

# State Of Insurance: Q4 Notes From Illinois

By **Matthew Fortin** (February 2, 2026)

In the last quarter of 2025, Illinois' appellate courts weighed in on the availability of potentially overlapping coverages for water-related damages under homeowners insurance policies, the enforceability of contractual suit limitation provisions in uninsured motorist coverages, and the applicability of statutory protections for genetic health information in life and health insurance underwriting.

Meanwhile, the Illinois Department of Insurance filed suit against State Farm seeking nationwide homeowners insurance data as part of a financial and market conduct examination.



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## **Microbial Contamination Sublimit Did Not Preclude Broader Additional Coverage**

When it comes to water damage and mold or microbial contamination, homeowners insurance policies can often be a patchwork of exclusions, exceptions, additional coverages and endorsements. When there is coverage, it is often subject to special limits of liability far less than the policy limit for the dwelling itself.

In *Schaff v. Travelers Home and Marine Insurance Co.*, decided Nov. 21, the Appellate Court of Illinois, First District, addressed the interplay between two such additional coverages.[1]

The insured homeowners experienced a sewage backup in their basement while they were away. In addition to damage to the basement caused by the liquid sewage, the insureds alleged that sewage had become aerosolized and spread through the home by the running HVAC system.[2]

Their insurance policy with Travelers included an additional coverage where if a loss resulted in fungi or other microbes, Travelers would pay up to \$5,000 for remediation of microbial contamination.[3] A separate additional coverage provided coverage up to the policy limit (\$840,000) for direct physical loss caused by "water or water-borne material" that backs up from a sewer.[4]

Travelers argued, and the Cook County Circuit Court agreed on summary judgment, that the policy's coverage for all damage from sewage-related bacteria was necessarily limited to \$5,000.[5] The First District reversed, finding that aerosolized sewage microbes could constitute "water-borne material" that could cause direct physical loss, in which case the broader additional coverage for sewer backup would be available to the insureds up to the policy limit.[6]

The court noted that significant factual issues remained as to the insureds' right to coverage under the sewer backup provision, and accordingly remanded for further proceedings.[7]

While the patchwork of exclusions, coverages and special limits of liability for water-related damage in many homeowners policies will remain a source of contract disputes between homeowners and their insurers, *Schaff* is a welcome development for policyholders in that it recognizes that the availability of limited coverage under one additional coverage does not necessarily preclude recovery under another, broader additional coverage.

## **Statutory Protection for Genetic Health Information Held Inapplicable to Life Insurance Underwriting**

Section 20(b) of Illinois' Genetic Information Privacy Act prohibits an insurer from using or disclosing "protected health information" that is genetic information for underwriting purposes.[8] Reynolds v. State Farm Life Insurance Co., a putative class action filed in Kane County Circuit Court, alleged that State Farm violated Section 20(b) by requiring individuals to undergo a physical exam and provide genetic personal health information as part of State Farm's assessment of their eligibility for life insurance.[9]

On appeal, the Appellate Court of Illinois, Second District, affirmed the trial court's order granting State Farm's motion to dismiss, holding that Section 20(b) applies only to health insurance underwriting.[10] The court analyzed the statutory language, noting specific references to "health insurance," "health benefits" and terms such as "pre-existing conditions" commonly associated with health insurance, and the contrasting absence of references to life insurance or vocabulary specific to life insurance.[11]

Legislative history, including a 2014 amendment, intended to align the act with federal regulations that do not apply to life insurers.[12]

Despite being critical of the Illinois General Assembly responsible for drafting Section 20(b), the court was definitive in its conclusion that it only applies to health insurance underwriting, noting it could "come to no other conclusion." [13]

With the court's Dec. 11 ruling, insurers can be comforted that Section 20(b), at least, is not an obstacle to use of applicants' genetic information to guide the underwriting of life insurance products.

## **Suit Limitation Provision Found to Be Ambiguous**

Illinois' appellate courts have consistently enforced contractual provisions limiting the time that policyholders have to file suit against their insurers. In Garcia v. Sanchez-Lopez, the First District reminded insurers that clear and unambiguous language is the reason why, and that policy wording that fails to clearly articulate a specific period of time and triggering event will be construed in favor of their policyholders.[14]

The policyholder had filed suit against his insurer, American Family, seeking uninsured motorist coverage for injuries sustained in a collision six years earlier.[15] American Family moved to dismiss the suit on the ground that it was not commenced within the time allowed by law, pointing to the "Suit Against Us" provision in its insurance policy.[16] That provision stated, in relevant part, that American Family "may not be sued under the Uninsured Motorist coverage on any claim that is time-barred by the tort statute of limitations." [17]

The Cook County Circuit Court granted the motion, agreeing with American Family that the suit was time-barred because it was filed beyond Illinois' two-year statute of limitations for personal injury actions.[18]

On appeal, the First District observed that the specific language of American Family's "Suit Against Us" provision had not previously been addressed by Illinois' appellate courts.[19] And while the court acknowledged the long line of Illinois authority enforcing contractual suit limitation clauses, it noted that unlike the policy language at issue in the cases cited by American Family as examples of that authority, American Family's clause did "not specify a period of time, such as one or two years, or a triggering event, such as an accident." [20]

As written, the court found the indefinite language of American Family's clause difficult for the average layperson to understand, and following the reasoning of courts in other jurisdictions that had considered the same language, declined to enforce it.[21]

Interestingly, the First District pointed to the cases from other jurisdictions not only as persuasive authority in support of its holding, but also as having put American Family on notice that its wording was unclear long before it contracted to provide uninsured motorist coverage for the insured.[22]

The First District's Dec. 9 opinion in *Garcia* puts underwriters on notice not only of the essential features of a valid and enforceable suit limitation provision — a specific period of time and triggering event — but also that failure to amend unclear wording in their policy forms despite the opportunity to do so may be used against them if they find themselves before the court in the future.

### **The Illinois Department of Insurance Takes Action Against State Farm**

In October, Ann Gillespie, in her official capacity as Illinois director of insurance, took the unusual step of filing suit against State Farm in Cook County Circuit Court to force it to hand over nationwide homeowners insurance data as part of a financial and market conduct examination initiated in November 2024.[23]

The director has broad statutory authority to examine the financial condition and market practices of domestic insurers, with those insurers required to maintain and make available to the director a broad array of records to facilitate such examinations.[24]

The crux of the dispute is the director's request for data regarding State Farm's activities and insureds outside of Illinois. The Department of Insurance insists it needs nationwide data to understand and assess State Farm's financial condition, its market and nonfinancial practices, and enterprise risks.[25] State Farm's position, as reflected in its responsive pleading filed in mid-December, includes that the director's demands for nationwide-level data exceed the department's legal authority.[26]

### **Conclusion**

Looking ahead, many eyes will be on the Department of Insurance's lawsuit against State Farm seeking nationwide data as part of a pending market and financial conduct examination. While just filed in October, the docket shows things to be moving quickly.

In the meantime, the decisions discussed above provide helpful guidance on Illinois law pertaining to the validity of contractual suit limitation provisions, the interplay of potentially overlapping coverages for water and water-related damage, and the scope of statutory protection for genetic health information in the context of life and health insurance underwriting.

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[1] Schaff v. Travelers Home and Marine Ins. Co., 2025 IL App (1st) 240276, --- N.E.3d --- (2025).

[2] Id. at ¶ 21.

[3] Id. at ¶¶ 15-16.

[4] Id. at ¶ 17.

[5] Id. at ¶ 114.

[6] Id.

[7] Id.

[8] See 410 Ill. Comp. Stat. § 513/20(b).

[9] Reynolds v. State Farm Life Ins. Co., 2025 IL App (2d) 240399, --- N.E.3d --- (2025), ¶ 4.

[10] Id. at ¶ 27.

[11] Id. at ¶¶ 25-33.

[12] Id. at ¶¶ 38-42.

[13] Id. at ¶ 27.

[14] Garcia v. Sanchez-Lopez, 2025 IL App (1st) 241322, --- N.E.3d --- (2025).

[15] Id. at ¶ 1.

[16] Id. at ¶¶ 8-9.

[17] Id. at ¶ 13.

[18] Id. at ¶¶ 8-9; 735 Ill. Comp. Stat. § 5/13-202.

[19] Id. at ¶ 14.

[20] Id. at ¶ 30.

[21] Id.

[22] Id. at ¶ 32.

[23] Complaint, Gillespie v. State Farm Fire & Cas. Ins. Co., Case No. 2025 CH 10454, Cir. Ct. Cook Cty. (filed Oct. 10, 2025).

[24] Id. at ¶¶ 24-31.

[25] Id. at ¶ 6.

[26] Answer and Aff. Defenses, pp. 22-25, Gillespie v. State Farm Fire & Cas. Ins. Co., Case No. 2025 CH 10454, Cir. Ct. Cook Cty. (filed Dec. 16, 2025).