

ILLINOIS INSURANCE LAW-LIFE

PRESENTED BY

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(An Illinois Certified Provider since 1987)

SUGGESTED METHOD OF STUDY

Success on the law portion of your licensing exam is directly related to your ability to memorize information and to utilize a common sense approach to which behavior is right and which is wrong. The insurance laws of Illinois are in place to protect the consumer from wrongdoing by insurance carriers and the producers who represent them. The test simply is designed to measure whether or not you know certain facts (like dollar amounts of fines and number of days, months years of selected topics) rules, regulations and responsibilities the Illinois Department of Insurance requires of insurance producer.

Illinois insurance law is "Part 2" of your Pearson Vue examination. The number of questions you can expect to receive from each section is detailed as follows:

<i>TOPIC</i>	<i>PAGE NO.</i>	<i>NO. OF QUESTIONS</i>
Contract and Information Overview	2-3	
General Illinois Insurance Law applicable to all lines	4 - 17	22
General Law Quick Reference	18	
Law applicable to Property AND Casualty	19 - 27	5
Law applicable to Property only	28 - 30	3
<u>EXAMINATION TEST TAKING SUGGESTIONS</u>	31	

Therefore, the **TOTAL NUMBER OF QUESTIONS, WHICH COUNT IN SCORING** your test, for THE LIFE law exam is: **22 + 5 + 3 = 30**

You will be given more questions than the total shown above because the testing company, Pearson Vue, is allowed to insert **EXTRA QUESTIONS CALLED "pre-test" questions** into the exams of licensing candidates. There are 8 pretest law questions on the Property exam for Illinois. These extra "pre-test" questions are not identified **AND THEY DO NOT COUNT** as part of your test score. Therefore you must analyze each question seriously, even though some may not count for or against you.

ILLINOIS INSURANCE LAW - REVISED JANUARY 1, 2009

Common To All Lines of Insurance - 22 Total Questions

This section must be studied and mastered in order to pass PART 2 of any Illinois insurance examination. This first section applies to ALL lines of Insurance, whereas any section which follows pertains specifically to an individual line of insurance (i.e., Life, Accident & Health, Property or Casualty). *You must study BOTH these common laws AND the laws specific to the line of insurance for which you wish to obtain a license.*

OVERVIEW: THE NATURE OF A CONTRACT (OF INSURANCE) and TERMINOLOGY

There are Five essential elements of any contract:

- 1.) Need two or more competent parties (BE SANE & LEGAL AGE)
- 2.) Must have offer and acceptance
- 3.) Mutuality of assent (UNDERSTAND WHAT EACH PARTY GETS)
- 4.) Consideration (MONEY OR EXCHANGE OF PROMISES)
- 5.) Legal Purpose (ILLEGAL CONTRACTS ARE NOT ENFORCEABLE)

Types of Contracts - Insurance contracts may have one or more of the following characteristics:

- **Conditional** -- performance by one party is predicated upon the satisfaction of certain conditions first being met by the other party. **The insurance company will perform if the insured has met the condition of timely premium payment.**
- **Aleatory** -- means **unequal consideration** through an element of chance that one party may receive more in value than given. **The premium is less than the company agrees to pay in the event of loss.**
- **Executory** -- one party has duties which are unfulfilled and yet to be performed. **While the insured has done all required by him, the company does not do its part until expiration of policy term or benefit payoff.**
- **Personal** -- one party relies upon the individuality of the other party when agreeing to the terms of the contract. **Therefore no substitution of a party is allowable.** (You cannot take the insurance physical in place of your friend)
- **Adhesion** -- "**take it or leave it**" concept of contract; there is no give and take, therefore any contractual ambiguities are resolved in favor of the insured when the language of the contract, as written by the carrier is unclear or ambiguous. **The insured is in an unfair bargaining position** since an agent (producer) cannot vary or change ANY of the terms of the insurance contract offer.
- **Unilateral** -- only one of the parties to the contract is bound. **If the insured continues to pay the premium, the company is always bound. This is true of all life policies and guaranteed renewable health insurance contracts. If the carrier can terminate or not renew a health contract with proper notice then such a policy is an example of a Bilateral contract.**
- **Voluntary** -- Agreed upon conditions are included in the wording of the contract. **Both parties enter into the agreement freely upon issuance of coverage.**

TYPES OF INSURANCE COMPANIES

Stock VS Mutual Insurance Companies

- 1.) **Stock** - owned by shareholders of company. Policy holders in a stock company receive nothing more than the contract of insurance. All stock dividends are paid to stockholders.
- 2.) **Mutual** - is composed of/owned by policyholders who participate in the success (or failure) of the company through dividends (which are not taxable; they are deemed to be a refund of excess premium charged). There are no stockholders in a mutual insurance company. (also called “participating” companies).

Domestic, Foreign and Alien Insurance Companies

- 1.) **Domestic** - is a company organized (incorporated) under the laws of the state in which it does business. (i.e. New York Life in NY)
- 2.) **Foreign** - a company organized under the laws of a state different than the one in which business is transacted. (New York Life in Illinois.)
- 3.) **Alien** - companies are organized under the laws of a country other than the United States.(New York Life in Canada).

Admitted and Non Admitted

- 1.) **Admitted** - licensed in the state in which it is doing business. Admitted companies are expected to adhere to all the insurance regulation in Illinois and to be financially responsible to policyholders.
- 2.) **Non-Admitted** - not licensed in a state. A Surplus Line Broker is the only way to transact business when the company is non-admitted. Such companies are out of the reach of Illinois policyholders in the event the Non-Admitted company becomes bankrupt (usually associated with medical malpractice insurance).

1) ILLINOIS STATUTES AND REGULATIONS COMMON TO LIFE, ACCIDENT & HEALTH, PROPERTY, CASUALTY AND PERSONAL LINES (22 QUESTIONS) FOR EXAMS ADMINISTERED ON OR AFTER 01/01/09

(THE FOLLOWING STATE STATUTES, RULES AND REGULATIONS OF ILLINOIS CORRESPONDS TO THE PEARSON VUE ILLINOIS SPECIFIC LAW CONTENT OUTLINE, ACCORDING TO CITATION)

A) THE INSURANCE DIRECTOR (1-2 Questions out of 22 Total)

1) General Powers of the Insurance Director (215 ILCS 5/401; 5/403; 5/401.1; 5/431)

The Illinois Code (Statutes) states the Director is "charged" with the rights, powers, and duties appertaining to the enforcement and execution of all the insurance laws of the state. The Director is appointed by the Governor (executive branch of government). Therefore, **the Director does not have the power or authority to imprison anyone.** The word "person" used below includes individuals and companies as "legal" persons.

Ref. 5/401 "General Powers":

- a) to ***make reasonable rules and regulations*** necessary for making insurance laws effective;
- b) to ***conduct investigations*** needed to determine whether any person (or company) has violated any laws;
- c) to ***request the Attorney General to assist*** the Director to enforce his lawful Orders;
- d) to ***utilize criminal information*** obtained under State Police Law to carry out his statutory powers

Ref. 5/401.1 Applies to All Companies and Persons Subject to Examination by the Director:

- a) ***Anyone purporting to transact insurance business in Illinois*** or in the process or organizing with intent to transact insurance business in Illinois ***is subject to Director's Powers*** (includes ***those who have or had*** a "Certificate of Authority" (which means a license) to operate in Illinois to do insurance business.
- b) The ***Director can issue a Cease and Desist Order*** (Stop the activity immediately) ***to anyone whose behavior (the focus here is on hazardous and illegal activity) threatens insolvency*** of a company ***or otherwise endangers policyholders, creditors or the public.*** This Cease and Desist **order can be issued BEFORE** any hearing is actually conducted.
- c) ***If a Cease and Desist order is issued*** the ***Director must serve notice to the recipient*** of the order a hearing to be held at a fixed time and place which ***may not be less than 20 or more than 30 days after the notice of hearing is served to the recipient.***
- d) If, after the hearing, the allegations are found to be true the ***Director may remedy the conduct with an order*** or orders as he deems necessary.
- e) If any person or company violates the lawful and final order of the Director or fails to comply with such an order in the manner pursuant to this section (5/401.1) then ***such person must pay a fine at the rate of \$100 per day not to exceed \$5,000 maximum.***

Ref. 5//431 Penalty for Cease and Desist Order Violation Relating to Unfair Competition

- a) Any person or company ***violating a Cease and Desist, specifically relating to unfair marketing practices*** as defined in Ref. 5/424(I) G) 5) "Other Unfair Practices" (found on page 17 of these materials) after it is final ***must pay a fine not to exceed \$1,000 for each violation, which can be recovered in a civil action.***

Ref. 5/403 Power to Subpoena and Examine Witnesses

- a) To conduct a hearing, examination or investigation the *Director may subpoena any person and compel attendance* as well and require the production of any relevant records, books or papers.
- b) *Any person who fails to obey a subpoena or refuses to be sworn to be examined without a just reason can be fined a maximum of \$2,000*. Further, such person can have a petition filed by the Director against them in a Circuit Court to force cooperation and if they still fail to obey the court has statutory authority to punish such person with fine and/or imprisonment.

2) Examinations (215 ILCS 5/132; 5/402; 5/401; 5/500-110)

Ref. 5/132 Market Conduct and Non-Financial Examinations

- a) Any person being *examined for their conduct* (not related for financial matters) in the operation of insurance matters in Illinois *must give the Director easy and free access at all reasonable hours at its office* or location all books, records, papers, etc., relating to the business performance, operations and affairs of the company. *Directors and examiners can administer oaths* to examine any party under oath.
- b) The *Director must notify any person made the subject of a conduct examination of the contents* of a verified examination report *before making such a report public* and afford the person the opportunity to a hearing. The *person may request a hearing within 10 days after receiving the examination report* (and also include in their hearing request all written objections they had to the contents of the report).
- c) When the *Director conducts a hearing in accordance with Sections 5/402 and 5/403* he *must issue a written order based* on the examination report and hearing *within 90 days after the report is filed or within 90 days after the hearing*. If there was a determination by the Director of the violation of any law then the *Director may issue a written order to take any action deemed appropriate*. This order is subject to judicial review.
- d) *Any person that violates or aids and abets any violation of a written order issued under this non-financial market conduct statute shall be guilty of a BUSINESS offense for which they may be fined not more than \$5,000*.

Ref. 5/402 Examinations, Investigations and Hearings

- a) The Director may conduct any exam, hearing or investigations personally or appoint personnel retained by the Division of Insurance for such purpose. *If it is necessary to hire additional independent personnel to supplement its examination procedures then the person or company under investigation must bear the added expense*
- b) All hearings under this code shall be held at such time and place as designated in a notice which shall be *given by the Director to the person affected at least 10 days before the date designated* in the hearing notice.

Regulatory Examinations (Producers) (Ref. 5/500-110)

- a) The **Director can examine any holder of any type of producer license as well as any applicant of any type of producer license (including a business entity license)**. Any persons being examined must provide free and easy access to their office or location and all papers, books, records, etc., for examination. Again the director can appoint examiners who all have the power to administer an oath and examine all parties under oath.
- b) A report may be issued by an examiner alleging substantive violations of law and such report must be based on the testimony and evidence obtained as part of the examination procedure. **If a report is made, the Director must deliver or send by registered mail a copy of this report to the examined person's address of record.**
- c) The **person examined may request a hearing within 14 days after receiving a hearing report copy**. Such a request must be made in writing and contain a written statement of any objections to the report. **The Director must issue a written order within 90 days based on the report and on the hearing, if a hearing is held, within 90 days of the hearing date.**
- d) Based on either the report or hearing, if ***a violation of law stands the Director may issue a written order*** as he deems necessary or appropriate for the situation. ***Any person who violates or aids and abets any violation of a written order issued under this code Section shall be guilty of a business offense and his or her license may be revoked or suspended and subjected to a civil penalty not to exceed \$20,000.***

B) LICENSE AND REGISTRATION (3- 5 Questions out of 22 Total)

1) Persons required to be Licensed

a) INSURANCE PRODUCERS (Ref. 5/500-15)

If you sell, solicit or negotiate in Illinois for any class of insurance, then you must be licensed in the appropriate line or lines of PRODUCER authority as required by law (i.e. Life, Accident and Health, Property, Casualty or Personal Lines)

In addition to all other penalties proscribed by the insurance code for ***selling insurance without a license, it is also a Class A misdemeanor*** (can get up to one year in jail). **Anyone who** sells insurance with or without the appropriate license and who also misappropriates or converts (***steals***) ***any money collected is guilty of a Class 4 felony*** (subject to more than one year in jail).

b) LIMITED LINES PRODUCER (Ref.5/500-100): **Appointed by an Insurance Company to represent it, in a limited capacity as specified below) each bullet point represents a separate and distinct limited lines producer license:**

- Industrial Life Insurance
- Common Carrier (Coverage for trip cancellation, baggage and travel insurance)
- Industrial Accident and Health Insurance
- Legal expense insurance
- A company organized under the "Farm Mutual Insurance Company Act of 1986"
- Enrollments of public aid or Medicare recipients into a health maintenance organization (HMO)
- A limited health care plan issued under a certificate of authority granted by Limited Health Service Organization Act
- Car rental limited lines license available to representatives of car rental companies.

KEY TO LIMITED LINES PRODUCER LICENSES >> An exam is not required and limited lines producer reps can sell for more than one company at the same time (persons who get these license types are APPOINTED by a company). The LL producer must be at least 18 and have a good business reputation. The LL producer license is perpetual as long as the company pays the annual fee for the producer. Neither prelicensing nor continuing education requirements apply.

c) NON RESIDENT PRODUCER LICENSE (Ref. 5/500-40): Qualifications are::

- Person must be **currently licensed in good standing** in his or her home state.
- Submit the proper paperwork and pay the license fee (**\$250 biannually**)
- Illinois will **only grant this license if the other state accepts Illinois producers** in the same manner.
- The Director **can verify out-of-state producer** status using the National Producer Database
- If a *licensee moves* from one state to another must **notify Illinois within 30 days** after the change..
- Other *nonresident licenses available* include those for *Surplus Lines Brokers and Limited Lines Producers*.

d) BUSINESS ENTITIES (Ref.5/500-30; 5/500-35)

A **business entity** (i.e. corporation that is an agency for an insurance company or companies) acting as an insurance producer **must obtain a producer license. An application must be filed** (“Uniform Business Entity Application.”) and the appropriate fee must be paid (**\$150 biannually**). **The entity must designate a licensed producer to be responsible for compliance with Illinois insurance laws and rules. There must always be a licensed producer available as the contact and compliance person designated for the entity.** The Director can require any document needed to verify the information provided in the application as a business entity.

e) TEMPORARY INSURANCE PRODUCERS (Ref. 5/500-60; 5/500-65)

1) Temporary Licensing (5/500-60) may be issued up to 180 days and renewed for an additional 180 days, without an examination, in these cases:

- To a **surviving spouse or court appointed representative of an insurance producer who dies or, becomes mentally or physically disabled** so that enough time can be allowed for the sale of the insurance business owned by the producer or for the recovery of the producer or to provide for the training and licensing of new personnel to operate the disabled producer’s business.
- 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.**
- The **designee of a licensed insurance producer who enters active duty with the armed forces of the US military may also obtain this temporary 180 day license.**

A licensed sponsor may be required and the Director may limit the temporary license in any way he sees fit to protect the public or revoke it if he deems it necessary to protect the public. **A written application and \$50 fee is required.**

2) Temporary License for Producer Application (Ref. 5/500-65)

This rule allows a person to obtain a Short Term, 90 day temp license while preparing to pass the state exam. The holder must be in a qualified training course on behalf of an insurance company, with a supervisor or a company manager, and must be in the process of fulfilling the prelicensing requirement. The applicant must take the exam at the scheduled time. **This is a once in a lifetime opportunity. It cannot be renewed!**

If during any SIX month period, more than 50% of a company's temporary licensees fail to obtain their producer license prior to the end of the 90 day period; the Director may cancel the right of the company to hire producers with the temporary license. An insurance company must file a written form with, and be approved by, the Director before temporary licenses can be granted by the company and **a \$50 fee is required**.

f) EXCEPTIONS TO LICENSING (Ref. 5/500-15)

No person may, 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 with the following exceptions:

- 1) **An attorney**, licensed to practice law, performing duties incidental to that position;
- 2) A **licensed insurance producer**, limited lines producer insurance representative, or temporary insurance producer offering advice on a class of insurance for which he or she is licensed
- 3) **Public Adjusters**, while acting within the scope of their license.
- 4) **Trust officers** of banks, while performing incidental duties.
- 5) An **actuary or a certified public accountant** engaged or employed in a consulting capacity, performing duties incidental to those positions.

Other exceptions to producer licensing (Ref5/500-20):

•An **insurance company is not required to obtain a producer license *nor are the insurer's officers, directors employees, subsidiaries or affiliates*** (as long as these parties do not receive any commission on policies written or sold in this state). ***This includes administrative, executive, managerial or clerical employees*** as well. It also extends to those providing only technical advice about insurance product and those who furnish information for group life, property and casualty and health insurance for the sole purpose of enrolling individuals into the group plan. ***Also people working with insurers belonging to the following organizations are excepted:***

- Employer's associations
- Personnel engaged in inspection, rating and underwriting functions
- Advertising and Marketing consultants

KEY CONCEPT > **If a person is not receiving compensation directly from the sale solicitation or negotiation of an insurance product then they are not required to obtain a producer license**

2) OBTAINING A LICENSE (1-3 QUESTIONS OUT OF 22 TOTAL)

a) Qualifications (Ref.500-30)

To be a qualified, successful candidate for producer licensing a candidate shall possess **ALL FIVE REQUIREMENTS** which follow:

- **Successful State Examination (Part I and Part II- valid for 12 months from passing date)**
- **Be at least 18 years old**
- **Has not committed any act that is grounds for denial, revocation or suspension**
- **Successfully completed the appropriate prelicensing course(s)**
- **Paid the appropriate fee (\$180.00 for biannual license).**

If a producer has their license suspended, revoked or denied they are no longer qualified to work for any carrier or agency in the capacity of insurance producer (See Section I) B. 4, below (page 11) for laws regarding this topic.

b) License Fees (Ref. 5/500-135)

Processing/Application Fee Amount	Category
\$ 180.00	Producer License (Biannual - once every two years)
\$ 360.00	Reinstating a Lapsed License/Late renewals (double renewal fee)
\$ 50.00	Limited Line Producer (Resident-annual)
\$ 250.00	Limited Line Producer (Non-Resident-biannual)
\$ 150.00	Business Entity Renewal (biannual fee)
\$ 50.00	Exam Fee Application for Illinois Law
\$ 50.00	Temporary License for Producer Application (90 days)
\$ 50.00	Temporary Producer License fee (180 days)
\$1,000.00	Certified Provider Reg. Fee (annual)
\$ 50.00	Course Certification Fee (Provider - annual)
\$ 20.00	Certified Course Renewal Fee (Provider -annual)

TESTING FEE --- (To Pearson Vue- paid separately- \$ 103.00, it includes Illinois Law exam fee which is \$50) (This \$103 fee includes full testing for up to two lines of authority – one or two lines, the same test fee). *All fees collected are placed into the “Insurance Producer Administration Fund.”*

c) Pre-licensing (Ref. 5/500-30; Reg.3119)

Successful completion of a prelicensing course has the following minimum hours, by class, as follows

- **Life • Accident & Health • Property • Casualty• Personal Lines..... 15 hours for each line**
- **Motor Vehicle.... 7.5 hours**

Hours can be all classroom, all self-study or any combination of both. **Self-study prelicensing requires that an exam be successfully passed and graded by the course provider.** (Note: Casualty includes Motor Vehicle and Property and Casualty includes Personal Lines). Prelicensing course credit is valid for 12 months from the date of course completion.

d) Bond Requirements (Ref. 5/500-130)

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. *Such activity is considered to be "brokering business."* Failure to maintain a bond when required will result in revocation or denial of license.

- 1.) **for \$2,500** (which is the bond "penalty" or face amount) **or**
- 2.) **5% of premium received in previous year**, whichever is greater (**not to exceed \$50,000** total aggregate liability).

Authorized insurance *producers of a business entity may meet the requirements of this Section with a bond in the name of the business entity. 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.

- A **surety** (the insurance company who issued the bond to the producer) **may cancel the bond with 30 days** notice to the **principal** (purchaser of the bond).
- An **injured party can request that the producer provide the surety name and bond number** and the **producer must comply within 3 working days** of receiving such a request.

3) Maintaining The License (1-3 Questions out of 22 Total)

a) Continuing Education (Ref.5/500-35)

Currently, all producers are required to satisfactorily complete continuing education requirements and a Producer license will not be renewed if these requirements are not met (except for military waiver):

- **30 hours** of approved course study offered by a certified provider
- for **each biannual license renewal** (every two years).
- **No single continuing education course may be certified for more than 15 hours of credit.**
- Producer *must complete a CE course in advance of the renewal date so as to allow the education course provider time to report the course completion*
- **Failure to comply by the renewal due date** results in automatic license termination and subjects the producer to a **double renewal fee of \$360**.

If a producer license lapses (is not renewed on time), the producer has up until 12 months after lapse to comply and complete the 30 CE requirement but they will have to pay a double license fee. If it has been more than 12 months after lapse, the person must go through precicensing and pass a state exam again.

CE course Programs can be all or part self-study (requires successful completion of an (open book) exam while programs offering all 15 hours of completion in a classroom have no exam requirement).

The producer license is perpetual (goes on forever) as long as the producer maintains and pays the required fees for the license in a timely fashion.

b) Controlled Business (Ref. 5/500-125)

Controlled business means insurance procured or to be procured by or through the person *upon* :

- His own life, person, property or risks, or those of his spouse; or
- The life, person, property, or risks of his employer or his own business.

The Director **may not grant or renew any license if he has reason to believe**

● that **during either** of the *preceding 2 years the total amount of controlled business premium collected was greater* than the premium amount collected for all other insurance business **or**

● *in the 12 months immediately following the issuance of the license the total amount of controlled business premium collected was greater* than the premium amount collected for all other insurance business.

KEY >> An insurance producer must sell more insurance on others than controlled business.

c) Change of Address (Ref. 5/500-35)

Licensees must **inform the Director by any means acceptable to the Director of a change of address within 30 days** after the change. (*Note: failure to comply with this is the #1 reason producers are late in renewing, thus costing them a double fee.*)

4) License Suspension, Revocation or Denial (Ref. 5/500-70)

The Director can place any license on suspension, revoke it or refuse to issue (Deny) a license or may levy a civil penalty or take any combination of these actions **for any one or more of the following reasons:**

- 1.) **Provide incorrect, misleading, incomplete or materially untrue information in the producer license application.**
- 2.) **Violate any** insurance law, rule, subpoena or order of the Director of Insurance of ANY state.
- 3.) **Knowingly accept any business from anyone who does not have a license.**
- 4.) **Intentionally misrepresenting the terms** of an actual or proposed **insurance contract or application** for insurance.
- 5.) Having admitted or been found to have committed **any insurance unfair trade practice or fraud.**
- 6.) **Forging a name** to an application for insurance or to a document related to an insurance transaction.
- 7.) **Had license revoked/suspended in any other jurisdiction** and the same result would occur in Illinois.
- 8.) **Try to get a license through misrepresentation or fraud.**
- 9.) Improperly **using notes** or any other reference material **to complete an examination** for an insurance license.
- 10.) Having been **convicted of a felony.**
- 11.) **Misappropriating**, improperly holding or converting any **business funds for personal use.**
- 12.) Be **fraudulent, coercive, or use dishonest practices**, be unworthy of trust or be incompetent in the transaction of business by way of the license.
- 13.) **Failing to comply with** an administrative or **court order imposing a child support** obligation
- 14.) **Failing to pay state income tax** or penalties or interest or to comply with a court order directing payment of state income tax or failure to file a tax return or to pay any tax due to the Illinois Department of Revenue.
- 15.) **Failing to make satisfactory repayment on an Illinois Student Loan.**

Once the Director takes action to Suspend, Deny or Revoke a license or application, the affected person is contacted in writing and the **applicant or licensee may make a 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. Once this written request for a hearing is made by the producer:

- **The actual hearing date will be no less than 20 or more than-30 days** from the mailing of the notice of the hearing from the Director to the producer.
- Resulting **punishment for wrongdoers can include not only suspension, revocation or denial of license, but a civil penalty can also be imposed.** The civil penalty can run **up to \$10,000 for each cause** with a **maximum civil penalty of \$100,000 for violations of the Director's lawful order.**
- A person whose license is revoked or an applicant whose application is denied is **not eligible to apply for any license for 3 years after the revocation or denial.** A suspension is for a period deemed appropriate by the Director.
- Anyone who suffers Suspension/Revocation or Denial **may not be employed, contracted or engage in any insurance related capacity during the period** of imposed Suspension/Revocation or Denial.
- **All Licenses must be surrendered to the Director in person or by mail when suspended or revoked.** All terminated license actions are published and become public information.
- The **license of any business entity shall be suspended revoked or refused** where it was known or should have been known by officers, partners or managers of the entity (after a hearing is held) that an individual licensee's engaged in a violation but it was no reported to the Director, nor was any corrective action taken by the entity.

C) Fiduciary Responsibilities Ref. 5/500-115) (2-3 Questions out of 22 Total)

Any **licensed person who collects money** in the course of their occupational duties is in a **fiduciary (trust) relationship with the public.** The insurance company expects a contracted insurance producer to deliver a policy in a timely fashion and expects the producer to act honestly and to forward any monies collected appropriately. **A violation of this trust is a serious offense** and such violations and resulting consequences include:

Violations: ● *improperly holding monies* (hold client funds **in excess of 15 days**), ● *misappropriating or converting (stealing) client funds* and ● *not delivering an issued policy and collecting the first premium within 90 days of policy issuance* (in other words, once a policy is issued, don't keep it in your trunk for 3 months or longer without delivering it and collecting the first premium payment due).

Specific violations related to dollar amount include:

- \$150.00 or less stolen is a Class A misdemeanor
- Steal \$150.00 or less twice or more it is a Class 4 Felony
- **Steal in excess of \$150.00 and it is a Class 3 Felony**

■ **Any money collected by a producer is deemed to have been received by the insurance company** and the insurer is responsible to the insured for any return premium.

■ **For open accounts receivable** which have a balance due to the company within specified periods of 90 days or less, a service charge not exceeding 1.5% per month on amounts due may be assessed BY PRODUCERS to encourage timely premium payment.

■ **Premium Fund Trust Account (PFTA) – (Ref. Section 3113)**

This regulation establishes minimum standards of licensees in handling insurance premiums properly (and other monies) received from insurers, insureds, other licensees or registered firms and subjects those who violate these standards to penalties under law and proceedings of the Illinois Insurance code. Section 3113 applies to all licensed persons (both resident and non-resident) and to registered firms.

- Licensees maintaining a PFTA must do so in **a financial institution within the State of Illinois subject to the jurisdiction of Illinois courts** and PFTA must be printed on the face of checks and the account must be registered with the financial institution as a Premium Fund Trust Account.

- A **PFTA must be established if a producer holds any premiums for 15 days or more before remitting to another proper party** OR if a producer deposits any collected premiums into a financial institution account or other account or uses the premiums, even though the premiums are remitted within 15 days.

- All licensees who maintain or are required to maintain a PFTA **must deposit all premiums received into the PFTA. Non-premium monies collected may also be deposited** into a PFTA if received **for soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance** (includes service fees, policy fees, late charges, inspection fees and surplus lines premium taxes).

- All monies deposited into the PFTA are considered fiduciary funds until lawfully withdrawn.

- The **disbursements which can be can legally withdrawn from a PFTA include** : 1) net or gross premiums due to insurers, 2) returned premiums due to insureds, 3) commissions due to producers, 4) banks fees and service charges, 5) non-premium monies when matched and identified with prior non-premium PFTA deposits, 6) interest or other revenue which the licensee is authorized to retain and 7) withdrawals allowed under this Act must be made payable to the licensee or another licensee

- **The PFTA account balance must at all times be equal to the amount deposited less any LAWFUL withdrawals.** If the balance comes up short, the licensee is deemed to have misappropriated (stolen) fiduciary funds.

- Licensees **may place PFTA funds in an interest bearing account and keep the interest PROVIDED THE LICENSEE HAS THE PRIOR WRITTEN AUTHORIZATION OF THE INSURER ON WHOSE BEHALF THE FUNDS ARE TO BE HELD!**

- A licensee can put interest bearing funds into: US Government securities maturing in not longer than one year, CD's with a one year max maturity time, highly rated commercial paper, conservative money market funds and highly rated municipal bonds maturing in no longer than a year. ***YOU CAN NEVER PUT PFTA FUNDS IN HIGH RISK ACCOUNTS SUCH AS BUYING OPTIONS, FUTURES OR BUYING EQUITIES ON MARGIN.***

- Any PFTA investment transaction must be made in the name of the PFTA and the licensee shall maintain evidence of any such investment that flows through the PFTA.

- The **minimum record keeping requirements of a PFTA are quite comprehensive** mandating that detailed records of all parties, dates, policy numbers, check numbers, amounts deposited and disbursed, etc., and all elements relating to any commission payment be meticulously recorded. **All accounting posting must be done no less timely than every 30 days. All books and records for a fiscal year must be maintained for at least 7 years.**

- All PFTA bank statements must be balanced monthly.

● Any return premiums must be paid or credited to the insured's account within 15 days of receipt from an insurance company or other licensee. If there is a credit balance to an insured's account that is kept past 15 days there must be written authorization from the insured and the credit cannot be retained for more than 12 months from authorization and the insured has the right to all credits at any time which must be refunded upon request within 15 days. Finally, any credits carried must be sent in writing at least monthly reflecting the total credit available.

D) Commissions and Compensation (Ref. 5/500-80) (0-1 Question out of 22 Total)

THE TWO MAIN RULES:

- 1) A person must have the appropriate producer license to receive commission and
- 2) A person cannot be paid directly from an insured with these two exceptions:

- Commission deductible from premium with net forwarded to the insurance company, or

● Service fee – There *must be a written document signed by both parties if the service fee or compensation exceeds 10% of the potential total premium amount* for an insurance related transaction. *A copy of this written disclosure must be kept for 7 years. If a policy or contract is canceled within 90 days of the inception date of the written agreement then the producer or business entity must refund a prorated amount within 30 days* to the consumer, Service fees may be considered fully earned as of inception if the insurance producer provides a written disclosure that such fees were fully earned as of inception **miscellaneous related concepts:**

- Renewal or deferred commissions may be paid to the selling producer at a later time when he is no longer licensed as long as the producer was properly licensed at the time of the sale.
- There can be no service fee or charge to the insured or producer or business entity for processing a cancellation.

E) Felony Convictions (ref. 5/500-95) (0-1 Question out of 22 Total)

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.

F) Disclosure (Ref. 5/500-75) (0-1 Question out of 22 Total)

Any policy solicited by a licensed producer must identify the name of the producer, representative or firm. An individual life or accident and health application and a master (Group) policy *application must bear the name and signature of the licensee who solicited and wrote the application.*

G) Marketing Practices (4-6 Questions out of 22 Total)

1) Unfair Claims Practices (Ref. 5/154.5; 5/154.6; Reg 919) - Specific improper claims practices for insurance companies include:

- 1.) Activity which results in **excessive valid complaints** made to the Department of Insurance.
- 2.) **Not having or acting upon reasonable standards** for fast investigation and settlement of claims.
- 3.) **Not acting in good faith to make settlement** when liability is reasonable clear.
- 4.) **Purposefully misrepresenting important policy coverage** and provisions to claimants or insureds.
- 5.) **Failing to acknowledge important communications** regarding claims in a timely manner.
- 6.) **Forcing policyholders to file lawsuits to recover** because a company made offers far too low compared to the amount that was actually received as a result of the lawsuit.
- 7.) **Failing to provide required claim forms** and proper instructions as to their completion.
- 8.) The **failure on the part of a company to identify the contractual reason for denial** of a claim.
- 9.) Activity on the part of a company which results in an **excessive number of lawsuits to be filed** against it.
- 10.) **Refusing claims without conducting a reasonable investigation** utilizing all available information.
- 11.) **Failing to provide a detailed explanation** referring a payment made to the appropriate coverage.
- 12.) **Making a claimant duplicate efforts in the claim verification process** in an effort to delay investigation of a claim.
- 13.) **Failure to deny or affirm coverage within a reasonable time** after a proof of loss has been filed.

REGULATION 919 is designed to help the Director determine which insurance companies operating in Illinois should be examined based on their business practices. The frequency of hearings can be based on many criteria including complaint volume ratios, randomly, specialty markets and claims handling procedures. **REG 919 also compels carriers to maintain detailed claims records retrievable for the current year AND the previous two years.**

Every carrier must give notice of availability informing the consumer making them aware of the Division of Insurance.

“Prompt Investigation” after notice of a loss by an insured is **21 days** for the company to communicate with all insureds when liability is reasonably clear.

"Reasonable Promptness" means a maximum of **15 days** from receipt of communication from a claimant or insured.

Required practices for all insurance companies demands that the company must affirm or deny claims liability and offer payment **within 30 days after affirming liability**, if the claimed amount is not disputed. The company must tender payment for nondisputed claims amounts within 30 days. Disputed amounts must be explained by the company and notify insureds of claims denials within 30 days.

REG 919 says that life claims require a carrier to search records for all other possible policies that may be carried on that life as well as search under any and all other names by which the deceased person may have been known. **If claims are unresolved for 45 days the company must give reasonable written explanation for the delay.**

2) Rebating (ref.5/151; 5/152; 5/153) is illegal and occurs when a producer **offers anything of value to a prospect as an inducement to place insurance business with that producer.** Essentially it means to bribe someone to get their insurance business. Any producer convicted of rebating will lose all commission otherwise earned and payable for any policies sold where a rebate was involved and their producer license is subject to suspension, revocation or denial in addition to a possible fine. (Class B misdemeanor).

Guilt of producer rebating is *not held against a carrier or general agent unless they were aware of the rebating by the producer.* Anyone participating in a hearing for producer rebating is immune from prosecution and cannot use self-incrimination as a defense and the only offence that could be used against such a participant is perjury occurring as a result of the rebate hearing.

The prohibition against providing any inducement beyond the insurance coverage is so broad it even extends to any offer, promise, give, option, sell purchase any stocks, bonds, securities or property or any dividends or profits accruing thereon. Rebating does not include policy dividends paid to a policyholder on a mutual policy. **Also the rebate law DOES ALLOW an insurance company to offer a child passenger restraint system or a discount from the purchase price of a child passenger restraint system to policyholders** when the purpose of such restraint systems is the safety of a child and compliance with the "Child Passenger Protections Act."

It is also illegal for an insurance applicant to accept a rebate in exchange for a policy purchase. The purchaser is entitled ONLY to what they get through the policy itself.

3) Misrepresentation (Ref. 5/149;5/154) occurs **when a producer makes Misleading comparisons** between what a prospect owns and what the producer is trying to sell. Such an inducement to switch companies is called "**Twisting**" when a misleading statement is made which results in the business changing hands to the new company that the producer is representing. Another **example of misrepresentation is making any statements that the Federal or State governments or agencies approve, guarantee or otherwise endorse your company or products when that is not the case (governments never endorse the products of one insurance company over the products of another).**

The media of communication subject to this Code includes written, verbal and via radio (regardless of the manner of communication) and the ***fine for misrepresentation is payment of a penalty of no less than \$200 nor more than \$10,000,*** recoverable and paid into the county in which the State Attorney completed successful prosecution.

No company or person may advertise or prospect for sales leads in Illinois unless they are authorized (licensed) in this state to transact insurance business.

4) Defamation (Ref.5/149) occurs when a **producer, while in the act of soliciting** or trying to procure business on behalf of one company, **intentionally provides untrue information** about the business practices of another company, or their representatives, designed to place the producer (who is making the untrue statements) and his company in a more favorable light. Any **untrue statements which unfairly damage the business reputation of another company or their representatives are strictly prohibited. The fine for guilty parties is a minimum of \$200 and a maximum of \$10,000.**

General Law Quick Reference – Time Periods & Dollar Amounts

Insurance Director – Hearings, Orders and Fines

Cease and Desist Order – notice served 20-30 days before hearing date	Violation of final Cease & Desist Order \$5,000 Max; \$100 per day	Cease/Desist Final Order specific to Unfair Competition - fine \$1,000 Max
Failure to Obey Subpoena or refuse to testify after service of Subpoena- \$2,000 Max	Market Conduct Exam –request hearing within 10 days of receipt of report	Market Conduct Exam- Dir. must issue written order within 90 days of hearing or report file date
Sec 402 Exam (Independent Personnel) – Dir. Must give at least 10 days hearing notice.	Exam of Producer – must request hearing within 14 days of receipt of copy of report	Producer Exam written order violation– Max of \$20,000 also applies to those who aid or abets

REFER TO PAGE 9 FOR LIST OF LICENSE FEES – KNOW LIST!

License Renewal Periods

Resident –Biannual Renewal (2 yrs)	Business Entity –Renewal (2 yrs)	Temp Prod License to sell– 90 days
Temp Prod License in the case of death or incapacity -180 days	Up to 12 Months to Reinstate a Lapsed Producer License	Resident LTD Lines – Renew 1 year Non-Res LTD Lines – Renew 2 yrs

Bond Requirements (Brokering Business) - \$2,500 or 5% previous year premium, which ever is greater

CE REQUIREMENT – 30 Hours Biannually, No SINGLE Course more than 15 Hours

Change of Address Notice: Producer’s Residence– 30 DAYS; Business Entity – 30 days

License Suspension, Revocation or Denial

Once Dir. Takes action, Producer has 30 days to request, in writing, a hearing	Once hearing requested, Dir. Must make hearing date within 20-30 days of mailing hearing notice to Prod.
Civil Penalty for S/R/D is \$10,000 per cause and \$100,000 Max for all Causes for order violation	Once Prod has S/R/D of license they may not apply for license again for at least 3 years

Producer Fiduciary Duties Violations

Improperly Holding client funds = more than 15 days	Steal less than \$150 it is a Misdemeanor
Steal less than \$150 twice or more or more than \$150 one time and it is a Class 3 or 4 Felony, Respectively	Must deliver a policy within 90 days of offer when first premium still needs to be collected by producer

Premium Fund Trust Accounts

If hold premiums for 15 days or more must have PFTA	Must Balance PFTA at least every 30 days
Must keep PFTA books & records for 7 yrs minimum	Must credit insured account for refunds w/in 15 days

Commissions and Compensation

IF Service fee exceeds 10% of policy premium then agreement must be written & signed by both parties
IF Policy is canceled within 90 days, prorated refund of service fee must be made within 30 days

Felony Conviction of Producer must be reported to DIR. W/in 30 days of Judgment of Conviction

REGULATION 919

Prompt Investigation = 21 days	When Liability is affirmed must offer payment within 30 days
Reasonable Promptness = 15 days	If claim is not resolved must write W/in 45 days and explain to insured

Fine for Misrepresentation or Defamation by producer is MIN of \$200 and MAX of \$10,000

ILLINOIS STATUTES PERTINENT TO BOTH PROPERTY AND CASUALTY INSURANCE

(5 QUESTIONS IN BOTH PROPERTY AND CASUALTY LAW EXAM)

A) Renewal, Nonrenewal and Cancellation

There must be a cancellation provision which outlines the manner in which policies can be canceled **or nonrenewed in all policies offered for sale except:**

- 1) Life policies; 2) Accident and Health contracts; 3) Fidelity insurance; 4) Ocean Marine; and
- 5) Contracts of Reinsurance or surplus lines insurance.

(THIS MEANS PROPERTY AND CASUALTY CONTRACTS MUST HAVE SUCH PROVISIONS.)

1) Law Governing Termination of Independent Insurance Agent Contracts

Independent insurance agent - are any licensed agents representing an insurance company on an independent contractor basis and not as an employee. ***The only contracts affected by this law are those in effect for more than one year between the company and the independent agent.***

* **Rehabilitation** - to avoid termination the two parties may seek to agree to a written plan for rehabilitation for a mutually agreed upon period of time.

* **Notice of termination** - must occur with a mutual signed agreement at the time of notice or if the company provides 180 days written notice prior to termination, then termination is 180 days from the mailing of the notice.

* **Renewals following termination** - during the 180 day termination notice period the agent cannot bind any new business for the company without specific written authority. Following actual termination, the company shall renew all policies written by the independent agent for another policy term or one year, unless

- ++ the policies do not meet the company's underwriting standards; or
- ++ the agent notifies the company that the client has been placed with another company

In the event a renewal policy fails to meet company underwriting standards, 60 days notice must be provided to the agent. Commission must be paid at the same rate prior to termination and need only be paid by the company for the first renewal after termination.

* **The company is not bound to the above requirements regarding renewal after termination if:**

the agent abandons his clients, the company becomes insolvent, gross and willful misconduct by the agent, the agent's license is suspended, denied or revoked by the Director, change in ownership of an agency, fraud or material misrepresentation or failure to resolve disputed items within 30 days after written demand by the company.

2) *Insurance Carrier Rules for Cancellation, Refusal to Issue or Renew*

- No company shall cancel or refuse to issue or renew a policy on the sole basis that the insured or applicant for such policy was previously refused issuance or renewal of a policy by any insurer or such insured's policy was cancelled on a prior date by any insurer.
- Except for Workers' Compensation, companies shall provide the following loss information for the 3 previous policy years to the first named insured within 30 days of the insured's request:
 - > On closed claims, date and description of occurrence, and total amounts of payments;
 - > On open claims, date and description of occurrence, total amount of payments and total reserves, if any;
 - > and the date and description of occurrence and total reserves, if any.

At the written request of the insured, the company shall send the loss information directly to the insured's producer.

- **Homeowners insurance** - companies can't refuse to issue or renew a policy solely because a space heater is used in a single family through 2 to 4 unit dwelling
- **Termination of lines of business** - a company cannot terminate a line of business without notifying the Director, with reasons, before 90 days prior to termination
- **Short rate cancellation** - no agent or company can advise an insured to cancel without informing the insured in writing about the additional cost involved.
- **Auto insurance - Pro Rata refund** - is required even if the insured requests the cancellation (**this is an exception to the "short rate" concept**). The refund shall be made within 30 days of either the cancellation by the company or from the date notice was received by the company
- **Written binders of 60 days or less** - are not subject to the nonrenewal laws of the state
- **Premium refunds for drought insurance** - the company has a duty, within 10 days of receiving a premium to either refund the premium in full or provide the coverage
- **All notices of nonrenewal (Personal Lines)** - must be provided by a company at least 30 days prior to the renewal date using the U.S. postal service and keep on record a form proving the mailing. Premium increases cannot exceed 30% during these extended coverage times which are caused by inadequate notice or nonrenewal.
- **Liability of company or agents regarding statements made in notices or information** - insureds cannot bring lawsuits for any statements made by the company or agent in a cancellation or nonrenewal notice, including the act of providing the information to other parties.

>An insurance company cannot cancel a policy just because the insurance agent who wrote the policy has left the company

Day care and group day care homes; coverage.

- **No insurer** providing dwelling and homeowners insurance coverage, *shall nonrenew or cancel an insurance policy on a day care home or group day care home, solely on the basis that the insured operates a duly licensed day care home or group day care home on the insured premises.*
 - An insurer providing such insurance coverage to a licensed day care home or licensed group day care home may provide such coverage with a separate policy or endorsement to a policy of fire and extended coverage insurance.
 - The insurer providing such coverage shall be allowed to cancel or nonrenew an insurance policy on a day care home or group day care home based upon the authority provided elsewhere in the law applying to all such policies

Earthquake Insurance Notice.

In response to all applications for homeowners insurance received by the insurance company for coverage on property located in the New Madrid Seismic Zone, as defined by the United States Geological Survey in Illinois, susceptible to Modified Mercalli intensity VII or greater damage, information shall be provided by the insurance company to the applicant regarding the availability of insurance for loss caused by earthquake

Cancellation

1) Auto insurance - an automobile = any four wheeled vehicle with a road capacity of 1500 pounds or less. **Cancellation requirements as outlined in this section do not apply to** a) Policies insuring more than 4 vehicles, autos covered by the Illinois auto insurance plan, and policies covering auto sales agencies, repair shops, garages, service stations or public parking places.

2) Cancellation of Any P & C Contract, To Be Valid Must:

- a) be mailed, via certified mail with receipt, to last known mailing address on company record and
- b) a copy of cancellation must be sent to the insured's producer and to any mortgage or lienholder to the address of record.

Cancellation Notice Time Requirements

Minimum notice time required for cancellation, including specific explanation of any reason for cancellation, is as follows:

1) (Personal Lines): Dwelling, Homeowner and Personal Auto

- a) 10 days if reason is nonpayment of premium
- b) 30 days for any other reason

2) For Commercial Property or Liability

- a) 10 days if reason is nonpayment of premium
- b) 30 days for any other reason (during the first 60 days of coverage)
- c) 60 days for any other reason (if policy has been in effect of more than 60 days)

Except for nonpayment of premium, once an auto policy has been in effect for at least 60 days, or if the policy is a renewal policy, an insurance company may not cancel the policy except for the following reasons:

- 1) Material misrepresentation in the policy application.
- 2) Failure to disclose motor vehicle accidents and violations for the preceding 36 months.
- 3) Anything that violates the policy terms or conditions
- 4) Drivers license was suspended/revoked within the last 12 months before cancellation occurred.
- 5) Making or presenting a false or fraudulent claim or aiding another person in doing the same.
- 6) A driving record indicative of accidents, conviction record or mental condition that could be of public endangerment.
- 7) Narcotics addiction within the last 36 months before cancellation.
- 8) History of heart attacks or epilepsy which requires a doctor's certificate.
- 9) Having forfeited a bail bond within 36 months of the cancellation.

Auto policies can be canceled by an insurance company if the auto which was insured is/was/has been:

- 1) Used for livery service (transporting for hire)
- 2) Mechanically defective (gross defects within the knowledge of the insuree).
- 3) Used in the business of transporting explosives or flammables.
- 4) Used as an emergency vehicle.
- 5) Subject to an inspection law and the auto has failed the inspection.
- 6) Changed in shape or condition during the policy period to increase the risk in a substantial manner.

Renewal Rights for Dwelling, Homeowner and Auto Policy

Once an auto insurance policy has been in effect or renewed for at least five years the insurance company cannot nonrenew except for the reasons which were listed in the previous section under cancellation or when the insured, who is named in the policy, has received a **60 day notice** of the intention not to renew. An **Insurance company which cancels** or does not renew an auto policy other than because of non-payment of premium **must tell the named insured of his or her eligibility for insurance through the Illinois auto insurance plan.** If the policy has been in effect for more than 60 days but for less than five years, then 30 days notice of nonrenewal is required (the same notice requirements are true for nonrenewal of all personal lines of coverage.)

An auto policy can not be canceled solely because there are claims pending or paid against that policy. Furthermore, an insurance company cannot cancel or refuse insurance just because its agent or broker is not geographically located in proximity (nearby) to the insured.

If a Fire and Extended Coverage policy has been in effect for at least 1 year or has been renewed for five years or more, the insurance company cannot fail to renew it except for

- 1) Obtainment originally by the insured of the contract by misrepresentation or fraud
- 2) Any action which will increase the risk originally accepted, in a measurable fashion.
- 3) Nonpayment of Premium.

Specific reasons that an insurance company may not refuse to renew for fire and EC:

- 1) The age of the property.
- 2) The location of the property.
- 3) The sex, age, color, marital status or national origin or occupation of the occupant.

Fire and Extended Coverage cannot be canceled or nonrenewed on **property** in poor condition which is **capable of rehabilitation.** A period of up to **90 days must be allowed for repairs.**

Also, **cancellation may not occur just because a claim is paid or pending** against the policy. If a policy is canceled or nonrenewable for a reason other than nonpayment of premium or the purposeful setting of the fire, and the property is located in a designated urban area, then the insurance company has to tell the insured that they may be eligible for **"The Fair Plan"** (Next Section, XII) and its procedures.

Upon cancellation or nonrenewal the insured can, within **20 days**, make a **direct appeal to the Director of Insurance**, as long as the reason is not nonpayment of premium. This information about the consumer's rights is to be included in the nonrenewal or cancellation notice.

Any appeal to the Director must include a specific reason for the appeal. A **hearing date will be set with at least 10 days notice to all parties.** **Within 20 days after the hearing**, the Director will make a **finding.** The policy in dispute remains in force during the process until the finding is made. If the insured wins, the policy coverage continues. **If the insured loses, the policy is terminated no sooner than 30 days after the Director's order.** Premium is due for all times of coverage during the dispute. **The losing party pays hearing costs not to exceed \$50.00.**

Commercial Lines

1) Allowed Reasons for Cancellation by company

- a) nonpayment of premium
- b) obtainment originally by the insured of the contract by misrepresentation or fraud
- c) any action which will increase the risk originally accepted, in a measurable fashion
- d) violation of policy terms or conditions on the part of the insured
- e) The Director determines that continuation of the policy would violate the insurance code
- f) If the risk insured had reinsurance and the Director certifies the loss of the reinsurance

2) Nonrenewal Notice, Premium or Coverage Change

- a) Notice of nonrenewal must be sent at least 60 days in advance (to address of record and to any mortgagees or lienholders, the same requirement as with personal lines).
- b) If there is a change in coverage (including deductibles materially altering coverage) or an increase of premium in the amount of 30% or greater, advance notice of 60 days of such changes is required prior to effectiveness.
- c) In the event notice provided is at least 31 days but less than 60 before expiration, then the company must extend the policy for at least 60 days or until the effective date of new coverage if it begins sooner.
- d) If notice is provided less than 31 days before expiration, then the policy is extended for at least one year or until the effectiveness of new coverage if sooner.

There is no liability to an insurance company or its agents for providing information and explanations as to the reasons for nonrenewal or cancellation.

3) Loss Information on Commercial Risks

Upon the insured's request, or at the time of nonrenewal or cancellation by the company for reasons other than nonpayment of premium or for fraud/misrepresentation, the first named **insured must be provided within 30 days, with loss information for the three previous policy years.**

All information concerning open and closed claims during this time must be provided (all dates dollar amounts and descriptions of any occurrence).

Terminating a Line of Business - notification of such action on the part of an insurer must be made to the Director at least 90 days prior to termination. The notice must include all pertinent information as well as disclosing whether the same coverage will continued to be offered in any other state .

Cancellation of Contract - concerning a premium finance agreement, the finance company may cancel a policy upon default of a loan by the insured. A 10 day written notice of the intent to cancel must be provided to all parties concerned, including third parties like mortgagees or governmental agencies.

B) Premium Finance Regulation (0-1 Questions)

"Financing insurance premiums" means to be engaged in the practice of: (1) advancing monies directly or indirectly to an insurer pursuant to the terms of an acquired premium finance agreement; or(2) allowing 10% or more of a producer's or registered firm's premium accounts receivable to be more than 90 days past due. The laws pertaining to premium finance do not apply to the following entities:

1) credit unions, 2) banks, 3) savings and loans, 4) people acquiring such agreements from insurance companies and entities described in 1,2, & 3, above.

* **License required** - no person may act as a premium finance company without first obtaining a license from the Director. Violation of this requirement is punishable as a class 4 felony if such monies are misappropriated.

* **Premium finance agreements** - must be dated and signed by a named insured and the printed portion must be in a size of type of at least 8-point (72 points to an inch high). The first page of the agreement must contain all of the following items:

- ++ total amount of premiums
- ++ amount of down payment
- ++ principal balance remaining (the difference between the total amount of premiums and the down payment amount)
- ++ finance charges expressed both in terms of dollars and as an annual percentage rate (APR)
- ++ balance payable
- ++ number of installments, due dates, and the dollar amount of each installment
- ++ policy or binder numbers

Other disclosure information required by the finance company:

- ++ the insured must pay directly to the insurance company unless permission to pay the producer has been given
- ++ all payments must be properly identified indicating policy or binder number

* **Maximum Service charge**- service charges are computed from the inception of the contract until the final installment is payable. The maximum charge shall be \$10 per \$100 financed per year plus an allowable charge as follows:

Allowable Charge	Remaining Principal Balance
\$20	\$0 to \$499
\$30	\$500 to \$999
\$40	\$1000 or more

Service charges do not have to be refunded upon cancellation or prepayment (including the allowable charge). A delinquency charge of not less than \$1 nor more than 5% of any installment in default for more than 5 days may be provided. Any other charges must be disclosed in the agreement.

* **Cancellation requirement upon default** - when a premium finance company has the power of attorney to cancel a policy in the event of default, then under this section of law the following elements are required:

- ++ 10 days written notice by mail, unless the default is cured within the 10 days
- ++ after the 10 days the cancellation by the finance company is the same as if the insured had requested it
- ++ any interested third parties must also be notified of the default (mortgagee, governmental agency, etc.)
- ++ any refunds exceeding \$5 or more dollars collected by the finance company as surplus of what was owed by the insured, must be returned to the insured

C) Insurance Claims Fraud Prevention Act (0-1 Question)

The Director is authorized to make reasonable rules requiring insurers doing business in the State of Illinois to report factual information in their possession that is pertinent to suspected fraudulent insurance claims, fraudulent insurance applications, or premium fraud after he has made a determination that the Information is necessary to detect fraud or arson.

The Director of Insurance may designate one or more data processing organizations or governmental agencies to assist him in gathering such information and making compilations thereof, and may by rule establish the form and procedure for gathering and compiling such information.

Under the rules the Director may name any organization or agency designated by the Director to provide this service, and may in such case provide for a fee to be paid by the reporting insurers directly to the designated organization or agency to cover any of the costs associated with providing this service. After determination by the Director of substantial evidence of false or fraudulent claims, fraudulent applications, or premium fraud, the information shall be forwarded by the Director or the Director's designee to the proper law enforcement agency or prosecutor.

Insurers shall have access to, and may use, the information compiled under the provisions of this Section. Insurers shall release information to, and shall cooperate with, any law enforcement agency requesting such information.

D) Use of credit information.

An insurer authorized to do business in this State that uses credit information to underwrite or rate risks shall not:

(1) Use an insurance score that is calculated using income, gender, address, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) **Deny, cancel, or nonrenew a policy of personal insurance solely on the basis of credit information**, without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by item (1). An insurer shall not be considered to have denied, cancelled, or nonrenewed a policy if coverage is available through an affiliate.

(3) **Base an insured's renewal rates for personal insurance solely upon credit information**, without consideration of any other applicable factor independent of credit information. An insurer shall not be considered to have based rates solely on credit information if coverage is available in a different tier of the same insurer.

(4) **Take an adverse action** against a consumer **solely because he or she does not have a credit card account**, without consideration of any other applicable factor independent of credit information.

(5) **Consider an absence of credit information** or an inability to calculate an insurance score in underwriting or rating personal insurance, **unless the insurer does one of the following:**

(A) Treats the consumer as otherwise filed with the Department, if the insurer presents information that such an absence or inability relates to the risk for the insurer and submits a filing certification form signed by an officer for the insurer certifying that such treatment is actuarially justified.

(B) Treats the consumer as if the applicant or insured had neutral credit information, as defined by the insurer.

(C) Excludes the use of credit information as a factor and uses only other underwriting criteria.

(6) **Take an adverse action** against a consumer based on credit information, **unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days** from the date the policy is first written or renewal is issued.

(7) **Use credit information unless not later than every 36 months following the last time that the insurer obtained current credit information for the insured,** the insurer recalculates the insurance score or obtains an updated credit report. Regardless of the other requirements of this Section:

- (A) At annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall re-underwrite and re-rate the policy based upon a current credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a 12-month period.
 - (B) The insurer shall have the discretion to obtain current credit information upon any renewal before the expiration of 36 months, if consistent with its underwriting guidelines.
 - (C) An insurer is not required to obtain current credit information for an insured, despite the requirements of subitem (A) of item (7) of this Section if one of the following applies: (a) The insurer is treating the consumer as otherwise filed with the Department. (b) The insured is in the most favorably-priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to order credit information, if consistent with its underwriting guidelines. (c) Credit was not used for underwriting or rating the insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating the insured upon renewal, if consistent with its underwriting guidelines. (d) The insurer re-evaluates the insured beginning no later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.
- (8) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:
- (A) Credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information.
 - (B) Inquiries relating to insurance coverage, if so identified on a consumer's credit report.
 - (C) Collection accounts with a medical industry code, if so identified on the consumer's credit report.
 - (D) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered.
 - (E) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered.

E) Hate Crimes; Coverage Refusal

This Section applies to policies of insurance if the insured or proposed insured is

- (1) an individual, (2) a religious organization described in clause (i) of subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of Title 26 of the United States Code, (3) an educational organization described in clause (ii) of subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of Title 26 of the United States Code, or (4) any other nonprofit organization described in clause (vi) of subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of Title 26 of the United States Code that is organized and operated for religious, charitable, or educational purposes.
- (2) (b) *An insurer issuing policies subject to this Section may not cancel, refuse to issue, or refuse to renew the policy solely on the basis that one or more claims have been made against any policy during the preceding 60 months for a loss that is the result of a hate crime committed against the person or property insured if the insured provides evidence to the insurer that the act causing the loss is identified as a hate crime on a police report.*
- (3) c) As it relates to this Section, if determined by a law enforcement agency, a **"hate crime" may include any of the following:**
 - (1) By force or threat of force, willfully injuring, intimidating, interfering with, oppressing, or threatening any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this State or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation or because he or she perceives that the other person has one or more of those characteristics. This offense, however, does not include speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.
 - (2) Knowingly defacing, damaging, or destroying the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this State or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation or because he or she perceives that the other person has one or more of those characteristics.

PROPERTY INSURANCE STATUTES AND REGULATIONS IN ILLINOIS

(3 QUESTIONS ON ONLY THE PROPERTY LAW EXAM)

A) REJECTION OF BASIS OF LOCATION (0-1 Question)

Refusal to provide homeowner or renters policies cannot be made solely on the basis of the geographic location of real property. Such a practice, which is known as "**red lining**", is **prohibited**. **The reason for refusal must be more than a mere pretext for unfair discrimination.**

B) The Illinois "Fair" Plan (FAIR stands for "Fair Access to Insurance Requirement") (1-2 Questions)

1) Purpose - to make basic property insurance increasingly available to the citizens of this State, and to deter the insurance industry from geographically redlining urban areas of this State. **It creates an opportunity for individuals who are unable to otherwise purchase coverage through regular channels, to obtain fire and extended coverage insurance. All companies** who write fire and extended coverage policies in Illinois **must participate in "the pool"**.

The FAIR PLAN is administered by the Industry Placement Facility. It applies to owner-residents of a one to four family dwelling unit. The fair plan provides insurance on residential property to all citizens in the state of Illinois on a reasonable access basis by

- 1) Requiring binding of eligible risks immediately.
- 2) The use of premium installment plans.
- 3) The establishment of reasonable servicing standards.

2) Definitions

> "**Basic Property Insurance**" means the coverage against direct loss to real or tangible personal property at a fixed location provided in the Standard Fire Policy and Extended Coverage Endorsement and such vandalism and malicious mischief or such other classes of insurance as may be added with respect to the property by the Industry Placement Facility with the approval of the Director.

> "**Homeowners Insurance**" means the personal multi-peril property coverages commonly known as Homeowners Insurance.

> "**Industry Placement Facility**" or "Facility" means the organization formed by insurers licensed to write and engaged in writing basic property insurance (including multi-peril policies) within the State of Illinois to assist applicants in urban areas in securing basic property insurance and to formulate and administer a program for the equitable apportionment among such insurers of such basic property insurance.

> "**Inspection Bureau(s)**" means the organization or organizations designated by the Industry Placement Facility with the approval of the Director to make inspections to determine the condition of the properties for which basic property insurance is sought and to perform such other duties as may be authorized by the Industry Placement Facility;

> "**Urban Area**" means any community having a blighted, deteriorated or deteriorating area which the Facility has designated with the approval of the Director, or which the Secretary of the U.S. Department of Housing and Urban Development has approved for an urban renewal project after a local public agency has been formed in the community to avail itself of a U.S. Housing and Urban Renewal Program, or which the Director of Insurance has designated

> "**Premiums Written**" means the gross direct premiums charged with respect to property in this State on all policies of basic property insurance and the basic property insurance premium components of all multi-peril policies less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

3) Procedure

In order to make application under the FAIR plan:

- 1) A completed application must be filed with the proper association.
- 2) A property inspection is made by the insurance services office (ISO) of Illinois and the insurance services office will establish a premium charge based on the conditions which are found.

Once an application has been received, the FAIR plan must either

- 1) Approve the application and provide the coverage.
- 2) Decline the applicant until certain specified hazards are corrected.
- 3) Reject the application because the property is uninsurable.

If rejected, a "Reinspection" may be requested at any time beginning at least 60 days after an initial FAIR plan inspection if the applicant makes improvements to the property which he or she believes are sufficient to meet the criteria standards for acceptance into the FAIR plan.

If the Inspection Bureau finds that the residential property meets the reasonable underwriting standards established under Illinois law, the applicant shall be so informed in writing. If the residential property does not meet the criteria, the applicant shall be informed, in writing, of the reasons for the failure of the residential property to meet the criteria.

4) Industry Placement

> **Anyone with an insurable interest in real property is eligible for fire and extended coverage if they cannot get coverage through normal channels after they have made three attempts at obtaining normal coverage.**

> **Each insurer, as a condition of its authority to transact such kinds of insurance in this State, must participate in the Industry Placement Program in accordance with the law** and such a plan of operation as may be established by a Governing Committee of 6 insurers elected annually in a manner provided in a membership agreement to be executed by each participating insurer, 4 members who are not employees of or otherwise affiliated with the insurance industry appointed by the Director to represent the interest of insurance consumers, and one member who is an Illinois licensed insurance producer appointed by the Director, who shall serve for terms consistent with the terms served by their counterparts from the insurance industry.

C) MINE SUBSIDENCE INSURANCE (1-2 Questions)

"**Mine Subsidence**" means lateral or vertical ground movement caused by a failure initiated at the mine level, of man-made underground mines, including, but not limited to coal mines, clay mines, limestone mines, and fluorspar mines that directly damages residences or commercial buildings. "**Mine Subsidence**" **does not include** : lateral or vertical ground movement caused by earthquake, landslide, volcanic eruption, soil conditions, soil erosion, soil freezing and thawing, improperly compacted soil, construction defects, roots of trees and shrubs or collapse of storm and sewer drains and rapid transit tunnels.

Exclusions to Mine subsidence Insurance include losses caused by

- 1) Landslide; 2) Volcanic eruption; 3) earthquake; and
- 4) Collapse of storm and sewer drains and rapid transit tunnels.

Only "structures" are covered and they include dwellings, buildings and fixtures that are permanently attached to real estate. **EXCLUSIONS include**

- 1) Land (the real estate itself); 2) Plants; 3) trees; and 4) Crops.

There is an "**Illinois Mine Subsidence Insurance Fund** which makes insurance coverage available, also collects premiums and monitors premiums in claim reserves. The Fund establishes all premium rates and must compile and publish an annual operating report and at least two informative publications on the topic for the public to consume.

The total insured value which is reinsured by the Fund (for policies bought after 1/1/94) cannot be more than \$350,000 per structure (residential or commercial) or \$15,000 per living unit; however, an insurance company may sell in excess of that amount. As of 1/1/96 not the reinsurance amount from the fund cannot be less than \$200,000 per building. The fund from which payments are made shall pay insurers documented amounts due **within 90 days** of a mine subsidence loss.

If a policy is renewed or issued in a **county that has 1 million or more population** or in any county which is an immediate next door neighbor to such a populous county, **are exempt from this law** and do not have to offer subsidence insurance (Cook and all counties neighboring Cook).

The fund is managed by an 11 member Board of Directors (6 are insurance industry directors an, 4 are public directors and 1 shall be an Illinois insurance producer).

D) Consumer Affairs and Information Department (0-1 Question)

All insurance companies issuing P&C contracts must have a customer affairs information department to deal with policyholder questions and complaints. This department must be staffed by the insurance company whose employees must be knowledgeable in the affairs and operations of the company. **Such a department must be located in either the home, regional or branch office of the company and maintain a toll free number or accept the charges for any phone calls placed to the department.**

This is designed to help residents of Illinois get questions answered or to have complaints dealt with promptly. Furthermore, insurance **companies must provide written responses to written inquiries within 21 days of receipt** of such inquiries.

PEARSON VUE TEST TAKING SUGGESTIONS >>> KEYS TO SUCCESS!

Remember the simple rules that follow and apply them to any multiple choice test.

- 1) **RELAX!** Once you arrive at the test center take time to get familiar with the equipment.
- 2) **LET YOUR MIND ADJUST** to taking a test. Since you likely do not take tests every day during the course of your employment, you must use a basic strategy that has been time tested for its success.
- 3) **LET THE TEST (AND TIMING) BEGIN:**
 - A) **ANSWER ALL THE EASY ONES FIRST. IF YOU ARE NOT POSITIVE YOU ARE RIGHT, SKIP IT AND COME BACK TO IT IN ROUND #2.**
 - B) **READ EACH QUESTION THAT YOU SKIPPED THE FIRST TIME AND ANSWER ONLY IF YOU ARE CERTAIN TO FAIRLY SURE THAT YOU KNOW THE CORRECT ANSWER AND SKIP ANY THAT SEEM DIFFICULT.**
 - C) **THIS IS ROUND THREE AND ALL THOSE THAT YOU SKIPPED TWICE ARE HERE. DO THE BEST YOU CAN. NARROW EACH ONE TO ONE OR TWO ANSWERS AND GO WITH YOUR BEST INTUITION. GUESS IF YOU MUST.**

BY USING THE ABOVE THREE STEP PROCESS, YOU WILL ACCOMPLISH THE FOLLOWING OBJECTIVES:

- 1) **YOU WILL GET ALL THE EASY ONES RIGHT AND BUILD ALL IMPORTANT CONFIDENCE IN THE EARLY MINUTES OF THE TEST; AND**
- 2) **YOU ARE REVIEWING THE ENTIRE TEST AS YOU GO THROUGH ROUND ONE. THIS OFTEN HELPS YOU ANSWER QUESTIONS LATER WHICH WERE SKIPPED THE FIRST TIME.**
- 3) **EVERY ANSWER YOU KNEW IS “IN THE BANK” AND IF YOU RUN SHORT OF TIME LATER IT WILL BE ON THE TOUGH ONES YOU SKIPPED TWICE.**

USING THE METHOD DESCRIBED ABOVE WILL ENABLE YOU TO AVOID THE FOLLOWING CLASSIC THREE TEST TRAPS

- 1) **SPENDING TOO MUCH TIME EARLY IN A TEST ON A QUESTION YOU CANNOT HOPE TO ANSWER CORRECTLY AT THAT POINT. THE MIND MUST BE “WARMED UP” NOT UNLIKE STRETCHING PRIOR TO VIGOROUS EXERCISE.**
- 2) **NOT UNDERSTANDING WHAT YOU ARE READING. IF A QUESTION SEEMS HARD, JUST SKIP IT AND READ IT AGAIN LATER. IT WILL SURPRISE YOU HOW EASY SOME WILL SEEM THE SECOND TIME AROUND.**
- 3) **IF YOU ARE DONE WITH YOU TEST –STOP AND GET OUT OF THE TEST CENTER! PEOPLE WHO ARE DONE, STILL HAVE TIME REMAINING AND THEN DECIDE TO REDO QUESTIONS THAT HAVE ALREADY BEEN ANSWERED SHOULD SERVE JAIL TIME. IT IS SIMPLY THE SINGLE GREATEST TEST TAKING ERROR YOU CAN MAKE.**

IF I HAD \$10 FOR EVERYTIME A PERSON HAS TOLD ME, OVER THE LAST 20 YEARS, “YOU WERE RIGHT MR. DOHRN, I SHOULD HAVE NEVER GONE BACK AND CHANGED ANSWERS AFTER I WAS DONE,” I COULD HAVE RETIRED BY NOW!

FINALLY, LEAVE THE NEGATIVE/BAD ATTITUDE AT HOME. IF YOU GO TO A TEST WITH THE EXPECTATION OF FAILURE YOU PROBABLY WILL FAIL. ON THE OTHER HAND, IF YOU HAVE A POSITIVE OUTLOOK AND KNOW YOU HAVE PREPARED WELL, NO SET OF QUESTIONS CAN STOP YOU FROM SUCCEEDING. GOOD LUCK AND HAVE A GREAT INSURANCE CAREER.

SINCERELY YOURS, DOUG DOHRN, PRESIDENT, DOHRN INSURANCE TRAINING, INC