#### NOTICE OF PROPOSED AMENDMENT

1) <u>Heading of the Part</u>: Destruction of Records

2) Code Citation: 50 Ill. Adm. Code 901

3) <u>Section Number:</u> <u>Proposed Action:</u> 901.20 <u>Amendment</u>

- 4) <u>Statutory Authority</u>: Implementing Section 133 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/133 and 401]
- 5) A Complete Description of the Subjects and Issues Involved: Section 133 of the Insurance Code concerning record retention requires that all books, records, documents, accounts and vouchers related to the financial condition, affairs and operations of a domestic company or of any principal U.S. office of a foreign/alien company located in this State, be preserved until the Director authorizes the disposal and/or destruction of such records. Title 50, Section 901.20 of the Illinois Administrative Code concerns the process by which an insurer can request permission to dispose of and/or destroy records pursuant to Section 133 of the Code. The Department recognizes that the current process outlined by this rule is outdated, unnecessary, and not in line with other states' requirements. The amendment to Section 901.20 will grant the authority to companies to destroy/dispose of records that are no longer needed in the transaction of current business, for the final disposition of an insurance claim or to determine the financial condition of the company for the period since the last examination report, or after a period of seven years, whichever is later, for items related to the final disposition of an insurance claim or the financial condition of the company.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) <u>Statement of Statewide Policy Objective</u>: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) <u>Time, Place and Manner in which interested persons may comment on this proposed rulemaking</u>: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

or

Diana Villamil Zuver Assistant General Counsel Illinois Department of Insurance 122 S. Michigan Ave, 19th Fl Chicago IL 60603 Susan Anders
Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767

312/814-8135 fax: 312/814-2862 217/558-0957

#### 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None. The current version of Title 50, Section 901.20 of the Illinois Administrative Code requires a significant amount of reporting, bookkeeping and/or other procedures, including reviewing list of applications for the authority to destroy accumulated records and schedules of applications for continuing authority to destroy records after specified periods of time or the occurrence of specified events. This amendment provides that the company will have the authority to destroy/dispose of records when the files are no longer needed in the transaction of current business or after seven years if no longer needed for the disposition of an insurance claim or to determine the financial condition of the company since the date of the last examination report. The Department will have the authority to ensure compliance with this amended Section at the time of financial examination conducted approximately every five years.
- C) <u>Types of professional skills necessary for compliance</u>: Accounting skills. Department financial examiners already have the requisite skills necessary to ensure compliance with the amended Section.

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14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: it was not anticipated within that time period.

The full text of the Proposed Amendment begins on the next page:

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# TITLE 50: INSURANCE CHAPTER I: DEPARTMENT OF INSURANCE SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

# PART 901 DISPOSAL AND DESTRUCTION OF RECORDS

Section				
901.5	Introduction			
901.10	Definitions			
901.20	Disposal and DestructionProcedures for Compiling and Submitting Lists and			
	Schedules of Records for Destruction			
AUTHORITY: Implementing Section 133 and authorized by Section 401 of the Illinois				
Insurance Code [215 ILCS 5/133 and 401].				
SOURCE: Filed and effective November 25, 1968; codified at 7 Ill. Reg. 4213; amended at 40				
Ill. Reg	, effective			
Section 901.20 <u>Disposal and Destruction Procedures for Compiling and Submitting Lists</u>				
and Schedules of Records for Destruction				
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a)The company is authorized to dispose of or destroyshall submit to the Director lists or schedules of records in its custody; that do not have sufficient administrative, legal or fiscal value to warrant their further preservation and are not needed:

- a) in the transaction of current business;
- b) or-for the final settlement or disposition of any claim arising out of a policy of insurance issued by the company, except that these records must be maintained for at least 7 years; or
- and are not required to determine the financial condition of the company for the period since the date of the last examination report of the company officially filed with the Department of Insurance, except that these records must be maintained for at least 7 years and that do not have sufficient administrative legal or fiscal value to warrant their further preservation, or that the retention of the records is an unnecessary expense to the company and such records serve no useful purpose.
  - 1) Lists are applications for authority to destroy accumulated records.

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- 2) Schedules are applications for continuing authority to destroy records after specified periods of time or the occurrence of specified events.
- b) New schedules are required whenever the informational contents of a records series are changed.
- e) Duplicate copies of all requests for authority to destroy records, accompanied by lists or schedules of such records, shall be submitted to the Director of Insurance at the offices of the Department in Springfield, Illinois, attached to duplicate executed copies of the following form of Affidavit:

# AFFIDAVIT FOR PERMISSION TO DESTROY RECORDS PURSUANT TO SECTION 133 (2) OF THE ILLINOIS INSURANCE CODE

STATE OF ILLINOIS	<del>)</del>	
COUNTY OF	<del>)</del> ss )	
We, the undersigned,	, President and	, Secretary, duly
authorized in this regard as rep	resentatives of	Insurance Company, being
separately sworn, each for him	self on his oath says:	

that he is the above described Officer of the Company; that he is familiar with the records described and listed or scheduled on the attached sheets; that, as to listed records, all such records pertain to the business of said Company prior to \_\_ the date of the last examination report of the Company officially filed with the Department of Insurance of the State of Illinois; that, as to scheduled records containing any information necessary to the determination of the financial condition of the Company, records so scheduled regardless of any proposed time for destruction in such schedule will not, in any case, be destroyed until after the next examination report of the Company is officially filed with the Department of Insurance of the State of Illinois; that listed records do not contain any information necessary for the final settlement or disposition of any claim arising out of any policy of insurance issued by the Company; that, as to scheduled records, notwithstanding any period of time specified for the occurrence of any specified event, no such records will be destroyed if they contain information necessary for the final settlement or disposition of any claim; that there is no actual notice or knowledge that the Statute of Limitations has not run against all matters to which listed records may pertain and that no scheduled records will be destroyed if prior to the time scheduled for destruction the Company receives notice that the Statute of Limitations has not run against

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matters to which the records may pertain; that no listed records are required to be retained in order to determine the financial condition of the Company or to verify the condition of the Company as stated in any annual statement filed subsequent to the date of the last examination report officially filed by the Department of Insurance; that other records exist as to any item which may become material in the future for the determination of the financial condition of the Company.

This Affidavit is signed for the purpose of obtaining the approval of the Director of Insurance for the destruction of records, to save unnecessary expense of unwarranted preservation, and for no other purpose.

	President	
	Secretary	
Subscribed and sworn to before me this	day of	<del>-</del>
	Notary Notary	
The destruction of records described as listed authorized this day of	or scheduled in the foregoing Affidavit is here	r <del>eby</del>
	Director of Insurance	
(Source: Amended at 40 III. Reg.	. effective	