

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Disposal and Destruction of Records
- 2) Code Citation: 50 Ill. Adm. Code 901
- 3) Section Number: 901.20 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Section 133 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/133 and 401]
- 5) Effective Date of Rule: May 23, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 14218; November 6, 2015
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Section 901.20(b), third line, changed "at least 7" to "the current year plus 5"; Section 901.20(c), fourth line, changed "7" to "the current year plus 5".
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: 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

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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 The Department recognized that the process outlined by this rule was outdated, unnecessary, and not in line with other states' requirements. The amendment to Section 901.20 grants 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 five years, whichever is later, for items related to the final disposition of an insurance claim or the financial condition of the company.

- 16) Information and questions regarding this adopted rule shall be directed to:

Marcy Savage, Assistant Deputy Director
Corporate Regulation Section
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/524-0016

The full text of the Adopted 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 Destruction~~Procedures 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. 7895, effective May 23, 2016.

Section 901.20 Disposal and Destruction~~Procedures for Compiling and Submitting Lists and Schedules of Records for Destruction~~

~~a) The company is authorized to dispose of or destroy~~shall 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 the current year plus 5 years; or
- c) ~~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 the current year plus 5 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.

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- 1) ~~Lists are applications for authority to destroy accumulated records.~~
 - 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~~

[illegible]

We, the undersigned, _____, President and _____, Secretary, duly authorized in this regard as representatives of _____ Insurance Company, being separately sworn, each for himself 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

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~~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 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 _____, 20 _____ :

Notary

~~The destruction of records described as listed or scheduled in the foregoing Affidavit is hereby authorized this~~ _____ day of _____, 20 _____ :

Director of Insurance

(Source: Amended at 40 Ill. Reg. 7895, effective May 23, 2016)