



## Illinois DOI Proposes Significant Change to Policy Rescission Law

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During the past holidays, the Illinois Department of Insurance quietly filed a Notice of Proposed Rules 941.10 and 941.20 which, if adopted, could substantially change long-standing Illinois law of material misrepresentation in applications for life, accident and health and certain other insurance policies. Specifically, the Rule would preclude rescissions of insurance policies based on material misrepresentations in applications unless: 1) the application is shown to be signed and dated by the proposed insured, and 2) the information misrepresented, even with intent to deceive, was not “available and could have been known to the insurance company from readily available sources at the time the policy was issued.” The Rule offers that “readily available” sources **include** motor vehicle records and information obtainable through the Lexis-Nexis Comprehensive Loss Underwriting Exchange (“C.L.U.E.”). If promulgated, the Rule would contradict long-standing Illinois common law to the effect that insurers are entitled to rely on the truthfulness of applicants for insurance and generally do not have an independent duty to investigate the applicant’s answers to underwriting questions on the application. Questions as to what information is “readily available” would likely be a source of significant dispute and litigation as well.

The comment period expires on February 9, 2015. For a copy of the Notice of Proposed Rule, please visit our [website](#).

*If you have any questions about this Client Bulletin, please feel free to contact William A. Chittenden III or the CMN attorney with whom you regularly work.*

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