

[215 Ill. Comp. Stat. §§ 5/421 through 5/430.]

§§ 5/421 through 5/430: Unfair Methods of Competition and Unfair and Deceptive Acts and Practices

§ 421. Declaration of purpose.

The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

§ 422. Definitions.

When used in this Article, "Person" shall mean any individual, partnership, association, corporation, society, order, firm, company, aggregation of individuals, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity to which any article of this Code is applicable, or which is subject to examination, visitation or supervision by the Director under any provision of this Code or under any law of this State, or which is engaged or engaging in or proposing or attempting to engage in or is representing that it is doing an insurance or surety business in this State, or which is in process of organization for the purpose of doing such business, including agents, brokers, adjusters and solicitors.

§ 423. Unfair methods of competition or unfair and deceptive acts or practices prohibited.

(1) No person shall engage in this State in any trade practice which is defined in this Article as, or determined pursuant to this Article to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

(2) No person domiciled in or resident of this State shall engage in any other State, Territory, Province, Possession, Country or District in which he is not licensed or otherwise authorized to transact business in any trade practice which is defined in this Article as, or determined pursuant to this Article to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

§ 424. Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) The commission by any person of any one or more of the acts defined or prohibited by Sections 134, 143.24c, 147, 148, 149, 151, 155.22, 155.22a, 155.42, 236, 237, 364, and 469 of this Code.

(2) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

(3) Making or permitting, in the case of insurance of the types enumerated in Classes 1, 2, and 3 of Section 4, any unfair discrimination between individuals or risks of the same class or of essentially the same hazard and expense element because of the race, color, religion, or national origin of such insurance risks or applicants. The application of this Article to the types of insurance enumerated in Class 1 of Section 4 shall in no way limit, reduce, or impair the protections and remedies already provided for by Sections 236 and 364 of this Code or any other provision of this Code.

(4) Engaging in any of the acts or practices defined in or prohibited by Sections 154.5 through 154.8 of this Code.

(5) Making or charging any rate for insurance against losses arising from the use or ownership of a motor vehicle which requires a higher premium of any person by reason of his physical disability, race, color, religion, or national origin.

(6) Failing to meet any requirement of the Unclaimed Life Insurance Benefits Act with such frequency as to constitute a general business practice.

§ 425. Power of Director.

The Director shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this State and to examine and investigate into the affairs of any person domiciled in or resident of this State engaged in the business of insurance in any other State, Territory, Province, Possession, Country or District in which he is not licensed or otherwise authorized to transact business in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by Section 424.

§ 426. Hearings.

(1) Whenever the Director shall have reason to believe that any such person has been engaged or is engaging in this State in any unfair method of competition or any unfair or deceptive act or practice defined in Section 424, or that any person domiciled in or resident of this State has been engaged or is engaging in any other State, Territory, Province, Possession, Country or District in which he is not licensed or otherwise authorized to transact business in any unfair method of competition or any unfair or deceptive act or practice defined in Section 424, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person or persons domiciled in or resident of this State a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 10 days after the date of the service thereof.

(2) At the time and place fixed for such hearing, such person shall have an opportunity to be heard in person or by counsel and to show cause why an order should not be made by the Director requiring such persons to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, before the

commencement of such hearing, the Director shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(3) The Director, upon such hearing, may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the Director shall prepare a statement of the evidence and proceeding for use on review.

§ 427. Cease and desist orders and modifications thereof.

(1) If, after such hearing, the Director shall determine that the method of competition or the act or practice in question is defined in Section 424 and that the person complained of has engaged in such method of competition, act or practice in violation of this article, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice.

(2) Until the expiration of the time allowed under Section 407 of this Code for filing a complaint for review if no such complaint has been duly filed within such time or, if a complaint for review has been filed within such time, then until the answer in the proceeding has been filed in the court, as provided in said section, the Director may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(3) After the expiration of the time allowed for filing such a complaint for review if no such complaint has been duly filed within such time, the Director may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

§ 428. Procedure on review.

(1) To the extent that the order of the Director is affirmed, the court shall thereupon enter its own order commanding obedience to the terms of the order of the Director. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Director, the court may order such additional evidence to be taken before the Director and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Director, may modify his or her findings of fact, or make new findings by reason of the additional evidence so taken, and he or she shall file such modified or new findings as well as any modification of the original order reached as a result of hearing such additional evidence.

(2) A cease and desist order issued by the Director under Section 427 shall become final.

(a) Upon the expiration of the time allowed for filing a complaint for review if no such complaint has been duly filed within such time; but the Director may thereafter modify or set aside his or her order to the extent provided in Section 427 (2); or

(b) Upon the entry of a final decision, order or judgment of the court.

(3) No order of the Director under this Article or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this State.

§ 429. Procedure as to unfair methods of competition and unfair or deceptive acts or practices which are not defined.

(1) Whenever the Director shall have reason to believe (a) that any person engaged in the business of insurance is engaging in this State in any method of competition or in any act or practice in the conduct of such business which is not defined in Section 424, as an unfair method of competition or an unfair or deceptive act or practice or that any person domiciled in or resident of this State engaged in the business of insurance is engaging in any other state, territory, province, possession, country, or district in which he or she is not licensed or otherwise authorized to transact business in any method of competition or in any act or practice in the conduct of such business which is not defined in Section 424, as an unfair method of competition or an unfair or deceptive act or practice, and (b) that such method of competition is unfair or that such act or practice is unfair or deceptive, or (c) that such unfair method of competition or such unfair or deceptive act or practice violates any of the provisions of this Code or any other law of this State, or (d) that a proceeding by him or her in respect thereto would be to the interest of the public, he or she may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 10 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in Section 426. The Director shall, after such hearing, make a report in writing in which he or she shall state his or her findings as to the facts, and he or she shall serve a copy thereof upon such person.

(2) If such report charges a violation of this Article and if such method of competition, act, or practice has not been discontinued, the Director may, through the Attorney General of this State, at any time after the service of such report cause a complaint to be filed in the Circuit Court of Sangamon County or in the Circuit Court of this State within the county wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act, or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to enter such orders as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(3) A transcript of the proceedings before the Director including all evidence taken and the report and findings shall be filed with such complaint. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Director the court may order such additional evidence to be taken before the Director and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Director may modify his or her findings of fact or make new findings by reason of the additional evidence so taken, and he or she shall file such modified or new findings with the return of such additional evidence.

(4) If the court finds (a) that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, or (b) that such unfair method of competition or such unfair or deceptive

act or practice is in violation of this Code or any other law of this State and (c) that the proceeding by the Director with respect thereto is to the interest of public and (d) that the findings of the Director are supported by the evidence, it shall enter an order enjoining and restraining the continuance of such method of competition, act, or practice.

§ 430. Judicial review by intervenor.

If the report of the Director does not charge a violation of this Article, then any party in interest who was an intervenor in the proceedings before the Director may within 35 days after the service of such report, cause a complaint to be filed in the Circuit Court of Sangamon County for a review of such report. Upon such review, the court shall have authority to issue appropriate orders and judgment in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the Director, constitutes a violation of this Article.