STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

FILED
INDEX DEPARTMENT
APR 01 2009
IN THE OFFICE OF
SECRETARY OF STATE

Executive Order **09-04**

EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF THE FUNCTIONS OF THE DIVISION OF INSURANCE, DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION INTO THE RE-ESTABLISHED DEPARTMENT OF INSURANCE.

WHEREAS, pursuant to the McCarran-Ferguson Act, 15 U.S.C. §1012(a), insurance is subject to the specific province and regulation of the States, not the Federal government; and

WHEREAS, more than 11,500,000 people, or more than ninety percent (90%) of the people of Illinois are affected or protected by at least one form of insurance, the terms and conditions of which are frequently difficult for even sophisticated consumers; and, whereas, consumers frequently need assistance either in understanding policy terms or obtaining payment of a claim; and

WHEREAS, current State law provides for insurance consumer protection and assistance (including, among others, families, professionals, seniors and businesses), solvency regulation, policy review and approval, and numerous other forms of both consumer- and company-based assistance and regulation; and

WHEREAS, even in the current economic crisis, state-based insurance regulation has demonstrated an ability to protect policyholders and preserve company solvency that is superior to Federal regulatory agencies; and

WHEREAS, insurance industry and related professionals comprise a large employment and economic base in Illinois and many of its communities; and

WHEREAS, the regulation of insurance is funded by assessments on the insurance industry; and

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part, (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, (b) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of such reorganization will not have, any functions, and (c) the establishment of a new agency to perform all or any part of the functions of an existing agency or agencies; and

WHEREAS, the Department of Financial and Professional Regulation is an executive agency directly responsible to the Governor which exercises the rights, powers, duties and responsibilities derived from 20 ILCS 1205/1 *et seq.*, 20 ILCS 1405/1 *et seq.*, 20 ILCS 2105/1 *et seq.* and 20 ILCS 3205/0.1 *et seq.*, respectively; and

WHEREAS, the Department of Financial and Professional Regulation consists of four Divisions; namely, the Division of Banking, the Division of Financial Institutions, the Division of Professional Regulation, and the Division of Insurance; and

WHEREAS, without any additional cost to taxpayers due to the industry assessment, substantial benefit to consumers can be achieved by the transfer of all functions (the "Functions") of the Division of Insurance, Department of Financial and Professional Regulation, into a re-established Department of Insurance (the "Department"); and

WHEREAS, the transfer of the Functions of the Division of Insurance, Department of Financial and Professional Regulation, into the Department shall not impede, disrupt or impair in any fashion any council, commission, board or other entity previously established and operating under the Agencies, and shall not impose any additional cost or financial burden on taxpayers or the State.

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. RE-ESTABLISHMENT OF DEPARTMENT

A. Effective June 1, 2009, or as soon thereafter as practicable, the Department shall be created and known as the "Department of Insurance."

B. The Department shall have an officer as its lead known as the Director who shall be responsible for all agency Functions. Appointment to this office shall be made by the Governor, by and with the advice and confirmation of the Senate. Vacancies in the office of the Director shall be filled pursuant to 20 ILCS 5/5-605. The Director of the Department shall receive an annual salary as set by the Governor from time to time or as set by the Compensation Review Board, as the case may be.

C. The Department shall also have assistants and deputies as may be appropriate for the efficient operation of the Department.

INDEX DEPARTMENT
APR 0 1 2009
IN THE OFFICE OF
SECRETARY OF STATE

II. TRANSFER OF FUNCTIONS

Effective June 1, 2009, or as soon thereafter as practicable, the Functions and all associated powers, duties, rights and responsibilities of the Division of Insurance shall be transferred to the Department. The statutory powers, duties, rights and responsibilities of the Division of Insurance associated with these Functions derive from the statutes listed in the attached Appendix.

III. EFFECT OF TRANSFER

A. The Division of Insurance powers, duties, rights and responsibilities related to the Functions and transferred by the Division of Insurance to the Department shall not be affected by this Executive Order, except that those powers, duties, rights and responsibilities shall all be carried out by the Department from the effective date of the transfers.

B. The staffs of the Division of Insurance and Department of Financial and Professional Regulation engaged in the performance of the Functions shall be transferred to the Department. The status and rights of such employees under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order. To the extent that an employee performs duties for the Division of Insurance within the Department of Financial and Professional Regulation, for the Department of Financial and Professional Regulation itself, or for any other division or agency within the Department of Financial and Professional Regulation, that employee shall be transferred to the Department at the Governor's discretion.

C. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights and responsibilities transferred by this Executive Order from the Division of Insurance to the Department, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the Department.

D. All unexpended appropriations and balances and other funds available for use in connection with any of the Functions shall be transferred for use by the Department for the Functions pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made.

IV. SAVINGS CLAUSE

A. The powers, duties, rights and responsibilities related to the Functions and transferred from the Division of Insurance by this Executive Order shall be vested in and shall be exercised by the Department. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Division of Insurance or the Department of Financial and Professional Regulation, its divisions, officers or employees.

B. Every officer of the Department shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.

FILED
INDEX DEPARTMENT
APR 01 2009
IN THE OFFICE OF
SECRETARY OF STATE

C. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Division of Insurance in connection with any of the Functions transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Department.

D. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Functions of the Division of Insurance before this Executive Order takes effect; such actions or proceedings may be prosecuted and continued by the Department.

E. Any rules of the Division of Insurance or the Department of Financial and Professional Regulation that relate to the Functions, are in full force on the effective date of this Executive Order and that have been duly adopted by the Division of Insurance and/or the Department of Financial and Professional Regulation shall become the rules of the Department. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the Division of Insurance that are pending in the rulemaking process on the effective date of this Executive Order and pertain to the Functions transferred, shall be deemed to have been filed by the Department. As soon as practicable hereafter, the Department shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Order, using the procedures for re-codification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. The Department, consistent with its authority to do so, may propose and adopt under the Illinois Administrative Procedures Act such other rules that will now be administered by the Department. To the extent that, prior to the effective date of the transfers, the Secretary of the Department of Financial and Professional Regulation, or the Director of the Division of Insurance, Department of Financial and Professional Regulation had been empowered to prescribe regulations or had other rulemaking authority with respect to the Division of Insurance, Department of Financial and Professional

Regulation, such duties shall be exercised from and after the effective date of the transfers by the Director of the Department, who shall be responsible for the oversight of those respective Functions.

V. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Pat Quinn

Pat Quinn, Governor

Issued by Governor: April 1, 2009

Filed with Secretary of State: April 1, 2009

FILED
INDEX DEPARTMENT

APR 01 2009

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FILED
INDEX DEPARTMENT
APR 01 2009
IN THE OFFICE OF
SECRETARY OF STATE

Appendix
09-04

Division of Insurance statutes affected by the Reorganization:
Department of Insurance Law, 20 ILCS 1405 et seq.
Illinois Insurance Code, 215 ILCS 5/1 et seq.
Small Employer Health Insurance Rating Act, 215 ILCS 93/1 to 215 ILCS 93/40
Small Employer Rating, Renewability and Portability Health Insurance Act, 215 ILCS 95/1 to 215 ILCS 95/55 [Repealed]
Illinois Health Insurance Portability and Accountability Act, 215 ILCS 97/1 to 215 ILCS 97/99
Reinsurance Intermediary Act, 215 ILCS 100/1 to 215 ILCS 100/60
Comprehensive Health Insurance Plan Act, 215 ILCS 105/1 to 215 ILCS 105/15
Children's Health Insurance Program, 215 ILCS 106/1 to 215 ILCS 106/99 [Repealed effective July 1, 2004]
Producer Controlled Insurer Act, 215 ILCS 107/1 to 215 ILCS 107/99
Dental Care Patient Protection Act, 215 ILCS 109/1 to 215 ILCS 1090/85
Dental Service Plan Act, 215 ILCS 110/1 to 215 ILCS 110/47
Employee Leasing Company Act, 215 ILCS 113/1 to 215 ILCS 113/99
Employees Dental Freedom of Choice Act, 215 ILCS 115/1 to 215 ILCS 115/4
Farm Mutual Insurance Company Act of 1986, 215 ILCS 120/1to 215 ILCS 120/17
Health Care Purchasing Group Act, 215 ILCS 123/1 to 215 ILCS 123/75
Health Maintenance Organization Act, 215 ILCS 125/1-1 to 215 ILCS 125/6-19
Limited Health Service Organization Act, 215 ILCS 130/1001 to 215 ILCS 130/4009
Managed Care Reform and Patient Rights Act, 215 ILCS 134/1 to 215 ILCS 134/299
Pharmaceutical Service Plan Act, 215 ILCS 135/1 to 215 ILCS 135/46.1 [Repealed]
Uniform Prescription Drug Information Card Act, 215 ILCS 138/1 to 215 ILCS 139/99
Product Liability Insurance Act, 215 ILCS 140/0.01, 215 ILCS 140/1 [Repealed]
Property Fire Loss Act, 215 ILCS 145/0.1, 215 ILCS 145/1
Religious and Charitable Risk Pooling Trust Act, 215 ILCS 150/1 to 215 ILCS 150/28
Service Contract Act, 215 ILCS 152/1 to 215 ILCS 152/99
Title Insurance Act, 215 ILCS 155/1 to 215 ILCS 155/25
Viatical Settlements Act, 215 ILCS 158/1 to 215 ILCS 158/99
Vision Service Plan Act, 215 ILCS 160/1 to 215 ILCS 160/32 [Repealed]
Voluntary Health Services Plans Act, 215 ILCS 165/1 to 215 ILCS 165/30
Intergovernmental Cooperation Act, 5 ILCS 220/1 to 5 ILCS 220/16
State Employees Group Insurance Act of 1971, 5 ILCS 375/1 to 5 ILCS 375/17
Civil Administrative Code of Illinois (Part 11.5), 20 ILCS 1405/56.3, 20 ILCS 1405/1405-1 to 20 ILCS 1405/1405-30
Military Code of Illinois, 20 ILCS 1805/30.20
State Fire Marshall Act, 20 ILCS 2905/0.01 to 20 ILCS 2905/3
Experimental Organ Transplantation Procedures Act, 20 ILCS 3935/1 to 20 ILCS 3935/5
Illinois Municipal Code, Art. 11, Corporate Powers and Functions (Public Health, Safety and Welfare),
65 ILCS 5/11-10-1 to 65 ILCS 5/11-10-3, 65 ILCS 5/11-152-1 to 65 ILCS 5/11-152-4.
Asbestos Abatement Act, 105 ILCS 105/1 to 105 ILCS 105/16
Ch. 8 Motor Vehicles Used for Transportation of Passengers, 625 ILCS 5/8-101 to 625 ILCS 5/8-116
Ch. 9 Owners of For-Rent Vehicles for Hire, 625 ILCS 5/9-101 to 625 ILCS 5/9-110
Ch. 18a Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-301
Boat Registration and Safety Act
Art. V Operation of Motor Boats, 625 ILCS 45/5-1 to 625 ILCS 45/5-21
Criminal Code of 1961
Art. 46 Insurance Fraud, Fraud on the Government, and Related Offenses, 720 ILCS 5/46-1 to 720 ILCS 5/46-5
Criminal Juris Prudence Act (insurance law violation), 720 ILCS 275/119 [Repealed]
Insurance Claims for Excessive Charges Act, 720 ILCS 325/1 to 720 ILCS 325/15
Bail Bond False Statement Act, 720 ILCS 540/0.01, 720 ILCS 540/1
Quasi-criminal and Misdemeanor Bail Act, 725 ILCS 195/0.01 to 725 ILCS 195/5
Insurance Claims Fraud Prevention Act, 740 ILCS 92/1 to 740 ILCS 92/45
Securities in Fiduciary Accounts Act, 760 ILCS 75/0.01 to 760 ILCS 75/4
Condominium Property Act, 765 ILCS 605/12, 765 ILCS 605/12.1

Mortgage Certificate of Release Act, 765 ILCS 935/5 to 765 ILCS 935/99
Bailment Insurance Act, 765 ILCS 1015/0.01 to 765 ILCS 1015/4
General Not-for-Profit Corporation Act of 1986, 805 ILCS 105/101.01 to 805 ILCS 105/117.05
Motor Vehicle Retail Installment Sales Act, 815 ILCS 375/8 to 815 ILCS 375/10
Restricted Call Registry Act, 815 ILCS 402/5
Retail Installment Sales Act, 815 ILCS 405/8 to 815 ILCS 405/11.1
Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 to 815 ILCS 505/12
Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 to 815 ILCS 510/7
Health Insurance Claim Filing Act, 820 ILCS 45/0.01 to 820 ILCS 45/2
Medical Care Savings Account Act of 2000, 820 ILCS 153/1 to 820 ILCS 153/99
Workers Compensation Act, 820 ILCS 305/1 to 820 ILCS 305/6
Workers Occupational Diseases Act, 820 ILCS 310/4 to 820 ILCS 310/6

FILED
INDEX DEPARTMENT

APR 0 1 2009

IN THE OFFICE OF
SECRETARY OF STATE