual who knowingly violates subsection (a) is guilty of a Class A misdemeanor.

(d) In addition to any other penalty set forth in this Article, any individual violating subsection (a) or (b) and misappropriating or converting any moneys collected in conjunction with the violation is guilty of a Class 4 felony.

(215 ILCS 5/500-20 new)

Sec. 500-20. Exceptions to licensing.

(a) Nothing in this Article shall be construed to require an insurer to obtain an insurance producer license. In this Section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(b) A license as an insurance producer shall not be required of the following:

(1) an officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on

policies written or sold to insure risks residing, located, or to be performed in this State and:

(A) the officer's, director's, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer's , director's, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers if the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance;

(2) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and health insurance or for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans or who performs administrative services related to mass marketed property and casualty insurance, if no commission is paid to the person for the service;

(3) an employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee

benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(4) employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance;

(5) a person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this State;

(6) a person who is not a resident of this State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(7) a salaried, full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or

business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

(215 ILCS 5/500-25 new)

Sec. 500-25. Application for examination.

(a) A resident individual applying for an insurance producer license must pass a written examination unless exempt pursuant to Section 500-45. Both part one and part 2 of the examination must be passed within 90 days of each other. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this State. Examinations required by this Section must be developed and conducted under rules prescribed by the Director.

(b) The Director may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in Section 500-135.

(c) An individual applying for an examination must remit a nonrefundable fee as prescribed by the Director as set forth in Section 500-135, plus a separate remittance payable to the designated testing service for the total fees the testing service charges for each of the various services being requested by the applicant.

(d) An individual who fails to appear for the examination as scheduled or fails to pass the examination, must reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(215 ILCS 5/500-30 new)

Sec. 500-30. Application for license.

(a) An individual applying for a resident insurance producer license must make application on a form specified by the Director and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Director must find that the individual:

(1) is at least 18 years of age;

(2) has not committed any act that is a ground for denial, suspension, or revocation set forth in Section 500-70;

(3) has completed, if required by the Director, a pre-licensing course of study for the lines of authority for which the individual has applied (an individual who successfully completes the Fire and Casualty pre-licensing courses also meets the requirements for Personal Lines-Property and Casualty);

(4) has paid the fees set forth in Section 500-135; and

(5) has successfully passed the examinations for the lines of authority for which the person has applied.

(b) A pre-licensing course of study for each class of insurance for which an insurance producer license is requested must be established in accordance with rules prescribed by the Director and must consist of the following minimum hours:

Class of Insurance	Number of Hours
Life (Class 1 (a))	15.0
Accident and Health (Class 1(b) or 2(a))	15.0
Fire (Class 3)	15.0
Casualty (Class 2)	15.0
Personal Lines-Property Casualty	15.0

Motor Vehicle (Class 2(b) or 3(e)) 7.5

(c) A business entity acting as an insurance producer must obtain an insurance producer license. Application must be made using the Uniform Business Entity Application. Before approving the application, the Director must find that:

(1) the business entity has paid the fees set forth in Section 500-135; and

(2) the business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws and rules of this State.

(d) The Director may require any documents reasonably necessary to verify the information contained in an application.

(215 ILCS 5/500-35 new)

Sec. 500-35. License.

(a) Unless denied a license pursuant to Section 500-70, persons who have met the requirements of Sections 500-25 and 500-30 shall be issued a 2-year insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life: insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Variable life and variable annuity products: insurance coverage provided under variable life insurance contracts and variable annuities.

(3) Accident and health or sickness: insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(4) Property: insurance coverage for the direct or consequential loss or damage to property of every kind.

(5) Casualty: insurance coverage against legal

liability, including that for death, injury, or disability or damage to real or personal property.

(6) Personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Any other line of insurance permitted under State laws or rules.

(b) An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in Section 500-135 is paid and education requirements for resident individual producers are met by the due date.

(1) Before each license renewal, an insurance producer must satisfactorily complete at least 30 hours of course study in accordance with rules prescribed by the Director. The Director may not approve a course of study unless the course provides for classroom, seminar, or self-study instruction methods. A course given in a combination instruction method of classroom or seminar and self-study shall be deemed to be a self-study course unless the classroom or seminar certified hours meets or exceeds two-thirds of total hours certified for the course. The self-study material used in the combination course must be directly related to and complement the classroom portion of the course in order to be considered for credit. An instruction method other than classroom or seminar shall be considered as self-study methodology. Self-study credit hours require the successful completion of an examination covering the self-study material. The examination may not be self-evaluated. However, if the self-study material is completed through the use of an approved computerized interactive format whereby the computer validates the successful completion of the self-study material, no additional examination is required. The self-study

credit hours contained in a certified course shall be considered classroom hours when at least two-thirds of the hours are given as classroom or seminar instruction.

(2) An insurance producer license automatically terminates when an insurance producer fails to successfully meet the requirements of item (1) of subsection (b) of this Section. The producer must complete the course in advance of the renewal date to allow the education provider time to report the credit to the Department.

(c) A provider of a pre-licensing or continuing education course required by Section 500-30 and this Section must pay a registration fee and a course certification fee for each course being certified as provided by Section 500-135.

(d) An individual insurance producer who allows his or her license to lapse may, within 12 months after the due date of the renewal fee, be issued a license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required after the due date.

(e) A licensed insurance producer who is unable to comply with license renewal procedures due to military service may request a waiver of those procedures.

(f) The license must contain the licensee's name, address, and personal identification number, the date of issuance, the lines of authority, the expiration date, and any other information the Director deems necessary.

(g) Licensees must inform the Director by any means acceptable to the Director of a change of address within 30 days after the change.

(h) In order to assist in the performance of the Director's duties, the Director may contract with a non-governmental entity including the National Association of

Insurance Commissioners (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including collection of fees, related to producer licensing that the Director and the non-governmental entity may deem appropriate.

(215 ILCS 5/500-40 new)

Sec. 500-40. Nonresident licensing.

(a) Unless denied a license pursuant to Section 500-70, a nonresident person shall receive a nonresident producer license if:

(1) the person is currently licensed as a resident and in good standing in his or her home state;

(2) the person has submitted the proper request for a license and has paid the fees required by Section 500-135;

(3) the person has submitted or transmitted to the Director the application for a license that the person submitted to his or her home state or, instead of that application, a completed Uniform Application; and

(4) the person's home state awards nonresident producer licenses to residents of this State on the same basis.

(b) The Director may verify the producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners or its affiliates or subsidiaries or by obtaining certification from the public official having supervision of insurance in the applicant's state of residence that the applicant has passed the written examination for the class of insurance applied for.

(c) A nonresident producer who moves from one state to another state or a resident producer who moves from this State to another state must file a change of address and

provide certification from the new resident state within 30 days after the change of legal residence. No fee or license application is required.

(d) Notwithstanding any other provision of this Article, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license pursuant to subsection (a) of this Section. Except as provided in subsection (a), nothing in this Section supersedes any provision of Section 445 of this Code.

(e) Notwithstanding any other provision of this Article, a person licensed as a limited lines producer in his or her home state shall receive a nonresident limited lines producer license, pursuant to subsection (a) of this Section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited line insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to items (1) through (5) of subsection (a) of Section 500-35.

(215 ILCS 5/500-45 new)

Sec. 500-45. Exemption from examination.

(a) An individual who applies for an insurance producer license in this State who was previously licensed for the same lines of authority in another state shall not be required to complete any pre-licensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days after the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records, maintained by the National

Association of Insurance Commissioners, its affiliates, or subsidiaries indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) A person licensed as an insurance producer in another state who moves to this State must make application within 90 days after establishing legal residence to become a resident licensee pursuant to Section 500-30. A pre-licensing education or examination is not required of that person to obtain any line of authority previously held in the prior state except when the Director determines otherwise by rule.

(215 ILCS 5/500-50 new)

Sec. 500-50. Insurance producers; examination statistics.

(a) The use of examinations for the purpose of determining qualifications of persons to be licensed as insurance producers has a direct and far-reaching effect on persons seeking those licenses, on insurance companies, and on the public. It is in the public interest and it will further the public welfare to insure that examinations for licensing do not have the effect of unlawfully discriminating against applicants for licensing as insurance producers on the basis of race, color, national origin, or sex.

(b) As used in this Section, the following words have the meanings given in this subsection.

Examination. "Examination" means the examination in each line of insurance administered pursuant to Section 500-30.

Examinee. "Examinee" means a person who takes an examination.

Part. "Part" means a portion of an examination for which a score is calculated.

Operational item. "Operational item" means a test question considered in determining an examinee's score.

Test form. "Test form" means the test booklet or

instrument used for a part of an examination.

Pretest item. "Pretest item" means a prospective test question that is included in a test form in order to assess its performance, but is not considered in determining an examinee's score.

Minority group or examinees. "Minority group" or "minority examinees" means African American, American Indian, Asian, and Hispanic examinees.

Correct-answer rate. "Correct-answer rate" for an item means the number of examinees who provided the correct answer on an item divided by the number of examinees who answered the item.

Correlation. "Correlation" means a statistical measure of the relationship between performance on an item and performance on a part of the examination.

(c) The Director shall ask each examinee to self-report on a voluntary basis on the answer sheet, application form, or by other appropriate means, the following information:

(1) race or ethnicity (African American; white; American Indian; Asian; Hispanic; or other);

(2) education (8th grade or less; less than 12th grade; high school diploma or G.E.D.; some college, but no 4-year degree; or 4-year degree or more); and

(3) gender (male or female).

The Director must advise all examinees that they are not required to provide this information, that they will not be penalized for not doing so, and that the Director will use the information provided exclusively for research and statistical purposes and to improve the quality and fairness of the examinations.

(d) No later than May 1 of each year, the Director must prepare, publicly announce, and publish an Examination Report of summary statistical information relating to each examination administered during the preceding calendar year.

Each Examination Report shall show with respect to each examination:

(1) For all examinees combined and separately by race or ethnicity, by educational level, by gender, by educational level within race or ethnicity, by education level within gender, and by race or ethnicity within gender:

(A) number of examinees;

(B) percentage and number of examinees who passed each part;

(C) percentage and number of examinees who passed all parts;

(D) mean scaled scores on each part; and

(E) standard deviation of scaled scores on each part.

(2) For male examinees, female examinees, African American examinees, white examinees, American Indian examinees, Asian examinees, and Hispanic examinees, respectively, with a high school diploma or G.E.D., the distribution of scaled scores on each part.

No later than May 1 of each year, the Director must prepare and make available on request an Item Report of summary statistical information relating to each operational item on each test form administered during the preceding calendar year. The Item Report shall show, for each operational item, for all examinees combined and separately for African American examinees, white examinees, American Indian examinees, Asian examinees, Hispanic examinees, and other examinees, the correct-answer rates and correlations.

The Director is not required to report separate statistical information for any group or subgroup comprising fewer than 50 examinees.

(e) The Director must obtain a regular analysis of the data collected under this Section, and any other relevant

information, for purposes of the development of new test forms. The analysis shall continue the implementation of the item selection methodology as recommended in the Final Report of the Illinois Insurance Producer's Licensing Examination Advisory Committee dated November 19, 1991, and filed with the Department unless some other methodology is determined by the Director to be as effective in minimizing differences between white and minority examinee pass-fail rates.

(f) The Director has the discretion to set cutoff scores for the examinations, provided that scaled scores on test forms administered after July 1, 1993, shall be made comparable to scaled scores on test forms administered in 1991 by use of professionally acceptable methods so as to minimize changes in passing rates related to the presence or absence of or changes in equating or scaling equations or methods or content outlines. Each calendar year, the scaled cutoff score for each part of each examination shall fluctuate by no more than the standard error of measurement from the scaled cutoff score employed during the preceding year.

(g) No later than May 1, 2003 and no later than May 1 of every fourth year thereafter, the Director must release to the public and make generally available one representative test form and set of answer keys for each part of each examination.

(h) The Director must maintain, for a period of 3 years after they are prepared or used, all registration forms, test forms, answer sheets, operational items and pretest items, item analyses, and other statistical analyses relating to the examinations. All personal identifying information regarding examinees and the content of test items must be maintained confidentially as necessary for purposes of protecting the personal privacy of examinees and the maintenance of test security.

(i) In administering the examinations, the Director must make such accommodations for disabled examinees as are reasonably warranted by the particular disability involved, including the provision of additional time if necessary to complete an examination or special assistance in taking an examination.

(215 ILCS 5/500-55 new)

Sec. 500-55. Assumed names. An insurance producer doing business under any name other than the producer's legal name must notify the Director before using the assumed name.

(215 ILCS 5/500-60 new)

Sec. 500-60. Temporary licensing.

(a) The Director may issue a temporary insurance producer license for a period not to exceed 180 days and, at the discretion of the Director, may renew the temporary producer license for an additional 180 days without requiring an examination if the Director deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(1) to the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

(2) to a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license; or

(3) to the designee of a licensed insurance

producer entering active service in the armed forces of the United States of America.

(b) The Director may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The Director may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The Director may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

(c) Before any temporary insurance producer license is issued, there must be filed with the Director a written application by the person desiring the license in the form, with the supplements, and containing the information that the Director requires. License fees, as provided for in Section 500-135, must be paid upon the issuance of the original temporary insurance producer license, but not for any renewal thereof.

(215 ILCS 5/500-65 new)

Sec. 500-65. Temporary insurance producer license for an applicant.

(a) The Director may grant a temporary insurance producer license to an applicant for an insurance producer license, without requiring an examination, for a period of 90 days, when the applicant otherwise meets the requirements of this Article. During that 90-day period, the applicant must be enrolled in a training course or training program conducted by or on behalf of the appointing insurance company and be in the process of fulfilling the pre-licensing requirements of Sections 500-25 and 500-30.

(b) An individual applicant may not hold more than one temporary insurance producer license during his or her lifetime.

(c) The Director may refuse to grant temporary insurance producer licenses to applicants from an insurance company when during a 6-month period more than 50% of that company's temporary insurance producer license holders have failed to obtain insurance producer licenses prior to the expiration of their temporary insurance producer licenses.

(d) Before the Director approves any temporary insurance producer license, the insurance company requesting the license must file with the Director an application and the fee required by Section 500-135. The application must be made on the form and in the manner the Director requires.

(215 ILCS 5/500-70 new)

Sec. 500-70. License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) violating any insurance laws, or violating any rule, subpoena, or order of the Director or of another state's insurance commissioner;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for

insurance;

(6) having been convicted of a felony; 1244

(7) having admitted or been found to have committed 1246
any insurance unfair trade practice or fraud; 1247

(8) using fraudulent, coercive, or dishonest 1249
practices, or demonstrating incompetence, 1250
untrustworthiness or financial irresponsibility in the
conduct of business in this State or elsewhere; 1252

(9) having an insurance producer license, or its 1255
equivalent, denied, suspended, or revoked in any other 1256
state, province, district or territory;

(10) forging a name to an application for insurance 1258
or to a document related to an insurance transaction; 1261

(11) improperly using notes or any other reference 1263
material to complete an examination for an insurance 1264
license;

(12) knowingly accepting insurance business from an 1266
individual who is not licensed; 1267

(13) failing to comply with an administrative or 1269
court order imposing a child support obligation; 1271

(14) failing to pay state income tax or penalty or 1273
interest or comply with any administrative or court order 1275
directing payment of state income tax or failed to file a 1276
return or to pay any final assessment of any tax due to 1277
the Department of Revenue; or 1278

(15) failing to make satisfactory repayment to the 1280
Illinois Student Assistance Commission for a delinquent 1282
or defaulted student loan.

(b) If the action by the Director is to nonrenew, 1284
suspend, or revoke a license or to deny an application for a 1286
license, the Director shall notify the applicant or licensee 1287
and advise, in writing, the applicant or licensee of the 1288
reason for the suspension, revocation, denial or nonrenewal 1290
of the applicant's or licensee's license. The applicant or

licensee may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to 50 Ill. Adm. Code 2402.

(c) The license of a business entity may be suspended, revoked, or refused if the Director finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership, corporation, limited liability company, or limited liability partnership and the violation was neither reported to the Director nor corrective action taken.

(d) In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil penalty of up to $5,000 for each cause for denial, suspension, or revocation, however, the civil penalty may total no more than $20,000.

(e) The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Code or rules even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a license, the licensee or other person having possession or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify interested insurance companies and other persons.

(g) A person whose license is revoked or whose

application is denied pursuant to this Section is ineligible to apply for any license for 3 years after the revocation or denial. A person whose license as an insurance producer has been revoked, suspended, or denied may not be employed, contracted, or engaged in any insurance related capacity during the time the revocation, suspension, or denial is in effect.

(215 ILCS 5/500-75 new)

Sec. 500-75. Disclosure. A policy the solicitation of which involves an insurance producer, limited insurance representative, or temporary insurance producer must identify the name of the producer, representative, or firm. An individual life or accident and health application and a master policy application for life or accident and health group coverages must bear the name and signature of the licensee who solicited and wrote the application.

(215 ILCS 5/500-80 new)

Sec. 500-80. Commissions.

(a) An insurer or insurance producer may not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed at the time of selling, soliciting, or negotiating the insurance.

(b) A person may not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed.

(c) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in

this State if the person was required to be licensed under this Article at the time of the sale, solicitation, or negotiation and was so licensed at that time. 1381

(d) An insurer or insurance producer may pay or assign commissions, service fees, brokerages, or other valuable consideration to an insurance agency or to persons who do not sell, solicit, or negotiate insurance in this State, unless the payment would violate Section 151 of this Code. 1383 1385 1386 1387 1389

(e) Except as to commissions deductible from premiums on insurance policies or contracts for insurance, an insurance producer or business entity does not have any right to compensation from an insured or prospective insured for or on account of the transaction of insurance business unless the right to compensation is stated on a separate written memorandum that clearly specifies the amount or extent of the service fee and that is provided to the applicant or insured before the performance of the service or the issuance of the policy, whichever is first. A copy of the memorandum must be maintained by any producer who collects or receives the service fee or any portion of the service fee. If the compensation or service fee exceeds 10% of the premium amount or potential premium amount of the contract or policy, the memorandum shall include the signature of the insured or prospective insured acknowledging the compensation or service fee. 1392 1393 1394 1395 1397 1398 1400 1401 1403 1404 1405 1408 1410 1411 1412

(f) Any compensation or service fee received on a contract or policy that is later canceled, within the first half of the contract or policy period, for any reason must be returned to the insured by the insurance producer or business entity at a prorated amount. The prorated amount shall be based on the length of the term of the policy or contract compared to the time that contract or policy was in force such that the amount returned reflects the portion of the term of the contract or policy during which the contract was 1414 1415 1416 1418 1419 1420 1421 1422

not in force. There shall be no compensation or service fee assessed or received on a contract or policy by the insurance producer or business entity for processing such cancellation.

(215 ILCS 5/500-85 new)

Sec. 500-85. Notification of termination; immunity; confidentiality.

(a) An insurer or authorized representative of an insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer must notify the Director within 30 days following the effective date of the termination, using a format prescribed by the Director, if the reason for termination is one of the reasons set forth in Section 500-70 or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 500-70. Upon written request by the Director, the insurer must provide additional information, documents, records, or other data pertaining to the termination or activity of the producer.

(b) The insurer or the authorized representative of the insurer must promptly notify the Director in a format acceptable to the Director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Director in accordance with subsection (a) had the insurer then known of its existence.

(c) Within 15 days after making the notification required by subsections (a) and (b), the insurer must mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any of the reasons listed in Section 500-70, the insurer must provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt

requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

Within 30 days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the Director. The producer must, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the Director's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under this Code.

(d) There shall be no liability on the part of, nor shall a cause of action of any nature arise against, an insurer, the authorized representative of the insurer, a producer, the Director, or an organization of which the Director is a member for any information, documents, records, or statements provided pursuant to this Section.

(e) An insurer, the authorized representative of the insurer, or a producer that fails to report as required under the provisions of this Section or that is found to have reported with malicious intent by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be subjected to a civil penalty.

(215 ILCS 5/500-90 new)

Sec. 500-90. Reciprocity.

(a) The Director shall waive any requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by Section 500-40 of this Article, if the applicant's home state awards nonresident licenses to residents of this State on the same basis.

(b) A nonresident producer's satisfaction of his or her

home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the non-resident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this State on the same basis.

(215 ILCS 5/500-95 new)

Sec. 500-95. Reporting of actions. An individual who, while licensed as an insurance producer, is convicted of a felony, must report the conviction to the Director within 30 days after the entry date of the judgment. Within that 30-day period, the individual must also provide the Director with a copy of the judgment, the probation or commitment order, and any other relevant documents.

(215 ILCS 5/500-100 new)

Sec. 500-100. Limited lines producer license.

(a) An individual who is at least 18 years of age and whom the Director considers to be competent, trustworthy, and of good business reputation may obtain a limited lines producer license for one or more of the following classes:

(1) insurance on baggage or limited travel health, accident, or trip cancellation insurance sold in connection with transportation provided by a common carrier;

(2) industrial life insurance, as defined in Section 228 of this Code;

(3) industrial accident and health insurance, as defined in Section 368 of this Code;

(4) insurance issued by a company organized under the Farm Mutual Insurance Company Act of 1986;

(5) legal expense insurance;

(6) enrollment of recipients of public aid or

medicare in a health maintenance organization; 1554

(7) a limited health care plan issued by an 1556
organization having a certificate of authority under the 1558
Limited Health Service Organization Act.

(b) The application for a limited lines producer license 1560
must be submitted on a form prescribed by the Director by a 1562
designee of the insurance company, health maintenance 1563
organization, or limited health service organization 1564
appointing the limited insurance representative. The 1566
insurance company, health maintenance organization, or
limited health service organization must pay the fee required 1568
by Section 500-135.

(c) A limited lines producer may represent more than one 1570
insurance company, health maintenance organization, or 1572
limited health service organization.

(d) An applicant who has met the requirements of this 1574
Section shall be issued a perpetual limited lines producer 1576
license.

(e) A limited lines producer license shall remain in 1578
effect as long as the appointing insurance company pays the 1580
respective fee required by Section 500-135 prior to January 1 1581
of each year, unless the license is revoked or suspended 1582
pursuant to Section 500-70. Failure of the insurance company 1584
to pay the license fee or to submit the required documents
shall cause immediate termination of the limited line 1586
insurance producer license with respect to which the failure 1588
occurs.

(f) A limited lines producer license may be terminated 1590
by the insurance company or the licensee. 1592

(g) A person whom the Director considers to be 1594
competent, trustworthy, and of good business reputation may 1597
be issued a car rental limited line license. A car rental 1598
limited line license for a rental company shall remain in 1599
effect as long as the car rental limited line licensee pays 1601

the respective fee required by Section 500-135 prior to the next fee date unless the car rental license is revoked or suspended pursuant to Section 500-70. Failure of the car rental limited line licensee to pay the license fee or to submit the required documents shall cause immediate suspension of the car rental limited line license. A car rental limited line license for rental companies may be voluntarily terminated by the car rental limited line licensee. The license fee shall not be refunded upon termination of the car rental limited line license by the car rental limited line licensee.

(h) A limited lines producer issued a license pursuant to this Section is not subject to the requirements of Section 500-30.

(i) A limited lines producer license must contain the name, address and personal identification number of the licensee, the date the license was issued, general conditions relative to the license's expiration or termination, and any other information the Director considers proper. A limited line producer license, if applicable, must also contain the name and address of the appointing insurance company.

(215 ILCS 5/500-105 new)

Sec. 500-105. Car rental limited line license for rental companies.

(a) A rental company must obtain a producer license or obtain a car rental limited line license before offering or selling insurance in connection with and incidental to the rental of vehicles. The sale of the insurance may occur at the rental office or by preselection of coverage in a master, corporate, group rental, or individual agreement. The following general categories of coverage may be offered or sold:

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(1) personal accident insurance covering the risks of travel including, but not limited to, accident and health insurance that provides coverage, as applicable, to renters and other rental vehicle occupants for accidental death or dismemberment and reimbursement for medical expenses resulting from an accident that occurs during the rental period;

(2) liability insurance, including uninsured and underinsured motorist coverage, that provides coverage, as applicable, to renters and other authorized drivers of rental vehicles for liability arising from the operation of the rental vehicle;

(3) personal effects insurance that provides coverage, as applicable, to renters and other vehicle occupants for the loss of, or damage to, personal effects that occurs during the rental period;

(4) roadside assistance and emergency sickness protection programs; and

(5) any other travel or auto-related coverage that a rental company offers in connection with and incidental to the rental of vehicles.

(b) Insurance may not be offered by a car rental limited line producer pursuant to this Section unless:

(1) the rental company has applied for and obtained a car rental limited line license;

(2) the rental period of the rental agreement does not exceed 30 consecutive days;

(3) at every rental location where rental agreements are executed, brochures or other written materials are readily available to the prospective renter that:

(A) summarize clearly and correctly, the material terms of coverage offered to renters, including the identity of the insurer;

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(B) disclose that the coverage offered by the rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;

(C) state that the purchase by the renter of the kinds of coverage specified in this Section is not required in order to rent a vehicle; and

(D) describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and

(4) evidence of coverage in the rental agreement is disclosed to every renter who elects to purchase such coverage.

(c) Car rental company franchisees must apply for a car rental limited line license independent of the franchisor if insurance provided pursuant to this Section is offered by the franchisee.

(d) A car rental limited line license issued under this Section shall also authorize any employee of the car rental limited line licensee to act individually on behalf and under the supervision of the car rental limited line licensee with respect to the kinds of coverage specified in this Section.

(e) A rental company licensed pursuant to this Section must conduct a training program in which employees being trained shall receive basic instruction about the kinds of coverage specified in this Section and offered for purchase by prospective renters of rental vehicles.

(f) Notwithstanding any other provision of this Section or any rule adopted by the Director, a car rental limited line producer pursuant to this Section is not required to treat moneys collected from renters purchasing insurance when renting vehicles as funds received in a fiduciary capacity,

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provided that the charges for coverage shall be itemized and be ancillary to a rental transaction.

(g) The sale of insurance not in conjunction with a rental transaction shall not be permitted.

(h) A car rental limited line producer under this Section may not advertise, represent, or otherwise hold itself or any of its employees out as licensed insurers, insurance producers, insurance agents, or insurance brokers.

(i) Direct commissions may not be paid to rental car company employees by the insurer or the customer purchasing insurance products. The rental car company may include insurance products in an overall employee performance compensation incentive program.

(j) An application for a car rental limited line license must be made on a form specified by the Director.

(215 ILCS 5/500-110 new)

Sec. 500-110. Regulatory examinations.

(a) The Director may examine any applicant for or holder of an insurance producer license, limited line producer license or temporary insurance producer license or any business entity.

(b) All persons being examined, as well as their officers, directors, insurance producers, limited lines producers, and temporary insurance producers must provide to the Director convenient and free access, at all reasonable hours at their offices, to all books, records, documents, and other papers relating to the persons' insurance business affairs. The officers, directors, insurance producers, limited lines producers, temporary insurance producers, and employees must facilitate and aid the Director in the examinations as much as it is in their power to do so.

(c) The Director may designate an examiner or examiners to conduct any examination under this Section. The Director

or his or her designee may administer oaths and examine under oath any individual relative to the business of the person being examined.

(d) The examiners designated by the Director under this Section may make reports to the Director. A report alleging substantive violations of this Article or any rules prescribed by the Director must be in writing and be based upon facts ascertained from the books, records, documents, papers, and other evidence obtained by the examiners or from sworn or affirmed testimony of or written affidavits from the person's officers, directors, insurance producers, limited lines producer, temporary insurance producers, or employees or other individuals, as given to the examiners. The report of an examination must be verified by the examiners.

(e) If a report is made, the Director must either deliver a duplicate of the report to the person being examined or send the duplicate by certified or registered mail to the person's address of record. The Director shall afford the person an opportunity to demand a hearing with reference to the facts and other evidence contained in the report. The person may request a hearing within 14 calendar days after he or she receives the duplicate of the examination report by giving the Director written notice of that request, together with a written statement of the person's objections to the report. The Director must, if requested to do so, conduct a hearing in accordance with Sections 402 and 403 of this Code. The Director must issue a written order based upon the examination report and upon the hearing, if a hearing is held, within 90 days after the report is filed, or within 90 days after the hearing if a hearing is held. If the report is refused or otherwise undeliverable, or a hearing is not requested in a timely fashion, the right to a hearing is waived. After the hearing

or the expiration of the time period in which a person may request a hearing, if the examination reveals that the person is operating in violation of any law, rule, or prior order, the Director in the written order may require the person to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. The order is subject to review under the Administrative Review Law.

(f) The Director may adopt reasonable rules to further the purposes of this Section.

(g) A person who violates or aids and abets any violation of a written order issued under this Section shall be guilty of a business offense and his or her license may be revoked or suspended pursuant to Section 500-70 of this Article and he or she may be subjected to a civil penalty of not more than $10,000.

(215 ILCS 5/500-115 new)

Sec. 500-115. Financial responsibilities.

(a) Any money that an insurance producer, limited line producer, temporary insurance producer, business entity, or surplus line producer receives for soliciting, negotiating, effecting, procuring, renewing, continuing, or binding policies of insurance shall be held in a fiduciary capacity and shall not be misappropriated, converted, or improperly withheld. An insurance company that delivers to any insurance producer in this State a policy or contract for insurance pursuant to the application or request of an insurance producer, authorizes the producer to collect or receive on its behalf payment of any premium that is due on the policy or contract for insurance at the time of its issuance or delivery and any premium that becomes due on the policy or contract not more than 90 days thereafter.

(b) An insurer that issues a policy of insurance shall

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be deemed to have received payment of the premium if the insured paid any insurance producer requesting the coverage. The insurer shall be responsible to the insured for any return premium.

(c) In the case of open accounts receivable with the balance payable to an insurance producer within a specified period of 90 days or less, where the balance is not fully paid within that period, a late charge not exceeding 1.5% per month may be added by the insurance producer to the unpaid balance to induce payment of the premium.

(d) If an insurance producer or surplus line producer knowingly misappropriates or converts to his or her own use or illegally withholds fiduciary moneys in the amount of $150 or less, he or she is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for subsequent conversions, misappropriations, and withholdings of that nature. If an insurance producer or surplus line producer knowingly misappropriates or converts to his or her own use or illegally withholds premiums in excess of $150, he or she is guilty of a Class 3 felony.

(215 ILCS 5/500-120 new)

Sec. 500-120. Conflicts of interest; inactive status.

(a) A person, partnership, association, or corporation licensed by the Department who, due to employment with any unit of government that would cause a conflict of interest with the holding of that license, notifies the Director in writing on forms prescribed by the Department and, subject to rules of the Department, makes payment of applicable licensing renewal fees, may elect to place the license on an inactive status.

(b) A licensee whose license is on inactive status may have the license restored by making application to the Department on such form as may be prescribed by the

Department. The application must be accompanied with a fee of $50 plus the current applicable license fee.

(c) A license may be placed on inactive status for a 2-year period, and upon request, the inactive status may be extended for a successive 2-year period not to exceed a cumulative 4-year inactive period. After a license has been on inactive status for 4 years or more, the licensee must meet all of the standards required of a new applicant before the license may be restored to active status.

(d) If requests for inactive status are not renewed as set forth in subsection (c), the license will be taken off the inactive status and the license will lapse immediately.

(215 ILCS 5/500-125 new)

Sec. 500-125. Controlled business.

(a) An insurance producer license may not be granted or extended to any person if the Director has reasonable cause to believe:

(1) that during either of the 2 calendar years immediately preceding the extension date of the license the aggregate amount of premiums on insurance represented by controlled business exceeded the aggregate amount of premiums on all other insurance business of the licensee; or

(2) that during the 12-month period immediately following the issuance or extension of the license, if so issued or extended, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee.

(b) Controlled business means insurance procured or to be procured by or through the person upon:

(1) his own life, person, property or risks, or those of his spouse; or

(2) the life, person, property, or risks of his employer or his own business.

(215 ILCS 5/500-130 new)

Sec. 500-130. Bond required of insurance producers.

(a) An insurance producer who places insurance either directly or indirectly with an insurer with which the insurance producer does not have an agent contact must maintain in force while licensed a bond in favor of the people of the State of Illinois executed by an authorized surety company and payable to any party injured under the terms of the bond. The bond shall be continuous in form and in the amount of $2,500 or 5% of the premiums brokered in the previous calendar year, whichever is greater, but not to exceed $50,000 total aggregate liability. The bond shall be conditioned upon full accounting and due payment to the person or company entitled thereto, of funds coming into the insurance producer's possession as an incident to insurance transactions under the license or surplus line insurance transactions under the license as a surplus line producer.

(b) Authorized insurance producers of a business entity may meet the requirements of this Section with a bond in the name of the business entity, continuous in form, and in the amounts set forth in subsection (a) of this Section. Insurance producers may meet the requirements of this Section with a bond in the name of an association. An individual producer remains responsible for assuring that a producer bond is in effect and is for the correct amount. The association must have been in existence for 5 years, have common membership, and been formed for a purpose other than obtaining a bond.

(c) The surety may cancel the bond and be released from further liability thereunder upon 30 days' written notice in advance to the principal. The cancellation does not affect

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any liability incurred or accrued under the bond before the termination of the 30-day period.

(d) The producer's license may be revoked if the producer acts without a bond that is required under this Section.

(e) If a party injured under the terms of the bond requests the producer to provide the name of the surety and the bond number, the producer must provide the information within 3 working days after receiving the request.

(f) An association may meet the requirements of this Section for all of its members with a bond in the name of the association that is continuous in form and in the amounts set forth in subsection (a) of this Section.

(215 ILCS 5/500-135 new)

Sec. 500-135. Fees.

(a) The fees required by this Article are as follows:

(1) a fee of $150 payable once every 2 years for an insurance producer license;

(2) a fee of $25 for the issuance of a temporary insurance producer license;

(3) a fee of $50 payable once every 2 years for a business entity;

(4) an annual $25 fee for a limited line producer license issued under items (1) through (7) of subsection (a) of Section 500-100;

(5) a $25 application fee for the processing of a request to take the written examination for an insurance producer license;

(6) an annual registration fee of $500 for registration of an education provider;

(7) a certification fee of $25 for each certified pre-licensing or continuing education course and an annual fee of $10 for renewing the certification of each

such course;

(8) a fee of $50 payable once every 2 years for a car rental limited line license;

(9) a fee of $150 payable once every 2 years for a limited lines license other than the licenses issued under items (1) through (7) of subsection (a) of Section 500-100 or a car rental limited line license.

(b) Except as otherwise provided, all fees paid to and collected by the Director under this Section 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 moneys deposited into the Insurance Producer Administration Fund may be used only for payment of the expenses of the Department in the execution, administration, and enforcement of the insurance laws of this State, and shall be appropriated as otherwise provided by law for the payment of those expenses with first priority being any expenses incident to or associated with the administration and enforcement of this Article.

(215 ILCS 5/500-140 new)

Sec. 500-140. Injunctive relief. A person required to be licensed under this Article but failing to obtain a valid and current license under this Article constitutes a public nuisance. The Director may report the failure to obtain a license to the Attorney General, whose duty it is to apply forthwith by complaint on relation of the Director in the name of the people of the State of Illinois, for injunctive relief in the circuit court of the county where the failure to obtain a license occurred to enjoin that person from failing to obtain a license. Upon the filing of a verified petition in the court, the court, if satisfied by affidavit or otherwise that the person is required to have a license

and does not have a valid and current license, may enter a temporary restraining order without notice or bond, enjoining the defendant from acting in any capacity that requires such license. A copy of the verified complaint shall be served upon the defendant, and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been, or is engaged in any unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further engaging in such practice. In all proceedings brought under this Section, the court, in its discretion, may apportion the costs among the parties, including the cost of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorney fees. In case of the violation of any injunctive order entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. The injunctive relief available under this Section is in addition to and not in lieu of all other penalties and remedies provided in this Code.

(215 ILCS 5/500-145 new)

Sec. 500-145. Rules. The Director may, in accordance with Section 401 of this Code, promulgate reasonable rules as are necessary or proper to carry out the purposes of this Article.

(215 ILCS 5/500-150 new)

Sec. 500-150. Severability. The provisions of this Article are severable under Section 1.31 of the Statute on Statutes.

(215 ILCS 5/490.1 rep.)

(215 ILCS 5/491.1 rep.)

(215 ILCS 5/492.2 rep.)

(215 ILCS 5/493.2 rep.)

(215 ILCS 5/494.1 rep.)

(215 ILCS 5/494.2 rep.)

(215 ILCS 5/495.1 rep.)

(215 ILCS 5/495.2 rep.)

(215 ILCS 5/496.2 rep.)

(215 ILCS 5/497.1 rep.)

(215 ILCS 5/498.1 rep.)

(215 ILCS 5/499.1 rep.)

(215 ILCS 5/500.1 rep.)

(215 ILCS 5/501.2 rep.)

(215 ILCS 5/502.2 rep.)

(215 ILCS 5/503.1 rep.)

(215 ILCS 5/504 rep.)

(215 ILCS 5/504.1 rep.)

(215 ILCS 5/505.1 rep.)

(215 ILCS 5/505.2 rep.)

(215 ILCS 5/506.1 rep.)

(215 ILCS 5/507.1 rep.)

(215 ILCS 5/508.1 rep.)

(215 ILCS 5/508.2 rep.)

(215 ILCS 5/509.1 rep.)

(215 ILCS 5/510.2 rep.)

(215 ILCS 5/511.1 rep.)

Section 10. The Illinois Insurance Code is amended by repealing Sections 490.1, 491.1, 492.2, 493.2, 494.1, 494.2, 495.1, 495.2, 496.2, 497.1, 498.1, 499.1, 500.1, 501.2, 502.2, 503.1, 504, 504.1, 505.1, 505.2, 506.1, 507.1, 508.1, 508.2, 509.1, 510.2, and 511.1.

Section 99. Effective date. This Act takes effect January 1, 2002.

APPROVED

this 16th day of August, 2001 A.D.,

Michael J. Madigan
Speaker, House of Representatives

George H Ryan

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