

ARTICLE VI. FOREIGN OR ALIEN COMPANIES (215 ILCS 5/108-215 ILCS 5/120)

Sec. 108. Companies that may be admitted to do business.

- (1) Upon complying with the provisions of this article, a foreign or alien company organized as a stock company, mutual company, reciprocal, Lloyds or fraternal benefit society may be admitted to transact in this State the kind or kinds of business which a domestic company similarly organized may be authorized to transact under this Code. Any certificate of authority issued to an alien Lloyds shall be subject to all of the provisions of section 103.
- (2) No foreign or alien mutual benefit society or burial society shall hereafter be admitted to transact business in this State.
- (3) No foreign or alien company shall transact in this State any insurance business not classified under Section 4.

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

Sec. 109. Application for certificate of authority.

- (1) A foreign or alien company in order to procure a certificate of authority to transact business in this State shall make application therefore to the Director. The application shall set forth:
 - a. the name of the company, and the state or country under the laws of which it is organized or authorized;
 - b. the title of the Act under or by which it was incorporated or organized, the date of its incorporation or organization and, if a corporation, the period of its duration;
 - c. the class or classes of insurance business, as provided in Section 4, in which it proposes to engage in this State, and the kinds of insurances in each class it proposes to write in this State;
 - d. if a life company, that it is not engaged in any state in practices which, if engaged in in this State, would constitute a violation of Section 237;
 - e. whether or not it was authorized to transact business in this State during any part of the 3 year period prior to its application and, if so, for what period;
 - f. whether or not it survives or was formed by a merger, consolidation, reorganization, or reincorporation effected within 3 years prior to its application and, if so, whether and for what period or periods any of the companies that are parties to the merger, consolidation, reorganization, or reincorporation were authorized to transact business in this State within the 3 year period prior to its application; and
 - g. such additional information as the Director may require to enable the Director to determine whether the company is entitled to a certificate of authority to transact business in this State and to determine and assess the taxes, fees and charges payable as in this Code prescribed.

- (2) Such application shall be made on forms prescribed and furnished by the Director and shall be executed by the company by its president or a vice-president or executive officer corresponding thereto, and verified by such officer, and if a corporation, the corporate seal shall be thereto affixed, attested by its secretary or other proper officer.

(Source: 90-655, eff. 7-30-98.)

Sec. 110. Delivery to director of application and documents.

There shall be delivered to the Director

- a. the application of the company for a certificate of authority;
- b. a copy of its articles of incorporation or articles of association as amended, duly certified by the proper officer of the state or country under whose laws the company is organized or incorporated, or if a reciprocal or Lloyds the power of attorney of the attorney-in-fact;
- c. if an alien company, a copy of the appointment and authority of its United States manager, certified by a proper officer of the company;
- d. a copy of its by laws or regulations, and if a fraternal benefit society, a copy of its constitution, certified by its secretary or officer corresponding thereto;
- e. the instrument authorizing service of process on the Director required by section 112;
- f. a statement of its financial condition and business as of the end of the preceding calendar year complying as to form, content and verification with the requirements of this Code for annual statements, or a financial statement as of such later date as the Director may require;
- g. a copy of the last report of examination certified to by an insurance commissioner or other proper supervisory official; and
- h. a certificate from the proper official of the state or country wherein it is incorporated or organized that it is duly incorporated or organized and is authorized to write the kind or kinds of insurance which it proposes to write in this State.

(Source: Laws 1965, p. 422.)

Sec. 111. Conditions of issuance of certificate of authority.

- (1) Before a certificate of authority to transact business in this State is issued to a foreign or alien company, such company shall satisfy the Director that:
 - a. the company is duly organized under the laws of the state or country under whose laws it professes to be organized and authorized to do the business it is transacting or proposes to transact;
 - b. its name is not 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;

- c. if a company transacting business of the kind or kinds enumerated in Class 1 of Section 4, it is not engaging in practices in any state which if engaged in this State, would constitute a violation of Section 237; and it is not transacting any kinds of business other than those enumerated in Class 1 of Section 4;
 - d. if a stock company, it has a paid up capital and surplus at least equal to the capital and original surplus required by this Code for a domestic company doing the same kind or kinds of business or, if a mutual company or reciprocal, it has a surplus and provision for contingent liability of policyholders, at least equal to the original surplus and provision for contingent liability of policyholders required for a similar domestic company doing the same kind or kinds of business, or, if a fraternal benefit society, it meets the requirements prescribed in this Code for the organization of a domestic company or society, or if a Lloyds it meets the requirements of Article V;
 - e. its funds are invested in accordance with the laws of its domicile; and
 - f. in the case of a stock company its minimum capital and surplus and required reserves, or in the case of a mutual company or a reciprocal proposing to issue policies without contingent liability, its minimum surplus and required reserves, or in the case of any other company, all its funds, are invested in securities or property which afford a degree of financial security equal to that required for similar domestic companies, provided that this clause shall not be construed as requiring the application of limitations relating either to the kind or amount of securities prescribed by this Code for the investments of domestic companies.
- (2) In determining whether an alien company complies with the provisions of subsection (1) of this section the Director shall consider only business transacted in the United States, only the assets described in Section 60j and only liabilities in connection with its United States business.
- (3) Before a certificate of authority is issued to a foreign or alien company, other than a Lloyds, it shall deposit with the Director securities which are authorized investments for similar domestic companies under Section 126.11A(1), 126.11A(2), 126.24A(1), or 126.24A(2) of the amount, if any, required of a domestic company similarly organized and doing the same kind or kinds of business; or in lieu of such deposit such foreign or alien company shall satisfy the Director that it has on deposit with an official of a state of the United States or a depository designated or authorized for such purpose by such official, authorized by the law of such state to accept such deposit, securities of at least a like amount, for the benefit and security of all creditors, policyholders and policy obligations of such company.
- (4) Before issuing a certificate of authority to a foreign or alien company, the Director may cause an examination to be made of the condition and affairs of such company.
- (Source: P.A. 90-418, eff. 8-15-97; 90-794, eff. 8-14-98.)

Sec. 112. Service of process - Director as attorney.

- (1) Every foreign or alien company desiring to transact business in this State shall file with the Director a duly executed instrument whereby the company shall appoint and constitute the Director and his successor or successors in office the true and lawful attorney of such company upon whom all lawful process in any action or legal proceeding against it may be served and shall agree that any such lawful process against it which may be served upon its said attorney as provided in this section shall be of the same force and validity as if served upon the company and that the authority thereof shall

continue in force irrevocably so long as any liability of the company in the State shall remain outstanding.

- (2) Process authorized by such instrument or by any similar instrument heretofore executed shall be served by delivering to and leaving with the Director duplicate copies of such process with payment of the fee prescribed by this Code, and the service thereof upon such attorney shall be deemed service upon the company. The Director shall forthwith forward one copy of each such process by certified or registered mail prepaid to the company, or in the case of an alien company, to the United States Manager or last appointed United States general agent of the company, giving the day and the hour of such service. Service of such process shall not be complete until the copy thereof has been so mailed and received by the company, and the certified receipt or registry receipt shall be prima facie evidence of the completion of such service. Service of process on a reciprocal or Lloyds shall be governed by sections 77 and 105 respectively.

(Source: P.A. 83-598.)

Sec. 113. When certificate of authority to issue.

When a foreign or alien company has complied with the requirements of this Article and all other requirements imposed on such company by existing laws and has paid the taxes, fees and charges imposed by law, and the operational history of the company when reviewed in conjunction with its loss experience, the kinds and nature of risks insured, the financial condition of the company and its ownership and the ratio of annual premium volume to incurred acquisition expenses and to its policyholders' surplus indicates a condition such that the expanded operation of the company in this State will not create a condition which might be hazardous to its policyholders, creditors or the general public, the Director must file in his office the documents delivered to him and must issue to the company a certificate of authority to transact in this State the kind or kinds of business specified therein. Such certificate shall expire on the 30th day of June of the calendar year succeeding the calendar year in which such certificate is issued.

(Source: P. A. 77-1513.)

Sec. 113.1. Effect of Acceptance of Certificate of Authority.

- (1) No foreign or alien company which accepts a certificate of authority or renewal certificate of authority to transact in this State any insurance business as described in Section 4 of this Code shall transfer by sale, contribution, merger, consolidation, reinsurance or otherwise, its direct policy obligations under insurance contracts with Illinois policyholders unless:
 - a. the transfer is made to a company authorized to transact in this State the type of insurance business transferred; or
 - b. the transferring company gives 30 days prior written notice to each policyholder to be transferred stating that the insurance contract and the company's liabilities thereunder are to be transferred to a specified insurer which is not subject to regulation by the Illinois Insurance Department or the administrative requirements of the Illinois Insurance Code; and
 - c. the unauthorized company to which the insurance business is to be transferred makes and maintains a special deposit with the Director for the protection and benefit of all Illinois policyholders of such unauthorized company, in assets acceptable to the Director and having a fair market value not less than the required statutory reserves for the Illinois insurance business to be transferred.

- (2) Any and all transfers resulting in the violation of this Section shall be construed as a violation of all applicable provisions of Article VII of this Code; including, but not limited to, Section 121 4 providing for liability to insureds for claims or insured losses not honored by the unauthorized insurer.
- (3) Unless permitted by and obtained in compliance with this Section, or specifically authorized by another provision of this Code, it shall be unlawful for any unauthorized company to obtain as direct insurer any insurance contracts written in this State.

(Source: P.A. 86-753.)

Sec. 114. Renewal of certificate of authority.

- (1) The Director shall renew for one year the certificate of authority of a foreign or alien company on the first day of July of the calendar year following the calendar year in which it is admitted to transact business in this State and annually thereafter, without application by the company, upon payment of the annual privilege tax imposed by this Code, if any, provided the Director is satisfied that
 - a. none of the facts specified in this article as grounds for revoking a certificate of authority exists; and
 - b. the company is complying with the conditions for admission in respect to capital, contingent liability, the investment of its assets or the maintenance of deposits in this or another state and maintains the surplus which similar domestic companies transacting the same kind or kinds of business are required to maintain.
- (2) Except in case of nonpayment of taxes, the Director shall give notice of his intention to refuse to renew the certificate of authority of a foreign or alien company and the grounds therefore at least twenty days before the end of the term for which the existing certificate was issued, and, the company shall be given an opportunity for a hearing before the end of such term.
- (3) In the event that a company admitted to transact business in this State prior to the effective date of this Code has been and is transacting in this State or in any other state or country the kind or kinds of business enumerated in Class 1 of section 4 and in addition thereto any of the kinds of business not enumerated in such class, the Director may for a period of three years renew annually its certificate of authority to transact such kinds of business. At the end of such three year period or at the end of any extended period as herein provided for, the Director may extend the period during which the certificate of authority of such company may be renewed annually, upon a showing by the company at a hearing before the Director that
 - a. it has made reasonable progress in the discontinuance of kinds of business other than those enumerated in Class 1 of section 4; and
 - b. complete and immediate discontinuance of such kinds of business would result in undue loss to the company and the policyholders would suffer materially thereby; or
 - c. there are other reasons for such extension deemed by the Director to be good and sufficient. The extension herein provided for shall be for such period as the Director may deem proper on the showing made, but the total of such extended periods shall not exceed three years.

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

Sec. 115. Amended certificate of authority.

- (1) In the event that a foreign or alien company authorized to transact business in this State changes its name or desires to transact in this State a kind or kinds of business other than those it is then authorized to transact, it shall file with the Director an application for an amended certificate of authority.
- (2) Such application shall comply as to form and manner of execution with the requirements of this article for an original application and shall set forth the name of the company, the respects in which the company desires its certificate of authority amended, and such other information as is necessary or appropriate to enable the Director to determine whether such an amended certificate of authority should be issued.
- (3) The Director shall issue such amended certificate if he is satisfied that
 - a. the company might lawfully be authorized to transact the kind or kinds of business it desires to transact if application for such authority were made in an original application; and
 - b. the conditions provided for in section 111 are complied with.

(Source: Laws 1937, p. 696.)

Sec. 116. Amendments to articles of incorporation.

Whenever the articles of incorporation or articles of association of a foreign or alien company authorized to transact business in this State shall be amended, such company shall, within thirty days after the effective date of such amendment, file with the Director a copy thereof duly authenticated by the proper officer of the state or country under the laws of which such company is organized. The filing of such copy shall not of itself enlarge the authority of the company in the transaction of business in this State, nor authorize such company to transact business in this State under any other name than the name set forth in its certificate of authority.

(Source: Laws 1937, p. 696.)

Sec. 117. Merger or consolidation.

- (1) Whenever a foreign or alien company authorized to transact business in this State shall be the surviving company of a statutory merger permitted by the laws of the state or country under which it is organized, and such merger is not subject to the provisions of Article X; it shall forthwith file with the Director
 - a. copies of the agreement and certificate of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and
 - b. if any of the companies party to such merger were not admitted to transact business in this State, a statement of the financial condition and business of each of such companies, as of the end of the preceding calendar year complying as to form, content and verification with the requirements of this Code for annual statements, or a financial statement as of such later date as the Director may require.
- (2) It shall not be necessary for such surviving company to procure a new certificate of authority to transact business in this State nor an amended certificate unless the name of

such company be changed thereby or unless the company desires to transact in this State a kind or kinds of business other than those which it is then authorized to transact.

- (3) Whenever a foreign or alien company authorized to transact business in this State shall be a party to a statutory merger and such company shall not be the surviving company, or if such foreign or alien company shall be a party to a consolidation, then the certificate of authority of such foreign or alien company shall terminate upon such merger or consolidation, and the surviving company, if not previously authorized to transact business in this State, or the new company, in the case of consolidation, shall be subject to the same requirements for admission to transact business in this State as any other foreign or alien company.

(Source: Laws 1937, p. 696.)

Sec. 118. Withdrawal from the State.

- (1) Any foreign or alien company admitted to do business in this State may withdraw from this State by filing with the Director a statement of withdrawal, signed and verified by a president, vice president or an executive officer corresponding thereto, or in the case of a reciprocal or Lloyds, by the attorney in fact, and setting forth
 - a. that the company surrenders its authority to transact business in this State and returns for cancellation its certificate of authority;
 - b. except in the case of a reciprocal or Lloyds, that the withdrawal of the company from this State has been duly authorized by the board of directors, trustees or other governing body of such company; and
 - c. a post office address to which the Director may mail a copy of any process against the withdrawing company that may be served upon him.
- (2) Upon the filing of such statement together with its certificate of authority with the Director and payment of any taxes or charges that may be due, the Director shall cancel the certificate of authority and return the cancelled certificate to the company. The authority of the company to transact business in this State shall thereupon cease.

(Source: Laws 1937, p. 696.)

Sec. 119. Revocation and suspension of certificate of authority.

- (1) The Director may revoke or suspend the certificate of authority of a foreign or alien company or may by order require such insurance company to pay to the people of the State of Illinois a penalty in a sum not exceeding \$500, and upon the failure of such insurance company to pay such penalty within 20 days after the mailing of such order, postage prepaid, certified or registered, and addressed to the last known place of business of such insurance company, unless such order is stayed by an order of a court of competent jurisdiction, the Director of Insurance may revoke or suspend the license of such insurance company for any period of time up to, but not exceeding a period of, 2 years whenever he finds that such company
 - a. is insolvent;
 - b. fails to comply with the requirements for admission in respect to capital, contingent liability, the investment of its assets or the maintenance of deposits in this or another state or fails to maintain the surplus which similar domestic

companies transacting the same kind or kinds of business are required to maintain;

- c. is in such a financial condition that its further transaction of business in this State would be hazardous to policyholders and creditors in this State and to the public;
 - d. has refused or neglected to pay a valid final judgment against such company within 30 days after the rendition of such judgment;
 - e. has violated any law of this State or has in this State violated its charter or exceeded its corporate powers;
 - f. has refused to submit its books, papers, accounts, records, or affairs to the reasonable inspection or examination of the Director, his actuaries, deputies or examiners;
 - g. has an officer who has refused upon reasonable demand to be examined under oath touching its affairs;
 - h. fails to file its annual statement within 30 days after the date when it is required by law to file such statement;
 - i. fails to file with the Director a copy of an amendment to its charter or articles of association within 30 days after the effective date of such amendment;
 - j. fails to file with the Director copies of the agreement and certificate of merger and the financial statements of the merged companies, if required, within 30 days after the effective date of the merger;
 - k. fails to pay any fees, taxes or charges prescribed by this Code within 30 days after they are due and payable; provided, however, that in case of objection or legal contest the company shall not be required to pay the tax until 30 days after final disposition of the objection or legal contest.
 - l. fails to file any report or reports for the purpose of enabling the Director to compute the taxes to be paid by such company within 30 days after the date when it is required by law to file such report or reports;
 - m. has had its corporate existence dissolved or its certificate of authority revoked in the state in which it was organized; or
 - n. has had all its risks reinsured in their entirety in another company.
- (2) Except for the grounds stated in clauses (a), (c) or (k) of subsection (1) of this section the Director shall not revoke or suspend the certificate of authority of a foreign or alien company until he has given the company at least twenty days' notice of the revocation or suspension and of the grounds therefore and has afforded the company an opportunity for a hearing.

(Source: P.A. 83-598.)

Sec. 120. Withdrawal of deposits.

When a foreign or alien company has withdrawn from this State or has had its certificate of authority to transact business in this State revoked and such company desires to withdraw any deposit made in this State pursuant to this Code, the Director shall upon the application of the

company and at its expense, give notice of such intention to the insurance commissioner or other proper supervisory official of each state or country where it appears from information on file with the Director, the company is authorized to transact business, and shall publish notice of such intention in a newspaper of general circulation in this State once a week for four consecutive weeks. After such notice and publication the Director shall deliver to such company or its assigns the securities so deposited when he is satisfied upon examination and investigation made by him, or under his authority, and upon the oaths of the president and secretary or other chief officers of the company that all debts and liabilities of every kind due and to become due which the deposit was made to secure have been paid or otherwise extinguished.

(Source: Laws 1937, p. 696.)