

Illinois Insurance Code: 215 ILCS 5/193



Illinois
Insurance Code

REGULATION...CHAPTER 215 INSURANCE...ACT 5. ILLINOIS INSURANCE CODE...Article XIII -- REHABILITATION,
LIQUIDATION, CONSERVATION AND DISSOLUTION OF COMPANIES

215 ILCS 5/193

Order to liquidate

Former Citations I.C. s 193

Duties of Director as liquidator; sales; reinsurance. (1) Upon the entry of an order directing liquidation, the Director shall immediately proceed to liquidate the property, business, and affairs of the company. The Director is hereby authorized to deal with the property, business, and affairs of the company in his name as Director, or, if the court shall so order, in the name of the company.

(2) The Director may, subject to the approval of the court, sell or otherwise dispose of the real and personal property, or any part thereof, and sell or compromise all debts or claims owing to the company, except that whenever the value of any real or personal property or the amount of any debt owing to the company does not exceed \$25,000, the Director may sell, dispose of, compromise, or compound the same upon such terms as the Director deems to be in the best interest of the company without obtaining approval of the court.

(3) The Director may bring any action, claim, suit, or proceeding against any director or officer of the company or against any other person with respect to that person's dealings with the company including, but not limited to, prosecuting any action, claim, suit, or proceeding on behalf of the creditors, members, policyholders, or shareholders of the company. Nothing in this subsection shall be construed to affect the standing of the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, or the Illinois Health Maintenance Organization Guaranty Association to sue or be sued under applicable law.

(4) In order to preserve so far as possible the rights and interests of the policyholders of the company whose contracts were cancelled by the liquidation order and of such other creditors as may be possible, the Director may solicit a contract or contracts whereby a solvent company or companies will agree to assume in whole, or in part, or upon a modified basis, the liabilities owing to said former policyholders or creditors. The Director may, subject to Section 531.08(h) {Footnote 1} of this Code or Section 6-8 of the Health Maintenance Organization Act, {Footnote 2} cede or reinsure all or so much as may be necessary of the in-force business to another company using assets of the liquidated company to pay therefor in preference to satisfying other obligations or

creditors. The Director may assign any rights or interests of the company to receive reinsurance proceeds for losses to the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association or any similar organization in any other state. If, after a full hearing upon a petition filed by the Director, the court shall find that the Director endeavored to obtain the best contract for the benefit of said parties in interest, and if the said Director shall report to the court that he is ready and willing to enter into a contract and submit a copy thereof to the court, the court shall examine the procedure and acts of the Director, and if the court shall find that the best possible contract in the interests of said parties has been obtained and that it is best for the interests of said parties that said contract be entered into, the court shall by written order approve the acts of the Director and authorize him to execute said contract.

(5) In recognition of the rights of policyholders whose "claims made" contracts were cancelled by the liquidation order, he may, in his discretion, permit such policyholders to purchase an extended discovery period which is subject to the limitations in this Article. The policyholder shall pay to the liquidator a premium which is appropriate for the rights purchased as determined by the liquidator and approved by the court. No extended discovery period purchased before or after the entry of the liquidation order shall extend the time to file claims as set by the court pursuant to Section 208 of this Code. {Footnote 3} Claims accruing by virtue of such extended discovery period shall be treated as any other claim under Article XXXIV of this Code, and shall be subject to the limitations, exclusions and conditions in the Illinois Insurance Guaranty Fund Act and in the laws governing similar organizations in other states.

(6) The Director is authorized to cancel policies, bonds, and contracts of insurance subject to court approval.

(7) All persons, companies, and entities shall immediately turn over to the Director all unearned premium that has been collected by or on behalf of the company and all earned premium owing the company unless otherwise directed in writing by the Director or by court order. Within 30 days of the date of a written request of the Director, those persons, companies, and entities shall submit affidavits verifying amounts collected by, on behalf of, or due and owing the company and further shall provide copies of all premium fund trust account information and such other applicable documentation as requested by the Director. Nothing in this subsection shall be construed to affect the rights of (i) the Illinois Life and Health Insurance Guaranty Association to collect premium under item (6) of Section 531.08 of this Code or (ii) the Illinois Health Maintenance Organization Guaranty Association to collect premium under item (11) of Section 6-8 of the Health Maintenance Organization Act.

(8) The amount recoverable by the Director from a reinsurer shall not be reduced or diminished as a result of the entry of an order of liquidation notwithstanding any provision in the reinsurance contract or other such agreement. Payment made by a reinsurer to or on behalf of an insured of the company shall not diminish the reinsurer's obligation to the company except when the reinsurance agreement lawfully provides for payment to or on behalf of the company's insured by the reinsurer. All reinsurance contracts to which the company is a party, which do not contain the provisions required with respect to the obligation of a reinsurer in the event of insolvency of the reinsured to obtain credit for reinsurance or pursuant to other applicable statutes, shall contain or be construed to contain all of the following provisions:

(a) Upon the entry of an order of liquidation and notwithstanding the Director's failure to pay all or a portion of a claim, the reinsurance obligation shall be due and owing to the Director on the basis of claims allowed in the liquidation proceeding. The reinsurer shall submit the amounts due and owing directly to the company as ceding insurer or to the Director.

(b) The Director shall give written notice or arrange for the giving of written notice to reinsurers or their agents of the pendency of a claim against the company indicating the policy or bond reinsured within a reasonable time after the claim is filed. The reinsurer may interpose, at its own expense, in the proceeding where the claim is to be adjudicated, any defenses that it may deem available to the company or the Director.

{Footnote 1} 215 ILCS 5/531.08.

{Footnote 2} 215 ILCS 125/6-8.

{Footnote 3} 215 ILCS 5/208.

History	Laws 1937, p. 696, § 193; Laws 1957, p. 243, § 1; Laws 1967, p. 876, § 1; P.A. 76-716, § 1; P.A. 84-1035, § 1; P.A. 84-1431, Art. 11, § 1; P.A. 85-20, § 1; P.A. 87-1012, § 1; P.A. 88-297, § 1; P.A. 89-206, § 5, eff. 7-21-95.
Cited By	Opinion 81-24
Date Amended	1986; 1987; 1992; 1993; 1995
Lines of Business	<p>Personal P&C Personal Automobile, Personal Credit, Personal Earthquake, Personal Flood, Personal Homeowners, Personal Inland Marine, Personal Liability, Personal Property, Personal Title, Personal Umbrella/Excess Liability, Personal Watercraft</p> <p>Commercial P&C Commercial Aircraft, Commercial Automobile, Commercial Boiler and Machinery, Commercial Credit, Commercial Crime, Commercial Crop/Hail, Commercial Earthquake, Commercial Farmowners, Commercial Fidelity, Commercial Financial Guaranty, Commercial Flood, Commercial General Liability, Commercial Inland Marine, Commercial Medical Malpractice, Commercial Mortgage, Commercial Ocean Marine, Commercial Professional Liability, Commercial Property, Commercial Surety, Commercial Title, Commercial Umbrella/Excess Liability, Workers' Compensation</p> <p>Life Funeral Service Contract, Group Annuities, Group Blanket Life, Group Corporate Owned - Key Man, Group Credit Life, Group Deferred Annuities, Group Fixed Annuities, Group Industrial Life, Group Term Life, Group Universal Life, Group Variable Annuities, Group Variable Life, Group Whole Life, Individual Annuities, Individual Corporate Owned - Key Man, Individual Credit Life, Individual Deferred Annuities, Individual Fixed Annuities, Individual Industrial Life, Individual Term Life, Individual Universal Life, Individual Variable Annuities, Individual Variable Life, Individual Whole Life</p> <p>Health Group Accident, Group Blanket Medical and Disability, Group Comprehensive Major Medical, Group Credit Accident and Health, Group Critical Illness/Specified Disease, Group Dental, Group HMO/Managed Care, Group Industrial Health, Group Long Term Care, Group Long Term Disability, Group Medical/Surgical - Outpatient Benefits, Group Medicare Supplement, Group Short Term Disability, Group Stop Loss, Group Supplemental - Hospital Indemnity, Group Vision, Individual Accident, Individual Comprehensive Major Medical, Individual Credit Accident and Health, Individual Critical Illness/Specified Disease, Individual Dental, Individual HMO/Managed Care, Individual Industrial Health, Individual Long Term Care, Individual Long Term Disability, Individual Medical/Surgical - Outpatient Benefits, Individual Medicare Supplement, Individual Short Term Disability, Individual Supplemental - Hospital Indemnity, Individual Vision</p>
Subject Categories	220 - Reinsurance / reinsurers 500 - Corporate organization and governance 600 - Financial impairment 800 - Legal procedure / proceedings 940 - Model Laws
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215 ILCS 5/193 - No criticisms for this citation.

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