

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 416 as follows:

6 (215 ILCS 5/416)

7 Sec. 416. Illinois Workers' Compensation Commission  
8 Operations Fund Surcharge.

9 (a) As of July 30, 2004 (the effective date of Public Act  
10 93-840), every company licensed or authorized by the Illinois  
11 Department of Insurance and insuring employers' liabilities  
12 arising under the Workers' Compensation Act or the Workers'  
13 Occupational Diseases Act shall remit to the Director a  
14 surcharge based upon the annual direct written premium, as  
15 reported under Section 136 of this Act, of the company in the  
16 manner provided in this Section. Such proceeds shall be  
17 deposited into the Illinois Workers' Compensation Commission  
18 Operations Fund as established in the Workers' Compensation  
19 Act. If a company survives or was formed by a merger,  
20 consolidation, reorganization, or reincorporation, the direct  
21 written premiums of all companies party to the merger,  
22 consolidation, reorganization, or reincorporation shall, for  
23 purposes of determining the amount of the fee imposed by this

1 Section, be regarded as those of the surviving or new company.

2 (b) Beginning ~~(1) Except as provided in subsection (b) (2)~~  
3 ~~of this Section, beginning~~ on July 30, 2004 (the effective  
4 date of Public Act 93-840) and on July 1 of each year  
5 thereafter through 2023, the Director shall charge an annual  
6 Illinois Workers' Compensation Commission Operations Fund  
7 Surcharge from every company subject to subsection (a) of this  
8 Section equal to 1.01% of its direct written premium for  
9 insuring employers' liabilities arising under the Workers'  
10 Compensation Act or Workers' Occupational Diseases Act as  
11 reported in each company's annual statement filed for the  
12 previous year as required by Section 136. Within 15 days after  
13 the effective date of this amendatory Act of the 103rd General  
14 Assembly and on July 1 of each year thereafter, the Director  
15 shall charge an annual Illinois Workers' Compensation  
16 Commission Operations Fund Surcharge from every company  
17 subject to subsection (a) of this Section equal to 1.092% of  
18 its direct written premium for insuring employers' liabilities  
19 arising under the Workers' Compensation Act or Workers'  
20 Occupational Diseases Act as reported in each company's annual  
21 statement filed for the previous year as required by Section  
22 136. The Illinois Workers' Compensation Commission Operations  
23 Fund Surcharge shall be collected by companies subject to  
24 subsection (a) of this Section as a separately stated  
25 surcharge on insured employers at the rate of 1.092% ~~1.01%~~ of  
26 direct written premium for the surcharge due in 2024 and each

1 year thereafter. The Illinois Workers' Compensation Commission  
2 Operations Fund Surcharge shall not be collected by companies  
3 subject to subsection (a) of this Section from any employer  
4 that self-insures its liabilities arising under the Workers'  
5 Compensation Act or Workers' Occupational Diseases Act,  
6 provided that the employer has paid the Illinois Workers'  
7 Compensation Commission Operations Fund Fee pursuant to  
8 Section 4d of the Workers' Compensation Act. All sums  
9 collected by the Department of Insurance under the provisions  
10 of this Section shall be paid promptly after the receipt of the  
11 same, accompanied by a detailed statement thereof, into the  
12 Illinois Workers' Compensation Commission Operations Fund in  
13 the State treasury.

14 (b) (2) (Blank). ~~The surcharge due pursuant to Public Act~~  
15 ~~93-840 shall be collected instead of the surcharge due on July~~  
16 ~~1, 2004 under Public Act 93-32. Payment of the surcharge due~~  
17 ~~under Public Act 93-840 shall discharge the employer's~~  
18 ~~obligations due on July 1, 2004.~~

19 (c) In addition to the authority specifically granted  
20 under Article XXV of this Code, the Director shall have such  
21 authority to adopt rules or establish forms as may be  
22 reasonably necessary for purposes of enforcing this Section.  
23 The Director shall also have authority to defer, waive, or  
24 abate the surcharge or any penalties imposed by this Section  
25 if in the Director's opinion the company's solvency and  
26 ability to meet its insured obligations would be immediately

1 threatened by payment of the surcharge due.

2 (d) When a company fails to pay the full amount of any  
3 annual Illinois Workers' Compensation Commission Operations  
4 Fund Surcharge of \$100 or more due under this Section, there  
5 shall be added to the amount due as a penalty an amount equal  
6 to 10% of the deficiency for each month or part of a month that  
7 the deficiency remains unpaid.

8 (e) The Department of Insurance may enforce the collection  
9 of any delinquent payment, penalty, or portion thereof by  
10 legal action or in any other manner by which the collection of  
11 debts due the State of Illinois may be enforced under the laws  
12 of this State.

13 (f) Whenever it appears to the satisfaction of the  
14 Director that a company has paid pursuant to this Act an  
15 Illinois Workers' Compensation Commission Operations Fund  
16 Surcharge in an amount in excess of the amount legally  
17 collectable from the company, the Director shall issue a  
18 credit memorandum for an amount equal to the amount of such  
19 overpayment. A credit memorandum may be applied for the 2-year  
20 period from the date of issuance, against the payment of any  
21 amount due during that period under the surcharge imposed by  
22 this Section or, subject to reasonable rule of the Department  
23 of Insurance including requirement of notification, may be  
24 assigned to any other company subject to regulation under this  
25 Act. Any application of credit memoranda after the period  
26 provided for in this Section is void.

1 (g) Annually, the Governor may direct a transfer of up to  
2 2% of all moneys collected under this Section to the Insurance  
3 Financial Regulation Fund.

4 (Source: P.A. 102-775, eff. 5-13-22.)

5 Section 10. The Workers' Compensation Act is amended by  
6 changing Sections 4, 4a-5, 4d, 7, 19, and 25.5 as follows:

7 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

8 (Text of Section from P.A. 101-40 and 102-37)

9 Sec. 4. (a) Any employer, including but not limited to  
10 general contractors and their subcontractors, who shall come  
11 within the provisions of Section 3 of this Act, and any other  
12 employer who shall elect to provide and pay the compensation  
13 provided for in this Act shall:

14 (1) File with the Commission annually an application  
15 for approval as a self-insurer which shall include a  
16 current financial statement, and annually, thereafter, an  
17 application for renewal of self-insurance, which shall  
18 include a current financial statement. Said application  
19 and financial statement shall be signed and sworn to by  
20 the president or vice president and secretary or assistant  
21 secretary of the employer if it be a corporation, or by all  
22 of the partners, if it be a copartnership, or by the owner  
23 if it be neither a copartnership nor a corporation. All  
24 initial applications and all applications for renewal of

1 self-insurance must be submitted at least 60 days prior to  
2 the requested effective date of self-insurance. An  
3 employer may elect to provide and pay compensation as  
4 provided for in this Act as a member of a group workers'  
5 compensation pool under Article V 3/4 of the Illinois  
6 Insurance Code. If an employer becomes a member of a group  
7 workers' compensation pool, the employer shall not be  
8 relieved of any obligations imposed by this Act.

9 If the sworn application and financial statement of  
10 any such employer does not satisfy the Commission of the  
11 financial ability of the employer who has filed it, the  
12 Commission shall require such employer to,

13 (2) Furnish security, indemnity or a bond guaranteeing  
14 the payment by the employer of the compensation provided  
15 for in this Act, provided that any such employer whose  
16 application and financial statement shall not have  
17 satisfied the commission of his or her financial ability  
18 and who shall have secured his liability in part by excess  
19 liability insurance shall be required to furnish to the  
20 Commission security, indemnity or bond guaranteeing his or  
21 her payment up to the effective limits of the excess  
22 coverage, or

23 (3) Insure his entire liability to pay such  
24 compensation in some insurance carrier authorized,  
25 licensed, or permitted to do such insurance business in  
26 this State. Every policy of an insurance carrier, insuring

1 the payment of compensation under this Act shall cover all  
2 the employees and the entire compensation liability of the  
3 insured: Provided, however, that any employer may insure  
4 his or her compensation liability with 2 or more insurance  
5 carriers or may insure a part and qualify under subsection  
6 1, 2, or 4 for the remainder of his or her liability to pay  
7 such compensation, subject to the following two  
8 provisions:

9 Firstly, the entire compensation liability of the  
10 employer to employees working at or from one location  
11 shall be insured in one such insurance carrier or  
12 shall be self-insured, and

13 Secondly, the employer shall submit evidence  
14 satisfactorily to the Commission that his or her  
15 entire liability for the compensation provided for in  
16 this Act will be secured. Any provisions in any  
17 policy, or in any endorsement attached thereto,  
18 attempting to limit or modify in any way, the  
19 liability of the insurance carriers issuing the same  
20 except as otherwise provided herein shall be wholly  
21 void.

22 Nothing herein contained shall apply to policies of  
23 excess liability carriage secured by employers who have  
24 been approved by the Commission as self-insurers, or

25 (4) Make some other provision, satisfactory to the  
26 Commission, for the securing of the payment of

1 compensation provided for in this Act, and

2 (5) Upon becoming subject to this Act and thereafter  
3 as often as the Commission may in writing demand, file  
4 with the Commission in form prescribed by it evidence of  
5 his or her compliance with the provision of this Section.

6 (a-1) Regardless of its state of domicile or its principal  
7 place of business, an employer shall make payments to its  
8 insurance carrier or group self-insurance fund, where  
9 applicable, based upon the premium rates of the situs where  
10 the work or project is located in Illinois if:

11 (A) the employer is engaged primarily in the building  
12 and construction industry; and

13 (B) subdivision (a) (3) of this Section applies to the  
14 employer or the employer is a member of a group  
15 self-insurance plan as defined in subsection (1) of  
16 Section 4a.

17 The Illinois Workers' Compensation Commission shall impose  
18 a penalty upon an employer for violation of this subsection  
19 (a-1) if:

20 (i) the employer is given an opportunity at a hearing  
21 to present evidence of its compliance with this subsection  
22 (a-1); and

23 (ii) after the hearing, the Commission finds that the  
24 employer failed to make payments upon the premium rates of  
25 the situs where the work or project is located in  
26 Illinois.



1           The penalty shall not exceed \$1,000 for each day of work  
2           for which the employer failed to make payments upon the  
3           premium rates of the situs where the work or project is located  
4           in Illinois, but the total penalty shall not exceed \$50,000  
5           for each project or each contract under which the work was  
6           performed.

7           Any penalty under this subsection (a-1) must be imposed  
8           not later than one year after the expiration of the applicable  
9           limitation period specified in subsection (d) of Section 6 of  
10          this Act. Penalties imposed under this subsection (a-1) shall  
11          be deposited into the Illinois Workers' Compensation  
12          Commission Operations Fund, a special fund that is created in  
13          the State treasury. Subject to appropriation, moneys in the  
14          Fund shall be used solely for the operations of the Illinois  
15          Workers' Compensation Commission, the salaries and benefits of  
16          the Self-Insurers Advisory Board employees, the operating  
17          costs of the Self-Insurers Advisory Board, and by the  
18          Department of Insurance for the purposes authorized in  
19          subsection (c) of Section 25.5 of this Act.

20          (a-2) Every Employee Leasing Company (ELC), as defined in  
21          Section 15 of the Employee Leasing Company Act, shall at a  
22          minimum provide the following information to the Commission or  
23          any entity designated by the Commission regarding each  
24          workers' compensation insurance policy issued to the ELC:

25                  (1) Any client company of the ELC listed as an  
26                  additional named insured.

1           (2) Any informational schedule attached to the master  
2           policy that identifies any individual client company's  
3           name, FEIN, and job location.

4           (3) Any certificate of insurance coverage document  
5           issued to a client company specifying its rights and  
6           obligations under the master policy that establishes both  
7           the identity and status of the client, as well as the dates  
8           of inception and termination of coverage, if applicable.

9           (b) The sworn application and financial statement, or  
10          security, indemnity or bond, or amount of insurance, or other  
11          provisions, filed, furnished, carried, or made by the  
12          employer, as the case may be, shall be subject to the approval  
13          of the Commission.

14          Deposits under escrow agreements shall be cash, negotiable  
15          United States government bonds or negotiable general  
16          obligation bonds of the State of Illinois. Such cash or bonds  
17          shall be deposited in escrow with any State or National Bank or  
18          Trust Company having trust authority in the State of Illinois.

19          Upon the approval of the sworn application and financial  
20          statement, security, indemnity or bond or amount of insurance,  
21          filed, furnished or carried, as the case may be, the  
22          Commission shall send to the employer written notice of its  
23          approval thereof. The certificate of compliance by the  
24          employer with the provisions of subparagraphs (2) and (3) of  
25          paragraph (a) of this Section shall be delivered by the  
26          insurance carrier to the Illinois Workers' Compensation

1 Commission within five days after the effective date of the  
2 policy so certified. The insurance so certified shall cover  
3 all compensation liability occurring during the time that the  
4 insurance is in effect and no further certificate need be  
5 filed in case such insurance is renewed, extended or otherwise  
6 continued by such carrier. The insurance so certified shall  
7 not be cancelled or in the event that such insurance is not  
8 renewed, extended or otherwise continued, such insurance shall  
9 not be terminated until at least 10 days after receipt by the  
10 Illinois Workers' Compensation Commission of notice of the  
11 cancellation or termination of said insurance; provided,  
12 however, that if the employer has secured insurance from  
13 another insurance carrier, or has otherwise secured the  
14 payment of compensation in accordance with this Section, and  
15 such insurance or other security becomes effective prior to  
16 the expiration of the 10 days, cancellation or termination  
17 may, at the option of the insurance carrier indicated in such  
18 notice, be effective as of the effective date of such other  
19 insurance or security.

20 (c) Whenever the Commission shall find that any  
21 corporation, company, association, aggregation of individuals,  
22 reciprocal or interinsurers exchange, or other insurer  
23 effecting workers' compensation insurance in this State shall  
24 be insolvent, financially unsound, or unable to fully meet all  
25 payments and liabilities assumed or to be assumed for  
26 compensation insurance in this State, or shall practice a

1 policy of delay or unfairness toward employees in the  
2 adjustment, settlement, or payment of benefits due such  
3 employees, the Commission may after reasonable notice and  
4 hearing order and direct that such corporation, company,  
5 association, aggregation of individuals, reciprocal or  
6 interinsurers exchange, or insurer, shall from and after a  
7 date fixed in such order discontinue the writing of any such  
8 workers' compensation insurance in this State. Subject to such  
9 modification of the order as the Commission may later make on  
10 review of the order, as herein provided, it shall thereupon be  
11 unlawful for any such corporation, company, association,  
12 aggregation of individuals, reciprocal or interinsurers  
13 exchange, or insurer to effect any workers' compensation  
14 insurance in this State. A copy of the order shall be served  
15 upon the Director of Insurance by registered mail. Whenever  
16 the Commission finds that any service or adjustment company  
17 used or employed by a self-insured employer or by an insurance  
18 carrier to process, adjust, investigate, compromise or  
19 otherwise handle claims under this Act, has practiced or is  
20 practicing a policy of delay or unfairness toward employees in  
21 the adjustment, settlement or payment of benefits due such  
22 employees, the Commission may after reasonable notice and  
23 hearing order and direct that such service or adjustment  
24 company shall from and after a date fixed in such order be  
25 prohibited from processing, adjusting, investigating,  
26 compromising or otherwise handling claims under this Act.

1           Whenever the Commission finds that any self-insured  
2 employer has practiced or is practicing delay or unfairness  
3 toward employees in the adjustment, settlement or payment of  
4 benefits due such employees, the Commission may, after  
5 reasonable notice and hearing, order and direct that after a  
6 date fixed in the order such self-insured employer shall be  
7 disqualified to operate as a self-insurer and shall be  
8 required to insure his entire liability to pay compensation in  
9 some insurance carrier authorized, licensed and permitted to  
10 do such insurance business in this State, as provided in  
11 subparagraph 3 of paragraph (a) of this Section.

12           All orders made by the Commission under this Section shall  
13 be subject to review by the courts, said review to be taken in  
14 the same manner and within the same time as provided by Section  
15 19 of this Act for review of awards and decisions of the  
16 Commission, upon the party seeking the review filing with the  
17 clerk of the court to which said review is taken a bond in an  
18 amount to be fixed and approved by the court to which the  
19 review is taken, conditioned upon the payment of all  
20 compensation awarded against the person taking said review  
21 pending a decision thereof and further conditioned upon such  
22 other obligations as the court may impose. Upon the review the  
23 Circuit Court shall have power to review all questions of fact  
24 as well as of law. The penalty hereinafter provided for in this  
25 paragraph shall not attach and shall not begin to run until the  
26 final determination of the order of the Commission.

1           (d) Whenever a Commissioner, with due process and after a  
2 hearing, determines an employer has knowingly failed to  
3 provide coverage as required by paragraph (a) of this Section,  
4 the failure shall be deemed an immediate serious danger to  
5 public health, safety, and welfare sufficient to justify  
6 service by the Commission of a work-stop order on such  
7 employer, requiring the cessation of all business operations  
8 of such employer at the place of employment or job site. If a  
9 business is declared to be extra hazardous, as defined in  
10 Section 3, a Commissioner may issue an emergency work-stop  
11 order on such an employer ex parte, prior to holding a hearing,  
12 requiring the cessation of all business operations of such  
13 employer at the place of employment or job site while awaiting  
14 the ruling of the Commission. Whenever a Commissioner issues  
15 an emergency work-stop order, the Commission shall issue a  
16 notice of emergency work-stop hearing to be posted at the  
17 employer's places of employment and job sites. Any law  
18 enforcement agency in the State shall, at the request of the  
19 Commission, render any assistance necessary to carry out the  
20 provisions of this Section, including, but not limited to,  
21 preventing any employee of such employer from remaining at a  
22 place of employment or job site after a work-stop order has  
23 taken effect. Any work-stop order shall be lifted upon proof  
24 of insurance as required by this Act. Any orders under this  
25 Section are appealable under Section 19(f) to the Circuit  
26 Court.

1 Any individual employer, corporate officer or director of  
2 a corporate employer, partner of an employer partnership, or  
3 member of an employer limited liability company who knowingly  
4 fails to provide coverage as required by paragraph (a) of this  
5 Section is guilty of a Class 4 felony. This provision shall not  
6 apply to any corporate officer or director of any  
7 publicly-owned corporation. Each day's violation constitutes a  
8 separate offense. The State's Attorney of the county in which  
9 the violation occurred, or the Attorney General, shall bring  
10 such actions in the name of the People of the State of  
11 Illinois, or may, in addition to other remedies provided in  
12 this Section, bring an action for an injunction to restrain  
13 the violation or to enjoin the operation of any such employer.

14 Any individual employer, corporate officer or director of  
15 a corporate employer, partner of an employer partnership, or  
16 member of an employer limited liability company who  
17 negligently fails to provide coverage as required by paragraph  
18 (a) of this Section is guilty of a Class A misdemeanor. This  
19 provision shall not apply to any corporate officer or director  
20 of any publicly-owned corporation. Each day's violation  
21 constitutes a separate offense. The State's Attorney of the  
22 county in which the violation occurred, or the Attorney  
23 General, shall bring such actions in the name of the People of  
24 the State of Illinois.

25 The criminal penalties in this subsection (d) shall not  
26 apply where there exists a good faith dispute as to the

1 existence of an employment relationship. Evidence of good  
2 faith shall include, but not be limited to, compliance with  
3 the definition of employee as used by the Internal Revenue  
4 Service.

5 All investigative actions must be acted upon within 90  
6 days of the issuance of the complaint. Employers who are  
7 subject to and who knowingly fail to comply with this Section  
8 shall not be entitled to the benefits of this Act during the  
9 period of noncompliance, but shall be liable in an action  
10 under any other applicable law of this State. In the action,  
11 such employer shall not avail himself or herself of the  
12 defenses of assumption of risk or negligence or that the  
13 injury was due to a co-employee. In the action, proof of the  
14 injury shall constitute prima facie evidence of negligence on  
15 the part of such employer and the burden shall be on such  
16 employer to show freedom of negligence resulting in the  
17 injury. The employer shall not join any other defendant in any  
18 such civil action. Nothing in this amendatory Act of the 94th  
19 General Assembly shall affect the employee's rights under  
20 subdivision (a)3 of Section 1 of this Act. Any employer or  
21 carrier who makes payments under subdivision (a)3 of Section 1  
22 of this Act shall have a right of reimbursement from the  
23 proceeds of any recovery under this Section.

24 An employee of an uninsured employer, or the employee's  
25 dependents in case death ensued, may, instead of proceeding  
26 against the employer in a civil action in court, file an



1 application for adjustment of claim with the Commission in  
2 accordance with the provisions of this Act and the Commission  
3 shall hear and determine the application for adjustment of  
4 claim in the manner in which other claims are heard and  
5 determined before the Commission.

6 All proceedings under this subsection (d) shall be  
7 reported on an annual basis to the Workers' Compensation  
8 Advisory Board.

9 An investigator with the Department of Insurance may issue  
10 a citation to any employer that is not in compliance with its  
11 obligation to have workers' compensation insurance under this  
12 Act. The amount of the fine shall be based on the period of  
13 time the employer was in non-compliance, but shall be no less  
14 than \$500, and shall not exceed \$10,000. An employer that has  
15 been issued a citation shall pay the fine to the Department of  
16 Insurance and provide to the Department of Insurance proof  
17 that it obtained the required workers' compensation insurance  
18 within 10 days after the citation was issued. This Section  
19 does not affect any other obligations this Act imposes on  
20 employers.

21 Upon a finding by the Commission, after reasonable notice  
22 and hearing, of the knowing and willful failure or refusal of  
23 an employer to comply with any of the provisions of paragraph  
24 (a) of this Section, the failure or refusal of an employer,  
25 service or adjustment company, or an insurance carrier to  
26 comply with any order of the Illinois Workers' Compensation

1 Commission pursuant to paragraph (c) of this Section  
2 disqualifying him or her to operate as a self insurer and  
3 requiring him or her to insure his or her liability, or the  
4 knowing and willful failure of an employer to comply with a  
5 citation issued by an investigator with the Department of  
6 Insurance, the Commission may assess a civil penalty of up to  
7 \$500 per day for each day of such failure or refusal after the  
8 effective date of this amendatory Act of 1989. The minimum  
9 penalty under this Section shall be the sum of \$10,000. Each  
10 day of such failure or refusal shall constitute a separate  
11 offense. The Commission may assess the civil penalty  
12 personally and individually against the corporate officers and  
13 directors of a corporate employer, the partners of an employer  
14 partnership, and the members of an employer limited liability  
15 company, after a finding of a knowing and willful refusal or  
16 failure of each such named corporate officer, director,  
17 partner, or member to comply with this Section. The liability  
18 for the assessed penalty shall be against the named employer  
19 first, and if the named employer fails or refuses to pay the  
20 penalty to the Commission within 30 days after the final order  
21 of the Commission, then the named corporate officers,  
22 directors, partners, or members who have been found to have  
23 knowingly and willfully refused or failed to comply with this  
24 Section shall be liable for the unpaid penalty or any unpaid  
25 portion of the penalty. Upon investigation by the Department  
26 of Insurance, the Attorney General shall have the authority to

1 prosecute all proceedings to enforce the civil and  
2 administrative provisions of this Section before the  
3 Commission. The Commission and the Department of Insurance  
4 shall promulgate procedural rules for enforcing this Section  
5 relating to their respective duties prescribed herein.

6 If an employer is found to be in non-compliance with any  
7 provisions of paragraph (a) of this Section more than once,  
8 all minimum penalties will double. Therefore, upon the failure  
9 or refusal of an employer, service or adjustment company, or  
10 insurance carrier to comply with any order of the Commission  
11 pursuant to paragraph (c) of this Section disqualifying him or  
12 her to operate as a self-insurer and requiring him or her to  
13 insure his or her liability, or the knowing and willful  
14 failure of an employer to comply with a citation issued by an  
15 investigator with the Department of Insurance, the Commission  
16 may assess a civil penalty of up to \$1,000 per day for each day  
17 of such failure or refusal after the effective date of this  
18 amendatory Act of the 101st General Assembly. The minimum  
19 penalty under this Section shall be the sum of \$20,000. In  
20 addition, employers with 2 or more violations of any  
21 provisions of paragraph (a) of this Section may not  
22 self-insure for one year or until all penalties are paid.

23 A Commission decision imposing penalties under this  
24 Section may be judicially reviewed only as described in  
25 Section 19(f). After expiration of the period for seeking  
26 judicial review, the Commission's final decision imposing

1 penalties may be enforced in the same manner as a judgment  
2 entered by a court of competent jurisdiction. The Commission's  
3 final decision imposing penalties is a debt due and owing to  
4 the State and can be enforced to the same extent as a judgment  
5 entered by a circuit court. The Attorney General shall  
6 represent the Commission and the Department of Insurance in  
7 any action challenging the final decision in circuit court. If  
8 the court affirms the Commission's decision, the court shall  
9 enter judgment against the employer in the amount of the fines  
10 assessed by the Commission. The Attorney General shall make  
11 reasonable efforts to collect the amounts due under the  
12 Commission's decision.

13 ~~Upon the failure or refusal of any employer, service or~~  
14 ~~adjustment company or insurance carrier to comply with the~~  
15 ~~provisions of this Section and with the orders of the~~  
16 ~~Commission under this Section, or the order of the court on~~  
17 ~~review after final adjudication, the Commission may bring a~~  
18 ~~civil action to recover the amount of the penalty in Cook~~  
19 ~~County or in Sangamon County in which litigation the~~  
20 ~~Commission shall be represented by the Attorney General. The~~  
21 ~~Commission shall send notice of its finding of non-compliance~~  
22 ~~and assessment of the civil penalty to the Attorney General.~~  
23 ~~It shall be the duty of the Attorney General within 30 days~~  
24 ~~after receipt of the notice, to institute prosecutions and~~  
25 ~~promptly prosecute all reported violations of this Section.~~

26 Any individual employer, corporate officer or director of

1 a corporate employer, partner of an employer partnership, or  
2 member of an employer limited liability company who, with the  
3 intent to avoid payment of compensation under this Act to an  
4 injured employee or the employee's dependents, knowingly  
5 transfers, sells, encumbers, assigns, or in any manner  
6 disposes of, conceals, secretes, or destroys any property  
7 belonging to the employer, officer, director, partner, or  
8 member is guilty of a Class 4 felony.

9 Penalties and fines collected pursuant to this paragraph  
10 (d) shall be deposited upon receipt into a special fund which  
11 shall be designated the Injured Workers' Benefit Fund, of  
12 which the State Treasurer is ex-officio custodian, such  
13 special fund to be held and disbursed in accordance with this  
14 paragraph (d) for the purposes hereinafter stated in this  
15 paragraph (d), upon the final order of the Commission. The  
16 Injured Workers' Benefit Fund shall be deposited the same as  
17 are State funds and any interest accruing thereon shall be  
18 added thereto every 6 months. The Injured Workers' Benefit  
19 Fund is subject to audit the same as State funds and accounts  
20 and is protected by the general bond given by the State  
21 Treasurer. The Injured Workers' Benefit Fund is considered  
22 always appropriated for the purposes of disbursements as  
23 provided in this paragraph, and shall be paid out and  
24 disbursed as herein provided and shall not at any time be  
25 appropriated or diverted to any other use or purpose. Moneys  
26 in the Injured Workers' Benefit Fund shall be used only for

1 payment of workers' compensation benefits for injured  
2 employees when the employer has failed to provide coverage as  
3 determined under this paragraph (d) and has failed to pay the  
4 benefits due to the injured employee. The employer shall  
5 reimburse the Injured Workers' Benefit Fund for any amounts  
6 paid to an employee on account of the compensation awarded by  
7 the Commission. The Attorney General shall make reasonable  
8 efforts to obtain reimbursement for the Injured Workers'  
9 Benefit Fund.

10 ~~The Commission shall have the right to obtain~~  
11 ~~reimbursement from the employer for compensation obligations~~  
12 ~~paid by the Injured Workers' Benefit Fund.~~ Any such amounts  
13 obtained shall be deposited by the Commission into the Injured  
14 Workers' Benefit Fund. If an injured employee or his or her  
15 personal representative receives payment from the Injured  
16 Workers' Benefit Fund, the State of Illinois has the same  
17 rights under paragraph (b) of Section 5 that the employer who  
18 failed to pay the benefits due to the injured employee would  
19 have had if the employer had paid those benefits, and any  
20 moneys recovered by the State as a result of the State's  
21 exercise of its rights under paragraph (b) of Section 5 shall  
22 be deposited into the Injured Workers' Benefit Fund. The  
23 custodian of the Injured Workers' Benefit Fund shall be joined  
24 with the employer as a party respondent in the application for  
25 adjustment of claim. After July 1, 2006, the Commission shall  
26 make disbursements from the Fund once each year to each

1 eligible claimant. An eligible claimant is an injured worker  
2 who has within the previous fiscal year obtained a final award  
3 for benefits from the Commission against the employer and the  
4 Injured Workers' Benefit Fund and has notified the Commission  
5 within 90 days of receipt of such award. Within a reasonable  
6 time after the end of each fiscal year, the Commission shall  
7 make a disbursement to each eligible claimant. At the time of  
8 disbursement, if there are insufficient moneys in the Fund to  
9 pay all claims, each eligible claimant shall receive a  
10 pro-rata share, as determined by the Commission, of the  
11 available moneys in the Fund for that year. Payment from the  
12 Injured Workers' Benefit Fund to an eligible claimant pursuant  
13 to this provision shall discharge the obligations of the  
14 Injured Workers' Benefit Fund regarding the award entered by  
15 the Commission.

16 (e) This Act shall not affect or disturb the continuance  
17 of any existing insurance, mutual aid, benefit, or relief  
18 association or department, whether maintained in whole or in  
19 part by the employer or whether maintained by the employees,  
20 the payment of benefits of such association or department  
21 being guaranteed by the employer or by some person, firm or  
22 corporation for him or her: Provided, the employer contributes  
23 to such association or department an amount not less than the  
24 full compensation herein provided, exclusive of the cost of  
25 the maintenance of such association or department and without  
26 any expense to the employee. This Act shall not prevent the

1 organization and maintaining under the insurance laws of this  
2 State of any benefit or insurance company for the purpose of  
3 insuring against the compensation provided for in this Act,  
4 the expense of which is maintained by the employer. This Act  
5 shall not prevent the organization or maintaining under the  
6 insurance laws of this State of any voluntary mutual aid,  
7 benefit or relief association among employees for the payment  
8 of additional accident or sick benefits.

9 (f) No existing insurance, mutual aid, benefit or relief  
10 association or department shall, by reason of anything herein  
11 contained, be authorized to discontinue its operation without  
12 first discharging its obligations to any and all persons  
13 carrying insurance in the same or entitled to relief or  
14 benefits therein.

15 (g) Any contract, oral, written or implied, of employment  
16 providing for relief benefit, or insurance or any other device  
17 whereby the employee is required to pay any premium or  
18 premiums for insurance against the compensation provided for  
19 in this Act shall be null and void. Any employer withholding  
20 from the wages of any employee any amount for the purpose of  
21 paying any such premium shall be guilty of a Class B  
22 misdemeanor.

23 In the event the employer does not pay the compensation  
24 for which he or she is liable, then an insurance company,  
25 association or insurer which may have insured such employer  
26 against such liability shall become primarily liable to pay to



1 the employee, his or her personal representative or  
2 beneficiary the compensation required by the provisions of  
3 this Act to be paid by such employer. The insurance carrier may  
4 be made a party to the proceedings in which the employer is a  
5 party and an award may be entered jointly against the employer  
6 and the insurance carrier.

7 (h) It shall be unlawful for any employer, insurance  
8 company or service or adjustment company to interfere with,  
9 restrain or coerce an employee in any manner whatsoever in the  
10 exercise of the rights or remedies granted to him or her by  
11 this Act or to discriminate, attempt to discriminate, or  
12 threaten to discriminate against an employee in any way  
13 because of his or her exercise of the rights or remedies  
14 granted to him or her by this Act.

15 It shall be unlawful for any employer, individually or  
16 through any insurance company or service or adjustment  
17 company, to discharge or to threaten to discharge, or to  
18 refuse to rehire or recall to active service in a suitable  
19 capacity an employee because of the exercise of his or her  
20 rights or remedies granted to him or her by this Act.

21 (i) If an employer elects to obtain a life insurance  
22 policy on his employees, he may also elect to apply such  
23 benefits in satisfaction of all or a portion of the death  
24 benefits payable under this Act, in which case, the employer's  
25 compensation premium shall be reduced accordingly.

26 (j) Within 45 days of receipt of an initial application or

1 application to renew self-insurance privileges the  
2 Self-Insurers Advisory Board shall review and submit for  
3 approval by the Chairman of the Commission recommendations of  
4 disposition of all initial applications to self-insure and all  
5 applications to renew self-insurance privileges filed by  
6 private self-insurers pursuant to the provisions of this  
7 Section and Section 4a-9 of this Act. Each private  
8 self-insurer shall submit with its initial and renewal  
9 applications the application fee required by Section 4a-4 of  
10 this Act.

11 The Chairman of the Commission shall promptly act upon all  
12 initial applications and applications for renewal in full  
13 accordance with the recommendations of the Board or, should  
14 the Chairman disagree with any recommendation of disposition  
15 of the Self-Insurer's Advisory Board, he shall within 30 days  
16 of receipt of such recommendation provide to the Board in  
17 writing the reasons supporting his decision. The Chairman  
18 shall also promptly notify the employer of his decision within  
19 15 days of receipt of the recommendation of the Board.

20 If an employer is denied a renewal of self-insurance  
21 privileges pursuant to application it shall retain said  
22 privilege for 120 days after receipt of a notice of  
23 cancellation of the privilege from the Chairman of the  
24 Commission.

25 All orders made by the Chairman under this Section shall  
26 be subject to review by the courts, such review to be taken in

1 the same manner and within the same time as provided by  
2 subsection (f) of Section 19 of this Act for review of awards  
3 and decisions of the Commission, upon the party seeking the  
4 review filing with the clerk of the court to which such review  
5 is taken a bond in an amount to be fixed and approved by the  
6 court to which the review is taken, conditioned upon the  
7 payment of all compensation awarded against the person taking  
8 such review pending a decision thereof and further conditioned  
9 upon such other obligations as the court may impose. Upon the  
10 review the Circuit Court shall have power to review all  
11 questions of fact as well as of law.

12 (Source: P.A. 101-40, eff. 1-1-20; 102-37, eff. 7-1-21.)

13 (Text of Section from P.A. 101-384 and 102-37)

14 Sec. 4. (a) Any employer, including but not limited to  
15 general contractors and their subcontractors, who shall come  
16 within the provisions of Section 3 of this Act, and any other  
17 employer who shall elect to provide and pay the compensation  
18 provided for in this Act shall:

19 (1) File with the Commission annually an application  
20 for approval as a self-insurer which shall include a  
21 current financial statement, and annually, thereafter, an  
22 application for renewal of self-insurance, which shall  
23 include a current financial statement. Said application  
24 and financial statement shall be signed and sworn to by  
25 the president or vice president and secretary or assistant

1 secretary of the employer if it be a corporation, or by all  
2 of the partners, if it be a copartnership, or by the owner  
3 if it be neither a copartnership nor a corporation. All  
4 initial applications and all applications for renewal of  
5 self-insurance must be submitted at least 60 days prior to  
6 the requested effective date of self-insurance. An  
7 employer may elect to provide and pay compensation as  
8 provided for in this Act as a member of a group workers'  
9 compensation pool under Article V 3/4 of the Illinois  
10 Insurance Code. If an employer becomes a member of a group  
11 workers' compensation pool, the employer shall not be  
12 relieved of any obligations imposed by this Act.

13 If the sworn application and financial statement of  
14 any such employer does not satisfy the Commission of the  
15 financial ability of the employer who has filed it, the  
16 Commission shall require such employer to,

17 (2) Furnish security, indemnity or a bond guaranteeing  
18 the payment by the employer of the compensation provided  
19 for in this Act, provided that any such employer whose  
20 application and financial statement shall not have  
21 satisfied the commission of his or her financial ability  
22 and who shall have secured his liability in part by excess  
23 liability insurance shall be required to furnish to the  
24 Commission security, indemnity or bond guaranteeing his or  
25 her payment up to the effective limits of the excess  
26 coverage, or

1           (3) Insure his entire liability to pay such  
2           compensation in some insurance carrier authorized,  
3           licensed, or permitted to do such insurance business in  
4           this State. Every policy of an insurance carrier, insuring  
5           the payment of compensation under this Act shall cover all  
6           the employees and the entire compensation liability of the  
7           insured: Provided, however, that any employer may insure  
8           his or her compensation liability with 2 or more insurance  
9           carriers or may insure a part and qualify under subsection  
10          1, 2, or 4 for the remainder of his or her liability to pay  
11          such compensation, subject to the following two  
12          provisions:

13                 Firstly, the entire compensation liability of the  
14                 employer to employees working at or from one location  
15                 shall be insured in one such insurance carrier or  
16                 shall be self-insured, and

17                 Secondly, the employer shall submit evidence  
18                 satisfactorily to the Commission that his or her  
19                 entire liability for the compensation provided for in  
20                 this Act will be secured. Any provisions in any  
21                 policy, or in any endorsement attached thereto,  
22                 attempting to limit or modify in any way, the  
23                 liability of the insurance carriers issuing the same  
24                 except as otherwise provided herein shall be wholly  
25                 void.

26                 Nothing herein contained shall apply to policies of

1 excess liability carriage secured by employers who have  
2 been approved by the Commission as self-insurers, or

3 (4) Make some other provision, satisfactory to the  
4 Commission, for the securing of the payment of  
5 compensation provided for in this Act, and

6 (5) Upon becoming subject to this Act and thereafter  
7 as often as the Commission may in writing demand, file  
8 with the Commission in form prescribed by it evidence of  
9 his or her compliance with the provision of this Section.

10 (a-1) Regardless of its state of domicile or its principal  
11 place of business, an employer shall make payments to its  
12 insurance carrier or group self-insurance fund, where  
13 applicable, based upon the premium rates of the situs where  
14 the work or project is located in Illinois if:

15 (A) the employer is engaged primarily in the building  
16 and construction industry; and

17 (B) subdivision (a)(3) of this Section applies to the  
18 employer or the employer is a member of a group  
19 self-insurance plan as defined in subsection (1) of  
20 Section 4a.

21 The Illinois Workers' Compensation Commission shall impose  
22 a penalty upon an employer for violation of this subsection  
23 (a-1) if:

24 (i) the employer is given an opportunity at a hearing  
25 to present evidence of its compliance with this subsection  
26 (a-1); and

1           (ii) after the hearing, the Commission finds that the  
2           employer failed to make payments upon the premium rates of  
3           the situs where the work or project is located in  
4           Illinois.

5           The penalty shall not exceed \$1,000 for each day of work  
6           for which the employer failed to make payments upon the  
7           premium rates of the situs where the work or project is located  
8           in Illinois, but the total penalty shall not exceed \$50,000  
9           for each project or each contract under which the work was  
10          performed.

11          Any penalty under this subsection (a-1) must be imposed  
12          not later than one year after the expiration of the applicable  
13          limitation period specified in subsection (d) of Section 6 of  
14          this Act. Penalties imposed under this subsection (a-1) shall  
15          be deposited into the Illinois Workers' Compensation  
16          Commission Operations Fund, a special fund that is created in  
17          the State treasury. Subject to appropriation, moneys in the  
18          Fund shall be used solely for the operations of the Illinois  
19          Workers' Compensation Commission and by the Department of  
20          Insurance for the purposes authorized in subsection (c) of  
21          Section 25.5 of this Act.

22          (a-2) Every Employee Leasing Company (ELC), as defined in  
23          Section 15 of the Employee Leasing Company Act, shall at a  
24          minimum provide the following information to the Commission or  
25          any entity designated by the Commission regarding each  
26          workers' compensation insurance policy issued to the ELC:

1           (1) Any client company of the ELC listed as an  
2 additional named insured.

3           (2) Any informational schedule attached to the master  
4 policy that identifies any individual client company's  
5 name, FEIN, and job location.

6           (3) Any certificate of insurance coverage document  
7 issued to a client company specifying its rights and  
8 obligations under the master policy that establishes both  
9 the identity and status of the client, as well as the dates  
10 of inception and termination of coverage, if applicable.

11          (b) The sworn application and financial statement, or  
12 security, indemnity or bond, or amount of insurance, or other  
13 provisions, filed, furnished, carried, or made by the  
14 employer, as the case may be, shall be subject to the approval  
15 of the Commission.

16          Deposits under escrow agreements shall be cash, negotiable  
17 United States government bonds or negotiable general  
18 obligation bonds of the State of Illinois. Such cash or bonds  
19 shall be deposited in escrow with any State or National Bank or  
20 Trust Company having trust authority in the State of Illinois.

21          Upon the approval of the sworn application and financial  
22 statement, security, indemnity or bond or amount of insurance,  
23 filed, furnished or carried, as the case may be, the  
24 Commission shall send to the employer written notice of its  
25 approval thereof. The certificate of compliance by the  
26 employer with the provisions of subparagraphs (2) and (3) of



1 paragraph (a) of this Section shall be delivered by the  
2 insurance carrier to the Illinois Workers' Compensation  
3 Commission within five days after the effective date of the  
4 policy so certified. The insurance so certified shall cover  
5 all compensation liability occurring during the time that the  
6 insurance is in effect and no further certificate need be  
7 filed in case such insurance is renewed, extended or otherwise  
8 continued by such carrier. The insurance so certified shall  
9 not be cancelled or in the event that such insurance is not  
10 renewed, extended or otherwise continued, such insurance shall  
11 not be terminated until at least 10 days after receipt by the  
12 Illinois Workers' Compensation Commission of notice of the  
13 cancellation or termination of said insurance; provided,  
14 however, that if the employer has secured insurance from  
15 another insurance carrier, or has otherwise secured the  
16 payment of compensation in accordance with this Section, and  
17 such insurance or other security becomes effective prior to  
18 the expiration of the 10 days, cancellation or termination  
19 may, at the option of the insurance carrier indicated in such  
20 notice, be effective as of the effective date of such other  
21 insurance or security.

22 (c) Whenever the Commission shall find that any  
23 corporation, company, association, aggregation of individuals,  
24 reciprocal or interinsurers exchange, or other insurer  
25 effecting workers' compensation insurance in this State shall  
26 be insolvent, financially unsound, or unable to fully meet all

1 payments and liabilities assumed or to be assumed for  
2 compensation insurance in this State, or shall practice a  
3 policy of delay or unfairness toward employees in the  
4 adjustment, settlement, or payment of benefits due such  
5 employees, the Commission may after reasonable notice and  
6 hearing order and direct that such corporation, company,  
7 association, aggregation of individuals, reciprocal or  
8 interinsurers exchange, or insurer, shall from and after a  
9 date fixed in such order discontinue the writing of any such  
10 workers' compensation insurance in this State. Subject to such  
11 modification of the order as the Commission may later make on  
12 review of the order, as herein provided, it shall thereupon be  
13 unlawful for any such corporation, company, association,  
14 aggregation of individuals, reciprocal or interinsurers  
15 exchange, or insurer to effect any workers' compensation  
16 insurance in this State. A copy of the order shall be served  
17 upon the Director of Insurance by registered mail. Whenever  
18 the Commission finds that any service or adjustment company  
19 used or employed by a self-insured employer or by an insurance  
20 carrier to process, adjust, investigate, compromise or  
21 otherwise handle claims under this Act, has practiced or is  
22 practicing a policy of delay or unfairness toward employees in  
23 the adjustment, settlement or payment of benefits due such  
24 employees, the Commission may after reasonable notice and  
25 hearing order and direct that such service or adjustment  
26 company shall from and after a date fixed in such order be

1 prohibited from processing, adjusting, investigating,  
2 compromising or otherwise handling claims under this Act.

3 Whenever the Commission finds that any self-insured  
4 employer has practiced or is practicing delay or unfairness  
5 toward employees in the adjustment, settlement or payment of  
6 benefits due such employees, the Commission may, after  
7 reasonable notice and hearing, order and direct that after a  
8 date fixed in the order such self-insured employer shall be  
9 disqualified to operate as a self-insurer and shall be  
10 required to insure his entire liability to pay compensation in  
11 some insurance carrier authorized, licensed and permitted to  
12 do such insurance business in this State, as provided in  
13 subparagraph 3 of paragraph (a) of this Section.

14 All orders made by the Commission under this Section shall  
15 be subject to review by the courts, said review to be taken in  
16 the same manner and within the same time as provided by Section  
17 19 of this Act for review of awards and decisions of the  
18 Commission, upon the party seeking the review filing with the  
19 clerk of the court to which said review is taken a bond in an  
20 amount to be fixed and approved by the court to which the  
21 review is taken, conditioned upon the payment of all  
22 compensation awarded against the person taking said review  
23 pending a decision thereof and further conditioned upon such  
24 other obligations as the court may impose. Upon the review the  
25 Circuit Court shall have power to review all questions of fact  
26 as well as of law. The penalty hereinafter provided for in this

1 paragraph shall not attach and shall not begin to run until the  
2 final determination of the order of the Commission.

3 (d) Whenever a panel of 3 Commissioners comprised of one  
4 member of the employing class, one representative of a labor  
5 organization recognized under the National Labor Relations Act  
6 or an attorney who has represented labor organizations or has  
7 represented employees in workers' compensation cases, and one  
8 member not identified with either the employing class or a  
9 labor organization, with due process and after a hearing,  
10 determines an employer has knowingly failed to provide  
11 coverage as required by paragraph (a) of this Section, the  
12 failure shall be deemed an immediate serious danger to public  
13 health, safety, and welfare sufficient to justify service by  
14 the Commission of a work-stop order on such employer,  
15 requiring the cessation of all business operations of such  
16 employer at the place of employment or job site. Any law  
17 enforcement agency in the State shall, at the request of the  
18 Commission, render any assistance necessary to carry out the  
19 provisions of this Section, including, but not limited to,  
20 preventing any employee of such employer from remaining at a  
21 place of employment or job site after a work-stop order has  
22 taken effect. Any work-stop order shall be lifted upon proof  
23 of insurance as required by this Act. Any orders under this  
24 Section are appealable under Section 19(f) to the Circuit  
25 Court.

26 Any individual employer, corporate officer or director of

1 a corporate employer, partner of an employer partnership, or  
2 member of an employer limited liability company who knowingly  
3 fails to provide coverage as required by paragraph (a) of this  
4 Section is guilty of a Class 4 felony. This provision shall not  
5 apply to any corporate officer or director of any  
6 publicly-owned corporation. Each day's violation constitutes a  
7 separate offense. The State's Attorney of the county in which  
8 the violation occurred, or the Attorney General, shall bring  
9 such actions in the name of the People of the State of  
10 Illinois, or may, in addition to other remedies provided in  
11 this Section, bring an action for an injunction to restrain  
12 the violation or to enjoin the operation of any such employer.

13 Any individual employer, corporate officer or director of  
14 a corporate employer, partner of an employer partnership, or  
15 member of an employer limited liability company who  
16 negligently fails to provide coverage as required by paragraph  
17 (a) of this Section is guilty of a Class A misdemeanor. This  
18 provision shall not apply to any corporate officer or director  
19 of any publicly-owned corporation. Each day's violation  
20 constitutes a separate offense. The State's Attorney of the  
21 county in which the violation occurred, or the Attorney  
22 General, shall bring such actions in the name of the People of  
23 the State of Illinois.

24 The criminal penalties in this subsection (d) shall not  
25 apply where there exists a good faith dispute as to the  
26 existence of an employment relationship. Evidence of good

1 faith shall include, but not be limited to, compliance with  
2 the definition of employee as used by the Internal Revenue  
3 Service.

4 Employers who are subject to and who knowingly fail to  
5 comply with this Section shall not be entitled to the benefits  
6 of this Act during the period of noncompliance, but shall be  
7 liable in an action under any other applicable law of this  
8 State. In the action, such employer shall not avail himself or  
9 herself of the defenses of assumption of risk or negligence or  
10 that the injury was due to a co-employee. In the action, proof  
11 of the injury shall constitute prima facie evidence of  
12 negligence on the part of such employer and the burden shall be  
13 on such employer to show freedom of negligence resulting in  
14 the injury. The employer shall not join any other defendant in  
15 any such civil action. Nothing in this amendatory Act of the  
16 94th General Assembly shall affect the employee's rights under  
17 subdivision (a)3 of Section 1 of this Act. Any employer or  
18 carrier who makes payments under subdivision (a)3 of Section 1  
19 of this Act shall have a right of reimbursement from the  
20 proceeds of any recovery under this Section.

21 An employee of an uninsured employer, or the employee's  
22 dependents in case death ensued, may, instead of proceeding  
23 against the employer in a civil action in court, file an  
24 application for adjustment of claim with the Commission in  
25 accordance with the provisions of this Act and the Commission  
26 shall hear and determine the application for adjustment of

1 claim in the manner in which other claims are heard and  
2 determined before the Commission.

3 All proceedings under this subsection (d) shall be  
4 reported on an annual basis to the Workers' Compensation  
5 Advisory Board.

6 An investigator with the Department of Insurance may issue  
7 a citation to any employer that is not in compliance with its  
8 obligation to have workers' compensation insurance under this  
9 Act. The amount of the fine shall be based on the period of  
10 time the employer was in non-compliance, but shall be no less  
11 than \$500, and shall not exceed \$2,500. An employer that has  
12 been issued a citation shall pay the fine to the Department of  
13 Insurance and provide to the Department of Insurance proof  
14 that it obtained the required workers' compensation insurance  
15 within 10 days after the citation was issued. This Section  
16 does not affect any other obligations this Act imposes on  
17 employers.

18 Upon a finding by the Commission, after reasonable notice  
19 and hearing, of the knowing and wilful failure or refusal of an  
20 employer to comply with any of the provisions of paragraph (a)  
21 of this Section, the failure or refusal of an employer,  
22 service or adjustment company, or an insurance carrier to  
23 comply with any order of the Illinois Workers' Compensation  
24 Commission pursuant to paragraph (c) of this Section  
25 disqualifying him or her to operate as a self insurer and  
26 requiring him or her to insure his or her liability, or the

1 knowing and willful failure of an employer to comply with a  
2 citation issued by an investigator with the Department of  
3 Insurance, the Commission may assess a civil penalty of up to  
4 \$500 per day for each day of such failure or refusal after the  
5 effective date of this amendatory Act of 1989. The minimum  
6 penalty under this Section shall be the sum of \$10,000. Each  
7 day of such failure or refusal shall constitute a separate  
8 offense. The Commission may assess the civil penalty  
9 personally and individually against the corporate officers and  
10 directors of a corporate employer, the partners of an employer  
11 partnership, and the members of an employer limited liability  
12 company, after a finding of a knowing and willful refusal or  
13 failure of each such named corporate officer, director,  
14 partner, or member to comply with this Section. The liability  
15 for the assessed penalty shall be against the named employer  
16 first, and if the named employer fails or refuses to pay the  
17 penalty to the Commission within 30 days after the final order  
18 of the Commission, then the named corporate officers,  
19 directors, partners, or members who have been found to have  
20 knowingly and willfully refused or failed to comply with this  
21 Section shall be liable for the unpaid penalty or any unpaid  
22 portion of the penalty. Upon investigation by the Department  
23 of Insurance, the Attorney General shall have the authority to  
24 prosecute all proceedings to enforce the civil and  
25 administrative provisions of this Section before the  
26 Commission. The Commission and the Department of Insurance



1 shall promulgate procedural rules for enforcing this Section  
2 relating to their respective duties prescribed herein.

3 A Commission decision imposing penalties under this  
4 Section may be judicially reviewed only as described in  
5 Section 19(f). After expiration of the period for seeking  
6 judicial review, the Commission's final decision imposing  
7 penalties may be enforced in the same manner as a judgment  
8 entered by a court of competent jurisdiction. The Commission's  
9 final decision imposing penalties is a debt due and owing to  
10 the State and can be enforced to the same extent as a judgment  
11 entered by a circuit court. The Attorney General shall  
12 represent the Commission and the Department of Insurance in  
13 any action challenging the final decision in circuit court. If  
14 the court affirms the Commission's decision, the court shall  
15 enter judgment against the employer in the amount of the fines  
16 assessed by the Commission. The Attorney General shall make  
17 reasonable efforts to collect the amounts due under the  
18 Commission's decision.

19 ~~Upon the failure or refusal of any employer, service or~~  
20 ~~adjustment company or insurance carrier to comply with the~~  
21 ~~provisions of this Section and with the orders of the~~  
22 ~~Commission under this Section, or the order of the court on~~  
23 ~~review after final adjudication, the Commission may bring a~~  
24 ~~civil action to recover the amount of the penalty in Cook~~  
25 ~~County or in Sangamon County in which litigation the~~  
26 ~~Commission shall be represented by the Attorney General. The~~

1 ~~Commission shall send notice of its finding of non-compliance~~  
2 ~~and assessment of the civil penalty to the Attorney General.~~  
3 ~~It shall be the duty of the Attorney General within 30 days~~  
4 ~~after receipt of the notice, to institute prosecutions and~~  
5 ~~promptly prosecute all reported violations of this Section.~~

6 Any individual employer, corporate officer or director of  
7 a corporate employer, partner of an employer partnership, or  
8 member of an employer limited liability company who, with the  
9 intent to avoid payment of compensation under this Act to an  
10 injured employee or the employee's dependents, knowingly  
11 transfers, sells, encumbers, assigns, or in any manner  
12 disposes of, conceals, secretes, or destroys any property  
13 belonging to the employer, officer, director, partner, or  
14 member is guilty of a Class 4 felony.

15 Penalties and fines collected pursuant to this paragraph  
16 (d) shall be deposited upon receipt into a special fund which  
17 shall be designated the Injured Workers' Benefit Fund, of  
18 which the State Treasurer is ex-officio custodian, such  
19 special fund to be held and disbursed in accordance with this  
20 paragraph (d) for the purposes hereinafter stated in this  
21 paragraph (d), upon the final order of the Commission. The  
22 Injured Workers' Benefit Fund shall be deposited the same as  
23 are State funds and any interest accruing thereon shall be  
24 added thereto every 6 months. The Injured Workers' Benefit  
25 Fund is subject to audit the same as State funds and accounts  
26 and is protected by the general bond given by the State

1 Treasurer. The Injured Workers' Benefit Fund is considered  
2 always appropriated for the purposes of disbursements as  
3 provided in this paragraph, and shall be paid out and  
4 disbursed as herein provided and shall not at any time be  
5 appropriated or diverted to any other use or purpose. Moneys  
6 in the Injured Workers' Benefit Fund shall be used only for  
7 payment of workers' compensation benefits for injured  
8 employees when the employer has failed to provide coverage as  
9 determined under this paragraph (d) and has failed to pay the  
10 benefits due to the injured employee. The employer shall  
11 reimburse the Injured Workers' Benefit Fund for any amounts  
12 paid to an employee on account of the compensation awarded by  
13 the Commission. The Attorney General shall make reasonable  
14 efforts to obtain reimbursement for the Injured Workers'  
15 Benefit Fund.

16 ~~The Commission shall have the right to obtain~~  
17 ~~reimbursement from the employer for compensation obligations~~  
18 ~~paid by the Injured Workers' Benefit Fund.~~ Any such amounts  
19 obtained shall be deposited by the Commission into the Injured  
20 Workers' Benefit Fund. If an injured employee or his or her  
21 personal representative receives payment from the Injured  
22 Workers' Benefit Fund, the State of Illinois has the same  
23 rights under paragraph (b) of Section 5 that the employer who  
24 failed to pay the benefits due to the injured employee would  
25 have had if the employer had paid those benefits, and any  
26 moneys recovered by the State as a result of the State's

1 exercise of its rights under paragraph (b) of Section 5 shall  
2 be deposited into the Injured Workers' Benefit Fund. The  
3 custodian of the Injured Workers' Benefit Fund shall be joined  
4 with the employer as a party respondent in the application for  
5 adjustment of claim. After July 1, 2006, the Commission shall  
6 make disbursements from the Fund once each year to each  
7 eligible claimant. An eligible claimant is an injured worker  
8 who has within the previous fiscal year obtained a final award  
9 for benefits from the Commission against the employer and the  
10 Injured Workers' Benefit Fund and has notified the Commission  
11 within 90 days of receipt of such award. Within a reasonable  
12 time after the end of each fiscal year, the Commission shall  
13 make a disbursement to each eligible claimant. At the time of  
14 disbursement, if there are insufficient moneys in the Fund to  
15 pay all claims, each eligible claimant shall receive a  
16 pro-rata share, as determined by the Commission, of the  
17 available moneys in the Fund for that year. Payment from the  
18 Injured Workers' Benefit Fund to an eligible claimant pursuant  
19 to this provision shall discharge the obligations of the  
20 Injured Workers' Benefit Fund regarding the award entered by  
21 the Commission.

22 (e) This Act shall not affect or disturb the continuance  
23 of any existing insurance, mutual aid, benefit, or relief  
24 association or department, whether maintained in whole or in  
25 part by the employer or whether maintained by the employees,  
26 the payment of benefits of such association or department

1 being guaranteed by the employer or by some person, firm or  
2 corporation for him or her: Provided, the employer contributes  
3 to such association or department an amount not less than the  
4 full compensation herein provided, exclusive of the cost of  
5 the maintenance of such association or department and without  
6 any expense to the employee. This Act shall not prevent the  
7 organization and maintaining under the insurance laws of this  
8 State of any benefit or insurance company for the purpose of  
9 insuring against the compensation provided for in this Act,  
10 the expense of which is maintained by the employer. This Act  
11 shall not prevent the organization or maintaining under the  
12 insurance laws of this State of any voluntary mutual aid,  
13 benefit or relief association among employees for the payment  
14 of additional accident or sick benefits.

15 (f) No existing insurance, mutual aid, benefit or relief  
16 association or department shall, by reason of anything herein  
17 contained, be authorized to discontinue its operation without  
18 first discharging its obligations to any and all persons  
19 carrying insurance in the same or entitled to relief or  
20 benefits therein.

21 (g) Any contract, oral, written or implied, of employment  
22 providing for relief benefit, or insurance or any other device  
23 whereby the employee is required to pay any premium or  
24 premiums for insurance against the compensation provided for  
25 in this Act shall be null and void. Any employer withholding  
26 from the wages of any employee any amount for the purpose of

1 paying any such premium shall be guilty of a Class B  
2 misdemeanor.

3 In the event the employer does not pay the compensation  
4 for which he or she is liable, then an insurance company,  
5 association or insurer which may have insured such employer  
6 against such liability shall become primarily liable to pay to  
7 the employee, his or her personal representative or  
8 beneficiary the compensation required by the provisions of  
9 this Act to be paid by such employer. The insurance carrier may  
10 be made a party to the proceedings in which the employer is a  
11 party and an award may be entered jointly against the employer  
12 and the insurance carrier.

13 (h) It shall be unlawful for any employer, insurance  
14 company or service or adjustment company to interfere with,  
15 restrain or coerce an employee in any manner whatsoever in the  
16 exercise of the rights or remedies granted to him or her by  
17 this Act or to discriminate, attempt to discriminate, or  
18 threaten to discriminate against an employee in any way  
19 because of his or her exercise of the rights or remedies  
20 granted to him or her by this Act.

21 It shall be unlawful for any employer, individually or  
22 through any insurance company or service or adjustment  
23 company, to discharge or to threaten to discharge, or to  
24 refuse to rehire or recall to active service in a suitable  
25 capacity an employee because of the exercise of his or her  
26 rights or remedies granted to him or her by this Act.

1           (i) If an employer elects to obtain a life insurance  
2 policy on his employees, he may also elect to apply such  
3 benefits in satisfaction of all or a portion of the death  
4 benefits payable under this Act, in which case, the employer's  
5 compensation premium shall be reduced accordingly.

6           (j) Within 45 days of receipt of an initial application or  
7 application to renew self-insurance privileges the  
8 Self-Insurers Advisory Board shall review and submit for  
9 approval by the Chairman of the Commission recommendations of  
10 disposition of all initial applications to self-insure and all  
11 applications to renew self-insurance privileges filed by  
12 private self-insurers pursuant to the provisions of this  
13 Section and Section 4a-9 of this Act. Each private  
14 self-insurer shall submit with its initial and renewal  
15 applications the application fee required by Section 4a-4 of  
16 this Act.

17           The Chairman of the Commission shall promptly act upon all  
18 initial applications and applications for renewal in full  
19 accordance with the recommendations of the Board or, should  
20 the Chairman disagree with any recommendation of disposition  
21 of the Self-Insurer's Advisory Board, he shall within 30 days  
22 of receipt of such recommendation provide to the Board in  
23 writing the reasons supporting his decision. The Chairman  
24 shall also promptly notify the employer of his decision within  
25 15 days of receipt of the recommendation of the Board.

26           If an employer is denied a renewal of self-insurance

1 privileges pursuant to application it shall retain said  
2 privilege for 120 days after receipt of a notice of  
3 cancellation of the privilege from the Chairman of the  
4 Commission.

5 All orders made by the Chairman under this Section shall  
6 be subject to review by the courts, such review to be taken in  
7 the same manner and within the same time as provided by  
8 subsection (f) of Section 19 of this Act for review of awards  
9 and decisions of the Commission, upon the party seeking the  
10 review filing with the clerk of the court to which such review  
11 is taken a bond in an amount to be fixed and approved by the  
12 court to which the review is taken, conditioned upon the  
13 payment of all compensation awarded against the person taking  
14 such review pending a decision thereof and further conditioned  
15 upon such other obligations as the court may impose. Upon the  
16 review the Circuit Court shall have power to review all  
17 questions of fact as well as of law.

18 (Source: P.A. 101-384, eff. 1-1-20; 102-37, eff. 7-1-21.)

19 (820 ILCS 305/4a-5) (from Ch. 48, par. 138.4a-5)

20 Sec. 4a-5. There is hereby created a Self-Insurers  
21 Security Fund. The State Treasurer shall be the ex officio  
22 custodian of the Self-Insurers Security Fund. Moneys in the  
23 Fund shall be deposited in a separate account in the same  
24 manner as are State Funds and any interest accruing thereon  
25 shall be added thereto every 6 months. It shall be subject to



1 audit the same as State funds and accounts and shall be  
2 protected by the general bond given by the State Treasurer.  
3 The funds in the Self-Insurers Security Fund shall not be  
4 subject to appropriation and shall be made available for the  
5 purposes of compensating employees who are eligible to receive  
6 benefits from their employers pursuant to the provisions of  
7 the Workers' Compensation Act or Workers' Occupational  
8 Diseases Act, when, pursuant to this Section, the Board has  
9 determined that a private self-insurer has become an insolvent  
10 self-insurer and is unable to pay compensation benefits due to  
11 financial insolvency. Moneys in the Fund may be used to  
12 compensate any type of injury or occupational disease which is  
13 compensable under either Act, and for all claims for related  
14 administrative fees, operating costs of the Board, attorney's  
15 fees, and other costs reasonably incurred by the Board. Moneys  
16 in the Self-Insurers Security Fund may also be used for paying  
17 the salaries and benefits of the Self-Insurers Advisory Board  
18 employees and the operating costs of the Board. The Chairman,  
19 with the advice of the Board, may direct the State Comptroller  
20 and the State Treasurer to transfer up to \$2,000,000 in any  
21 fiscal year from the Self-Insurers Security Fund to the  
22 Illinois Workers' Compensation Commission Operations Fund, to  
23 the extent that there are insufficient funds in the Illinois  
24 Workers' Compensation Commission Operations Fund to pay the  
25 operating costs of the Illinois Workers' Compensation  
26 Commission or the salaries and benefits of employees of the

1 Illinois Workers' Compensation Commission. No later than  
2 October 31 of the fiscal year following any transfer from the  
3 Self-Insurers Security Fund to the Illinois Workers'  
4 Compensation Commission Operations Fund, the Chairman, with  
5 the advice of the Board, shall direct the State Comptroller  
6 and the State Treasurer to transfer from the Illinois Workers'  
7 Compensation Commission Operations Fund to the Self-Insurers  
8 Security Fund an amount equivalent to the sum of all amounts  
9 transferred from the Self-Insurers Security Fund to the  
10 Illinois Workers' Compensation Commission Operations Fund in  
11 the prior fiscal year with interest at the rate earned by  
12 moneys on deposit in the Self-Insurers Security Fund. Upon  
13 receipt of funds from any transfer between the Self-Insurers  
14 Security Fund and the Illinois Workers' Compensation  
15 Commission Operations Fund, the Chairman shall submit notice,  
16 including the date and amount of the transfer, to the Governor  
17 and the General Assembly. Payment from the Self-Insurers  
18 Security Fund shall be made by the Comptroller only upon the  
19 authorization of the Chairman as evidenced by properly  
20 certified vouchers of the Commission, upon the direction of  
21 the Board.

22 (Source: P.A. 101-40, eff. 1-1-20; 102-558, eff. 8-20-21;  
23 102-910, eff. 5-27-22.)

24 (820 ILCS 305/4d)

25 Sec. 4d. Illinois Workers' Compensation Commission

1 Operations Fund Fee.

2 (a) As of the effective date of this amendatory Act of the  
3 93rd General Assembly, each employer that self-insures its  
4 liabilities arising under this Act or Workers' Occupational  
5 Diseases Act shall pay a fee measured by the annual actual  
6 wages paid in this State of such an employer in the manner  
7 provided in this Section. Such proceeds shall be deposited in  
8 the Illinois Workers' Compensation Commission Operations Fund.  
9 If an employer survives or was formed by a merger,  
10 consolidation, reorganization, or reincorporation, the actual  
11 wages paid in this State of all employers party to the merger,  
12 consolidation, reorganization, or reincorporation shall, for  
13 purposes of determining the amount of the fee imposed by this  
14 Section, be regarded as those of the surviving or new  
15 employer.

16 (b) Beginning on July 30, 2004 (the effective date of  
17 Public Act 93-840) and on July 1 of each year thereafter  
18 through 2023, the Chairman shall charge and collect an annual  
19 Illinois Workers' Compensation Commission Operations Fund Fee  
20 from every employer subject to subsection (a) of this Section  
21 equal to 0.0075% of its annual actual wages paid in this State  
22 as reported in each employer's annual self-insurance renewal  
23 filed for the previous year as required by Section 4 of this  
24 Act and Section 4 of the Workers' Occupational Diseases Act.  
25 Beginning on July 1, 2024 and on July 1 of each year  
26 thereafter, the Chairman shall charge and collect an annual

1 Illinois Workers' Compensation Commission Operations Fund Fee  
2 from every employer subject to subsection (a) of this Section  
3 equal to 0.0081% of its annual actual wages paid in this State  
4 as reported in each employer's annual self-insurance renewal  
5 filed for the previous year as required by Section 4 of this  
6 Act and Section 4 of the Workers' Occupational Diseases Act.

7 All sums collected by the Commission under the provisions of  
8 this Section shall be paid promptly after the receipt of the  
9 same, accompanied by a detailed statement thereof, into the  
10 Illinois Workers' Compensation Commission Operations Fund. The  
11 fee due pursuant to Public Act 93-840 shall be collected  
12 instead of the fee due on July 1, 2004 under Public Act 93-32.  
13 Payment of the fee due under Public Act 93-840 shall discharge  
14 the employer's obligations due on July 1, 2004.

15 (c) In addition to the authority specifically granted  
16 under Section 16, the Chairman shall have such authority to  
17 adopt rules or establish forms as may be reasonably necessary  
18 for purposes of enforcing this Section. The Commission shall  
19 have authority to defer, waive, or abate the fee or any  
20 penalties imposed by this Section if in the Commission's  
21 opinion the employer's solvency and ability to meet its  
22 obligations to pay workers' compensation benefits would be  
23 immediately threatened by payment of the fee due.

24 (d) When an employer fails to pay the full amount of any  
25 annual Illinois Workers' Compensation Commission Operations  
26 Fund Fee of \$100 or more due under this Section, there shall be

1 added to the amount due as a penalty the greater of \$1,000 or  
2 an amount equal to 5% of the deficiency for each month or part  
3 of a month that the deficiency remains unpaid.

4 (e) The Commission may enforce the collection of any  
5 delinquent payment, penalty or portion thereof by legal action  
6 or in any other manner by which the collection of debts due the  
7 State of Illinois may be enforced under the laws of this State.

8 (f) Whenever it appears to the satisfaction of the  
9 Chairman that an employer has paid pursuant to this Act an  
10 Illinois Workers' Compensation Commission Operations Fund Fee  
11 in an amount in excess of the amount legally collectable from  
12 the employer, the Chairman shall issue a credit memorandum for  
13 an amount equal to the amount of such overpayment. A credit  
14 memorandum may be applied for the 2-year period from the date  
15 of issuance against the payment of any amount due during that  
16 period under the fee imposed by this Section or, subject to  
17 reasonable rule of the Commission including requirement of  
18 notification, may be assigned to any other employer subject to  
19 regulation under this Act. Any application of credit memoranda  
20 after the period provided for in this Section is void.

21 (Source: P.A. 95-331, eff. 8-21-07.)

22 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

23 Sec. 7. The amount of compensation which shall be paid for  
24 an accidental injury to the employee resulting in death is:

25 (a) If the employee leaves surviving a widow, widower,

1 child or children, the applicable weekly compensation rate  
2 computed in accordance with subparagraph 2 of paragraph (b) of  
3 Section 8, shall be payable during the life of the widow or  
4 widower and if any surviving child or children shall not be  
5 physically or mentally incapacitated then until the death of  
6 the widow or widower or until the youngest child shall reach  
7 the age of 18, whichever shall come later; provided that if  
8 such child or children shall be enrolled as a full time student  
9 in any accredited educational institution, the payments shall  
10 continue until such child has attained the age of 25. In the  
11 event any surviving child or children shall be physically or  
12 mentally incapacitated, the payments shall continue for the  
13 duration of such incapacity.

14 The term "child" means a child whom the deceased employee  
15 left surviving, including a posthumous child, a child legally  
16 adopted, a child whom the deceased employee was legally  
17 obligated to support or a child to whom the deceased employee  
18 stood in loco parentis. The term "children" means the plural  
19 of "child".

20 The term "physically or mentally incapacitated child or  
21 children" means a child or children incapable of engaging in  
22 regular and substantial gainful employment.

23 In the event of the remarriage of a widow or widower, where  
24 the decedent did not leave surviving any child or children  
25 who, at the time of such remarriage, are entitled to  
26 compensation benefits under this Act, the surviving spouse

1 shall be paid a lump sum equal to 2 years compensation benefits  
2 and all further rights of such widow or widower shall be  
3 extinguished.

4 If the employee leaves surviving any child or children  
5 under 18 years of age who at the time of death shall be  
6 entitled to compensation under this paragraph (a) of this  
7 Section, the weekly compensation payments herein provided for  
8 such child or children shall in any event continue for a period  
9 of not less than 6 years.

10 Any beneficiary entitled to compensation under this  
11 paragraph (a) of this Section shall receive from the special  
12 fund provided in paragraph (f) of this Section, in addition to  
13 the compensation herein provided, supplemental benefits in  
14 accordance with paragraph (g) of Section 8.

15 (b) If no compensation is payable under paragraph (a) of  
16 this Section and the employee leaves surviving a parent or  
17 parents who at the time of the accident were totally dependent  
18 upon the earnings of the employee then weekly payments equal  
19 to the compensation rate payable in the case where the  
20 employee leaves surviving a widow or widower, shall be paid to  
21 such parent or parents for the duration of their lives, and in  
22 the event of the death of either, for the life of the survivor.

23 (c) If no compensation is payable under paragraphs (a) or  
24 (b) of this Section and the employee leaves surviving any  
25 child or children who are not entitled to compensation under  
26 the foregoing paragraph (a) but who at the time of the accident

1 were nevertheless in any manner dependent upon the earnings of  
2 the employee, or leaves surviving a parent or parents who at  
3 the time of the accident were partially dependent upon the  
4 earnings of the employee, then there shall be paid to such  
5 dependent or dependents for a period of 8 years weekly  
6 compensation payments at such proportion of the applicable  
7 rate if the employee had left surviving a widow or widower as  
8 such dependency bears to total dependency. In the event of the  
9 death of any such beneficiary the share of such beneficiary  
10 shall be divided equally among the surviving beneficiaries and  
11 in the event of the death of the last such beneficiary all the  
12 rights under this paragraph shall be extinguished.

13 (d) If no compensation is payable under paragraphs (a),  
14 (b) or (c) of this Section and the employee leaves surviving  
15 any grandparent, grandparents, grandchild or grandchildren or  
16 collateral heirs dependent upon the employee's earnings to the  
17 extent of 50% or more of total dependency, then there shall be  
18 paid to such dependent or dependents for a period of 5 years  
19 weekly compensation payments at such proportion of the  
20 applicable rate if the employee had left surviving a widow or  
21 widower as such dependency bears to total dependency. In the  
22 event of the death of any such beneficiary the share of such  
23 beneficiary shall be divided equally among the surviving  
24 beneficiaries and in the event of the death of the last such  
25 beneficiary all rights hereunder shall be extinguished.

26 (e) The compensation to be paid for accidental injury



1 which results in death, as provided in this Section, shall be  
2 paid to the persons who form the basis for determining the  
3 amount of compensation to be paid by the employer, the  
4 respective shares to be in the proportion of their respective  
5 dependency at the time of the accident on the earnings of the  
6 deceased. The Commission or an Arbitrator thereof may, in its  
7 or his discretion, order or award the payment to the parent or  
8 grandparent of a child for the latter's support the amount of  
9 compensation which but for such order or award would have been  
10 paid to such child as its share of the compensation payable,  
11 which order or award may be modified from time to time by the  
12 Commission in its discretion with respect to the person to  
13 whom shall be paid the amount of the order or award remaining  
14 unpaid at the time of the modification.

15 The payments of compensation by the employer in accordance  
16 with the order or award of the Commission discharges such  
17 employer from all further obligation as to such compensation.

18 (f) The sum of \$8,000 for burial expenses shall be paid by  
19 the employer to the widow or widower, other dependent, next of  
20 kin or to the person or persons incurring the expense of  
21 burial.

22 In the event the employer failed to provide necessary  
23 first aid, medical, surgical or hospital service, he shall pay  
24 the cost thereof to the person or persons entitled to  
25 compensation under paragraphs (a), (b), (c) or (d) of this  
26 Section, or to the person or persons incurring the obligation

1 therefore, or providing the same.

2 On January 15 and July 15, 1981, and on January 15 and July  
3 15 of each year thereafter the employer shall within 60 days  
4 pay a sum equal to 1/8 of 1% of all compensation payments made  
5 by him after July 1, 1980, either under this Act or the  
6 Workers' Occupational Diseases Act, whether by lump sum  
7 settlement or weekly compensation payments, but not including  
8 hospital, surgical or rehabilitation payments, made during the  
9 first 6 months and during the second 6 months respectively of  
10 the fiscal year next preceding the date of the payments, into a  
11 special fund which shall be designated the "Second Injury  
12 Fund", of which the State Treasurer is ex-officio custodian,  
13 such special fund to be held and disbursed for the purposes  
14 hereinafter stated in paragraphs (f) and (g) of Section 8,  
15 either upon the order of the Commission or of a competent  
16 court. Said special fund shall be deposited the same as are  
17 State funds and any interest accruing thereon shall be added  
18 thereto every 6 months. It is subject to audit the same as  
19 State funds and accounts and is protected by the General bond  
20 given by the State Treasurer. It is considered always  
21 appropriated for the purposes of disbursements as provided in  
22 Section 8, paragraph (f), of this Act, and shall be paid out  
23 and disbursed as therein provided and shall not at any time be  
24 appropriated or diverted to any other use or purpose.

25 On January 15, 1991, the employer shall further pay a sum  
26 equal to one half of 1% of all compensation payments made by

1 him from January 1, 1990 through June 30, 1990 either under  
2 this Act or under the Workers' Occupational Diseases Act,  
3 whether by lump sum settlement or weekly compensation  
4 payments, but not including hospital, surgical or  
5 rehabilitation payments, into an additional Special Fund which  
6 shall be designated as the "Rate Adjustment Fund". On March  
7 15, 1991, the employer shall pay into the Rate Adjustment Fund  
8 a sum equal to one half of 1% of all such compensation payments  
9 made from July 1, 1990 through December 31, 1990. Within 60  
10 days after July 15, 1991, the employer shall pay into the Rate  
11 Adjustment Fund a sum equal to one half of 1% of all such  
12 compensation payments made from January 1, 1991 through June  
13 30, 1991. Within 60 days after January 15 of 1992 and each  
14 subsequent year through 1996, the employer shall pay into the  
15 Rate Adjustment Fund a sum equal to one half of 1% of all such  
16 compensation payments made in the last 6 months of the  
17 preceding calendar year. Within 60 days after July 15 of 1992  
18 and each subsequent year through 1995, the employer shall pay  
19 into the Rate Adjustment Fund a sum equal to one half of 1% of  
20 all such compensation payments made in the first 6 months of  
21 the same calendar year. Within 60 days after January 15 of 1997  
22 and each subsequent year through 2005, the employer shall pay  
23 into the Rate Adjustment Fund a sum equal to three-fourths of  
24 1% of all such compensation payments made in the last 6 months  
25 of the preceding calendar year. Within 60 days after July 15 of  
26 1996 and each subsequent year through 2004, the employer shall

1 pay into the Rate Adjustment Fund a sum equal to three-fourths  
2 of 1% of all such compensation payments made in the first 6  
3 months of the same calendar year. Within 60 days after July 15  
4 of 2005, the employer shall pay into the Rate Adjustment Fund a  
5 sum equal to 1% of such compensation payments made in the first  
6 6 months of the same calendar year. Within 60 days after  
7 January 15 of 2006 and each subsequent year through 2024, the  
8 employer shall pay into the Rate Adjustment Fund a sum equal to  
9 1.25% of such compensation payments made in the last 6 months  
10 of the preceding calendar year. Within 60 days after July 15 of  
11 2006 and each subsequent year through 2023, the employer shall  
12 pay into the Rate Adjustment Fund a sum equal to 1.25% of such  
13 compensation payments made in the first 6 months of the same  
14 calendar year. Within 60 days after July 15 of 2024 and each  
15 subsequent year thereafter, the employer shall pay into the  
16 Rate Adjustment Fund a sum equal to 1.375% of such  
17 compensation payments made in the first 6 months of the same  
18 calendar year. Within 60 days after January 15 of 2025 and each  
19 subsequent year thereafter, the employer shall pay into the  
20 Rate Adjustment Fund a sum equal to 1.375% of such  
21 compensation payments made in the last 6 months of the  
22 preceding calendar year. The administrative costs of  
23 collecting assessments from employers for the Rate Adjustment  
24 Fund shall be paid from the Rate Adjustment Fund. The cost of  
25 an actuarial audit of the Fund shall be paid from the Rate  
26 Adjustment Fund. The State Treasurer is ex officio custodian

1 of such Special Fund and the same shall be held and disbursed  
2 for the purposes hereinafter stated in paragraphs (f) and (g)  
3 of Section 8 upon the order of the Commission or of a competent  
4 court. The Rate Adjustment Fund shall be deposited the same as  
5 are State funds and any interest accruing thereon shall be  
6 added thereto every 6 months. It shall be subject to audit the  
7 same as State funds and accounts and shall be protected by the  
8 general bond given by the State Treasurer. It is considered  
9 always appropriated for the purposes of disbursements as  
10 provided in paragraphs (f) and (g) of Section 8 of this Act and  
11 shall be paid out and disbursed as therein provided and shall  
12 not at any time be appropriated or diverted to any other use or  
13 purpose. Within 5 days after the effective date of this  
14 amendatory Act of 1990, the Comptroller and the State  
15 Treasurer shall transfer \$1,000,000 from the General Revenue  
16 Fund to the Rate Adjustment Fund. By February 15, 1991, the  
17 Comptroller and the State Treasurer shall transfer \$1,000,000  
18 from the Rate Adjustment Fund to the General Revenue Fund. The  
19 Comptroller and Treasurer are authorized to make transfers at  
20 the request of the Chairman up to a total of \$19,000,000 from  
21 the Second Injury Fund, the General Revenue Fund, and the  
22 Workers' Compensation Benefit Trust Fund to the Rate  
23 Adjustment Fund to the extent that there is insufficient money  
24 in the Rate Adjustment Fund to pay claims and obligations.  
25 Amounts may be transferred from the General Revenue Fund only  
26 if the funds in the Second Injury Fund or the Workers'

1 Compensation Benefit Trust Fund are insufficient to pay claims  
2 and obligations of the Rate Adjustment Fund. All amounts  
3 transferred from the Second Injury Fund, the General Revenue  
4 Fund, and the Workers' Compensation Benefit Trust Fund shall  
5 be repaid from the Rate Adjustment Fund within 270 days of a  
6 transfer, together with interest at the rate earned by moneys  
7 on deposit in the Fund or Funds from which the moneys were  
8 transferred.

9       Upon a finding by the Commission, after reasonable notice  
10 and hearing, that any employer has willfully and knowingly  
11 failed to pay the proper amounts into the Second Injury Fund or  
12 the Rate Adjustment Fund required by this Section or if such  
13 payments are not made within the time periods prescribed by  
14 this Section, the employer shall, in addition to such  
15 payments, pay a penalty of 20% of the amount required to be  
16 paid or \$2,500, whichever is greater, for each year or part  
17 thereof of such failure to pay. This penalty shall only apply  
18 to obligations of an employer to the Second Injury Fund or the  
19 Rate Adjustment Fund accruing after the effective date of this  
20 amendatory Act of 1989. All or part of such a penalty may be  
21 waived by the Commission for good cause shown.

22       Any obligations of an employer to the Second Injury Fund  
23 and Rate Adjustment Fund accruing prior to the effective date  
24 of this amendatory Act of 1989 shall be paid in full by such  
25 employer within 5 years of the effective date of this  
26 amendatory Act of 1989, with at least one-fifth of such

1 obligation to be paid during each year following the effective  
2 date of this amendatory Act of 1989. If the Commission finds,  
3 following reasonable notice and hearing, that an employer has  
4 failed to make timely payment of any obligation accruing under  
5 the preceding sentence, the employer shall, in addition to all  
6 other payments required by this Section, be liable for a  
7 penalty equal to 20% of the overdue obligation or \$2,500,  
8 whichever is greater, for each year or part thereof that  
9 obligation is overdue. All or part of such a penalty may be  
10 waived by the Commission for good cause shown.

11 The Chairman of the Illinois Workers' Compensation  
12 Commission shall, annually, furnish to the Director of the  
13 Department of Insurance a list of the amounts paid into the  
14 Second Injury Fund and the Rate Adjustment Fund by each  
15 insurance company on behalf of their insured employers. The  
16 Director shall verify to the Chairman that the amounts paid by  
17 each insurance company are accurate as best as the Director  
18 can determine from the records available to the Director. The  
19 Chairman shall verify that the amounts paid by each  
20 self-insurer are accurate as best as the Chairman can  
21 determine from records available to the Chairman. The Chairman  
22 may require each self-insurer to provide information  
23 concerning the total compensation payments made upon which  
24 contributions to the Second Injury Fund and the Rate  
25 Adjustment Fund are predicated and any additional information  
26 establishing that such payments have been made into these

1 funds. Any deficiencies in payments noted by the Director or  
2 Chairman shall be subject to the penalty provisions of this  
3 Act.

4 The State Treasurer, or his duly authorized  
5 representative, shall be named as a party to all proceedings  
6 in all cases involving claim for the loss of, or the permanent  
7 and complete loss of the use of one eye, one foot, one leg, one  
8 arm or one hand.

9 The State Treasurer or his duly authorized agent shall  
10 have the same rights as any other party to the proceeding,  
11 including the right to petition for review of any award. The  
12 reasonable expenses of litigation, such as medical  
13 examinations, testimony, and transcript of evidence, incurred  
14 by the State Treasurer or his duly authorized representative,  
15 shall be borne by the Second Injury Fund.

16 If the award is not paid within 30 days after the date the  
17 award has become final, the Commission shall proceed to take  
18 judgment thereon in its own name as is provided for other  
19 awards by paragraph (g) of Section 19 of this Act and take the  
20 necessary steps to collect the award.

21 Any person, corporation or organization who has paid or  
22 become liable for the payment of burial expenses of the  
23 deceased employee may in his or its own name institute  
24 proceedings before the Commission for the collection thereof.

25 For the purpose of administration, receipts and  
26 disbursements, the Special Fund provided for in paragraph (f)



1 of this Section shall be administered jointly with the Special  
2 Fund provided for in Section 7, paragraph (f) of the Workers'  
3 Occupational Diseases Act.

4 (g) All compensation, except for burial expenses provided  
5 in this Section to be paid in case accident results in death,  
6 shall be paid in installments equal to the percentage of the  
7 average earnings as provided for in Section 8, paragraph (b)  
8 of this Act, at the same intervals at which the wages or  
9 earnings of the employees were paid. If this is not feasible,  
10 then the installments shall be paid weekly. Such compensation  
11 may be paid in a lump sum upon petition as provided in Section  
12 9 of this Act. However, in addition to the benefits provided by  
13 Section 9 of this Act where compensation for death is payable  
14 to the deceased's widow, widower or to the deceased's widow,  
15 widower and one or more children, and where a partial lump sum  
16 is applied for by such beneficiary or beneficiaries within 18  
17 months after the deceased's death, the Commission may, in its  
18 discretion, grant a partial lump sum of not to exceed 100 weeks  
19 of the compensation capitalized at their present value upon  
20 the basis of interest calculated at 3% per annum with annual  
21 rests, upon a showing that such partial lump sum is for the  
22 best interest of such beneficiary or beneficiaries.

23 (h) In case the injured employee is under 16 years of age  
24 at the time of the accident and is illegally employed, the  
25 amount of compensation payable under paragraphs (a), (b), (c),  
26 (d) and (f) of this Section shall be increased 50%.

1           Nothing herein contained repeals or amends the provisions  
2 of the Child Labor Law relating to the employment of minors  
3 under the age of 16 years.

4           However, where an employer has on file an employment  
5 certificate issued pursuant to the Child Labor Law or work  
6 permit issued pursuant to the Federal Fair Labor Standards  
7 Act, as amended, or a birth certificate properly and duly  
8 issued, such certificate, permit or birth certificate is  
9 conclusive evidence as to the age of the injured minor  
10 employee for the purposes of this Section only.

11           (i) Whenever the dependents of a deceased employee are  
12 noncitizens not residing in the United States, Mexico or  
13 Canada, the amount of compensation payable is limited to the  
14 beneficiaries described in paragraphs (a), (b) and (c) of this  
15 Section and is 50% of the compensation provided in paragraphs  
16 (a), (b) and (c) of this Section, except as otherwise provided  
17 by treaty.

18           In a case where any of the persons who would be entitled to  
19 compensation is living at any place outside of the United  
20 States, then payment shall be made to the personal  
21 representative of the deceased employee. The distribution by  
22 such personal representative to the persons entitled shall be  
23 made to such persons and in such manner as the Commission  
24 orders.

25           (Source: P.A. 102-1030, eff. 5-27-22.)

1 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

2 Sec. 19. Any disputed questions of law or fact shall be  
3 determined as herein provided.

4 (a) It shall be the duty of the Commission upon  
5 notification that the parties have failed to reach an  
6 agreement, to designate an Arbitrator.

7 1. Whenever any claimant misconceives his remedy and  
8 files an application for adjustment of claim under this  
9 Act and it is subsequently discovered, at any time before  
10 final disposition of such cause, that the claim for  
11 disability or death which was the basis for such  
12 application should properly have been made under the  
13 Workers' Occupational Diseases Act, then the provisions of  
14 Section 19, paragraph (a-1) of the Workers' Occupational  
15 Diseases Act having reference to such application shall  
16 apply.

17 2. Whenever any claimant misconceives his remedy and  
18 files an application for adjustment of claim under the  
19 Workers' Occupational Diseases Act and it is subsequently  
20 discovered, at any time before final disposition of such  
21 cause that the claim for injury or death which was the  
22 basis for such application should properly have been made  
23 under this Act, then the application so filed under the  
24 Workers' Occupational Diseases Act may be amended in form,  
25 substance or both to assert claim for such disability or  
26 death under this Act and it shall be deemed to have been so

1 filed as amended on the date of the original filing  
2 thereof, and such compensation may be awarded as is  
3 warranted by the whole evidence pursuant to this Act. When  
4 such amendment is submitted, further or additional  
5 evidence may be heard by the Arbitrator or Commission when  
6 deemed necessary. Nothing in this Section contained shall  
7 be construed to be or permit a waiver of any provisions of  
8 this Act with reference to notice but notice if given  
9 shall be deemed to be a notice under the provisions of this  
10 Act if given within the time required herein.

11 (b) The Arbitrator shall make such inquiries and  
12 investigations as he or they shall deem necessary and may  
13 examine and inspect all books, papers, records, places, or  
14 premises relating to the questions in dispute and hear such  
15 proper evidence as the parties may submit.

16 The hearings before the Arbitrator shall be held in the  
17 vicinity where the injury occurred after 10 days' notice of  
18 the time and place of such hearing shall have been given to  
19 each of the parties or their attorneys of record.

20 The Arbitrator may find that the disabling condition is  
21 temporary and has not yet reached a permanent condition and  
22 may order the payment of compensation up to the date of the  
23 hearing, which award shall be reviewable and enforceable in  
24 the same manner as other awards, and in no instance be a bar to  
25 a further hearing and determination of a further amount of  
26 temporary total compensation or of compensation for permanent

1 disability, but shall be conclusive as to all other questions  
2 except the nature and extent of said disability.

3 The decision of the Arbitrator shall be filed with the  
4 Commission which Commission shall immediately send to each  
5 party or his attorney a copy of such decision, together with a  
6 notification of the time when it was filed. As of the effective  
7 date of this amendatory Act of the 94th General Assembly, all  
8 decisions of the Arbitrator shall set forth in writing  
9 findings of fact and conclusions of law, separately stated, if  
10 requested by either party. Unless a petition for review is  
11 filed by either party within 30 days after the receipt by such  
12 party of the copy of the decision and notification of time when  
13 filed, and unless such party petitioning for a review shall  
14 within 35 days after the receipt by him of the copy of the  
15 decision, file with the Commission either an agreed statement  
16 of the facts appearing upon the hearing before the Arbitrator,  
17 or if such party shall so elect a correct transcript of  
18 evidence of the proceedings at such hearings, then the  
19 decision shall become the decision of the Commission and in  
20 the absence of fraud shall be conclusive. The Petition for  
21 Review shall contain a statement of the petitioning party's  
22 specific exceptions to the decision of the arbitrator. The  
23 jurisdiction of the Commission to review the decision of the  
24 arbitrator shall not be limited to the exceptions stated in  
25 the Petition for Review. The Commission, or any member  
26 thereof, may grant further time not exceeding 30 days, in

1 which to file such agreed statement or transcript of evidence.  
2 Such agreed statement of facts or correct transcript of  
3 evidence, as the case may be, shall be authenticated by the  
4 signatures of the parties or their attorneys, and in the event  
5 they do not agree as to the correctness of the transcript of  
6 evidence it shall be authenticated by the signature of the  
7 Arbitrator designated by the Commission.

8 Whether the employee is working or not, if the employee is  
9 not receiving or has not received medical, surgical, or  
10 hospital services or other services or compensation as  
11 provided in paragraph (a) of Section 8, or compensation as  
12 provided in paragraph (b) of Section 8, the employee may at any  
13 time petition for an expedited hearing by an Arbitrator on the  
14 issue of whether or not he or she is entitled to receive  
15 payment of the services or compensation. Provided the employer  
16 continues to pay compensation pursuant to paragraph (b) of  
17 Section 8, the employer may at any time petition for an  
18 expedited hearing on the issue of whether or not the employee  
19 is entitled to receive medical, surgical, or hospital services  
20 or other services or compensation as provided in paragraph (a)  
21 of Section 8, or compensation as provided in paragraph (b) of  
22 Section 8. When an employer has petitioned for an expedited  
23 hearing, the employer shall continue to pay compensation as  
24 provided in paragraph (b) of Section 8 unless the arbitrator  
25 renders a decision that the employee is not entitled to the  
26 benefits that are the subject of the expedited hearing or

1 unless the employee's treating physician has released the  
2 employee to return to work at his or her regular job with the  
3 employer or the employee actually returns to work at any other  
4 job. If the arbitrator renders a decision that the employee is  
5 not entitled to the benefits that are the subject of the  
6 expedited hearing, a petition for review filed by the employee  
7 shall receive the same priority as if the employee had filed a  
8 petition for an expedited hearing by an Arbitrator. Neither  
9 party shall be entitled to an expedited hearing when the  
10 employee has returned to work and the sole issue in dispute  
11 amounts to less than 12 weeks of unpaid compensation pursuant  
12 to paragraph (b) of Section 8.

13 Expedited hearings shall have priority over all other  
14 petitions and shall be heard by the Arbitrator and Commission  
15 with all convenient speed. Any party requesting an expedited  
16 hearing shall give notice of a request for an expedited  
17 hearing under this paragraph. A copy of the Application for  
18 Adjustment of Claim shall be attached to the notice. The  
19 Commission shall adopt rules and procedures under which the  
20 final decision of the Commission under this paragraph is filed  
21 not later than 180 days from the date that the Petition for  
22 Review is filed with the Commission.

23 Where 2 or more insurance carriers, private self-insureds,  
24 or a group workers' compensation pool under Article V 3/4 of  
25 the Illinois Insurance Code dispute coverage for the same  
26 injury, any such insurance carrier, private self-insured, or

1 group workers' compensation pool may request an expedited  
2 hearing pursuant to this paragraph to determine the issue of  
3 coverage, provided coverage is the only issue in dispute and  
4 all other issues are stipulated and agreed to and further  
5 provided that all compensation benefits including medical  
6 benefits pursuant to Section 8(a) continue to be paid to or on  
7 behalf of petitioner. Any insurance carrier, private  
8 self-insured, or group workers' compensation pool that is  
9 determined to be liable for coverage for the injury in issue  
10 shall reimburse any insurance carrier, private self-insured,  
11 or group workers' compensation pool that has paid benefits to  
12 or on behalf of petitioner for the injury.

13 (b-1) If the employee is not receiving medical, surgical  
14 or hospital services as provided in paragraph (a) of Section 8  
15 or compensation as provided in paragraph (b) of Section 8, the  
16 employee, in accordance with Commission Rules, may file a  
17 petition for an emergency hearing by an Arbitrator on the  
18 issue of whether or not he is entitled to receive payment of  
19 such compensation or services as provided therein. Such  
20 petition shall have priority over all other petitions and  
21 shall be heard by the Arbitrator and Commission with all  
22 convenient speed.

23 Such petition shall contain the following information and  
24 shall be served on the employer at least 15 days before it is  
25 filed:

26 (i) the date and approximate time of accident;



- 1           (ii) the approximate location of the accident;
- 2           (iii) a description of the accident;
- 3           (iv) the nature of the injury incurred by the  
4 employee;
- 5           (v) the identity of the person, if known, to whom the  
6 accident was reported and the date on which it was  
7 reported;
- 8           (vi) the name and title of the person, if known,  
9 representing the employer with whom the employee conferred  
10 in any effort to obtain compensation pursuant to paragraph  
11 (b) of Section 8 of this Act or medical, surgical or  
12 hospital services pursuant to paragraph (a) of Section 8  
13 of this Act and the date of such conference;
- 14           (vii) a statement that the employer has refused to pay  
15 compensation pursuant to paragraph (b) of Section 8 of  
16 this Act or for medical, surgical or hospital services  
17 pursuant to paragraph (a) of Section 8 of this Act;
- 18           (viii) the name and address, if known, of each witness  
19 to the accident and of each other person upon whom the  
20 employee will rely to support his allegations;
- 21           (ix) the dates of treatment related to the accident by  
22 medical practitioners, and the names and addresses of such  
23 practitioners, including the dates of treatment related to  
24 the accident at any hospitals and the names and addresses  
25 of such hospitals, and a signed authorization permitting  
26 the employer to examine all medical records of all

1 practitioners and hospitals named pursuant to this  
2 paragraph;

3 (x) a copy of a signed report by a medical  
4 practitioner, relating to the employee's current inability  
5 to return to work because of the injuries incurred as a  
6 result of the accident or such other documents or  
7 affidavits which show that the employee is entitled to  
8 receive compensation pursuant to paragraph (b) of Section  
9 8 of this Act or medical, surgical or hospital services  
10 pursuant to paragraph (a) of Section 8 of this Act. Such  
11 reports, documents or affidavits shall state, if possible,  
12 the history of the accident given by the employee, and  
13 describe the injury and medical diagnosis, the medical  
14 services for such injury which the employee has received  
15 and is receiving, the physical activities which the  
16 employee cannot currently perform as a result of any  
17 impairment or disability due to such injury, and the  
18 prognosis for recovery;

19 (xi) complete copies of any reports, records,  
20 documents and affidavits in the possession of the employee  
21 on which the employee will rely to support his  
22 allegations, provided that the employer shall pay the  
23 reasonable cost of reproduction thereof;

24 (xii) a list of any reports, records, documents and  
25 affidavits which the employee has demanded by subpoena and  
26 on which he intends to rely to support his allegations;

1           (xiii) a certification signed by the employee or his  
2           representative that the employer has received the petition  
3           with the required information 15 days before filing.

4           Fifteen days after receipt by the employer of the petition  
5           with the required information the employee may file said  
6           petition and required information and shall serve notice of  
7           the filing upon the employer. The employer may file a motion  
8           addressed to the sufficiency of the petition. If an objection  
9           has been filed to the sufficiency of the petition, the  
10          arbitrator shall rule on the objection within 2 working days.  
11          If such an objection is filed, the time for filing the final  
12          decision of the Commission as provided in this paragraph shall  
13          be tolled until the arbitrator has determined that the  
14          petition is sufficient.

15          The employer shall, within 15 days after receipt of the  
16          notice that such petition is filed, file with the Commission  
17          and serve on the employee or his representative a written  
18          response to each claim set forth in the petition, including  
19          the legal and factual basis for each disputed allegation and  
20          the following information: (i) complete copies of any reports,  
21          records, documents and affidavits in the possession of the  
22          employer on which the employer intends to rely in support of  
23          his response, (ii) a list of any reports, records, documents  
24          and affidavits which the employer has demanded by subpoena and  
25          on which the employer intends to rely in support of his  
26          response, (iii) the name and address of each witness on whom

1 the employer will rely to support his response, and (iv) the  
2 names and addresses of any medical practitioners selected by  
3 the employer pursuant to Section 12 of this Act and the time  
4 and place of any examination scheduled to be made pursuant to  
5 such Section.

6 Any employer who does not timely file and serve a written  
7 response without good cause may not introduce any evidence to  
8 dispute any claim of the employee but may cross examine the  
9 employee or any witness brought by the employee and otherwise  
10 be heard.

11 No document or other evidence not previously identified by  
12 either party with the petition or written response, or by any  
13 other means before the hearing, may be introduced into  
14 evidence without good cause. If, at the hearing, material  
15 information is discovered which was not previously disclosed,  
16 the Arbitrator may extend the time for closing proof on the  
17 motion of a party for a reasonable period of time which may be  
18 more than 30 days. No evidence may be introduced pursuant to  
19 this paragraph as to permanent disability. No award may be  
20 entered for permanent disability pursuant to this paragraph.  
21 Either party may introduce into evidence the testimony taken  
22 by deposition of any medical practitioner.

23 The Commission shall adopt rules, regulations and  
24 procedures whereby the final decision of the Commission is  
25 filed not later than 90 days from the date the petition for  
26 review is filed but in no event later than 180 days from the

1 date the petition for an emergency hearing is filed with the  
2 Illinois Workers' Compensation Commission.

3 All service required pursuant to this paragraph (b-1) must  
4 be by personal service or by certified mail and with evidence  
5 of receipt. In addition for the purposes of this paragraph,  
6 all service on the employer must be at the premises where the  
7 accident occurred if the premises are owned or operated by the  
8 employer. Otherwise service must be at the employee's  
9 principal place of employment by the employer. If service on  
10 the employer is not possible at either of the above, then  
11 service shall be at the employer's principal place of  
12 business. After initial service in each case, service shall be  
13 made on the employer's attorney or designated representative.

14 (c)(1) At a reasonable time in advance of and in  
15 connection with the hearing under Section 19(e) or 19(h), the  
16 Commission may on its own motion order an impartial physical  
17 or mental examination of a petitioner whose mental or physical  
18 condition is in issue, when in the Commission's discretion it  
19 appears that such an examination will materially aid in the  
20 just determination of the case. The examination shall be made  
21 by a member or members of a panel of physicians chosen for  
22 their special qualifications by the Illinois State Medical  
23 Society. The Commission shall establish procedures by which a  
24 physician shall be selected from such list.

25 (2) Should the Commission at any time during the hearing  
26 find that compelling considerations make it advisable to have

1 an examination and report at that time, the commission may in  
2 its discretion so order.

3 (3) A copy of the report of examination shall be given to  
4 the Commission and to the attorneys for the parties.

5 (4) Either party or the Commission may call the examining  
6 physician or physicians to testify. Any physician so called  
7 shall be subject to cross-examination.

8 (5) The examination shall be made, and the physician or  
9 physicians, if called, shall testify, without cost to the  
10 parties. The Commission shall determine the compensation and  
11 the pay of the physician or physicians. The compensation for  
12 this service shall not exceed the usual and customary amount  
13 for such service.

14 (6) The fees and payment thereof of all attorneys and  
15 physicians for services authorized by the Commission under  
16 this Act shall, upon request of either the employer or the  
17 employee or the beneficiary affected, be subject to the review  
18 and decision of the Commission.

19 (d) If any employee shall persist in insanitary or  
20 injurious practices which tend to either imperil or retard his  
21 recovery or shall refuse to submit to such medical, surgical,  
22 or hospital treatment as is reasonably essential to promote  
23 his recovery, the Commission may, in its discretion, reduce or  
24 suspend the compensation of any such injured employee.  
25 However, when an employer and employee so agree in writing,  
26 the foregoing provision shall not be construed to authorize

1 the reduction or suspension of compensation of an employee who  
2 is relying in good faith, on treatment by prayer or spiritual  
3 means alone, in accordance with the tenets and practice of a  
4 recognized church or religious denomination, by a duly  
5 accredited practitioner thereof.

6 (e) This paragraph shall apply to all hearings before the  
7 Commission. Such hearings may be held in its office or  
8 elsewhere as the Commission may deem advisable. The taking of  
9 testimony on such hearings may be had before any member of the  
10 Commission. If a petition for review and agreed statement of  
11 facts or transcript of evidence is filed, as provided herein,  
12 the Commission shall promptly review the decision of the  
13 Arbitrator and all questions of law or fact which appear from  
14 the statement of facts or transcript of evidence.

15 In all cases in which the hearing before the arbitrator is  
16 held after December 18, 1989, no additional evidence shall be  
17 introduced by the parties before the Commission on review of  
18 the decision of the Arbitrator. In reviewing decisions of an  
19 arbitrator the Commission shall award such temporary  
20 compensation, permanent compensation and other payments as are  
21 due under this Act. The Commission shall file in its office its  
22 decision thereon, and shall immediately send to each party or  
23 his attorney a copy of such decision and a notification of the  
24 time when it was filed. Decisions shall be filed within 60 days  
25 after the Statement of Exceptions and Supporting Brief and  
26 Response thereto are required to be filed or oral argument

1       whichever is later.

2           In the event either party requests oral argument, such  
3 argument shall be had before a panel of 3 members of the  
4 Commission (or before all available members pursuant to the  
5 determination of 7 members of the Commission that such  
6 argument be held before all available members of the  
7 Commission) pursuant to the rules and regulations of the  
8 Commission. A panel of 3 members, which shall be comprised of  
9 not more than one representative citizen of the employing  
10 class and not more than one representative from a labor  
11 organization recognized under the National Labor Relations Act  
12 or an attorney who has represented labor organizations or has  
13 represented employees in workers' compensation cases, shall  
14 hear the argument; provided that if all the issues in dispute  
15 are solely the nature and extent of the permanent partial  
16 disability, if any, a majority of the panel may deny the  
17 request for such argument and such argument shall not be held;  
18 and provided further that 7 members of the Commission may  
19 determine that the argument be held before all available  
20 members of the Commission. A decision of the Commission shall  
21 be approved by a majority of Commissioners present at such  
22 hearing if any; provided, if no such hearing is held, a  
23 decision of the Commission shall be approved by a majority of a  
24 panel of 3 members of the Commission as described in this  
25 Section. The Commission shall give 10 days' notice to the  
26 parties or their attorneys of the time and place of such taking



1 of testimony and of such argument.

2 In any case the Commission in its decision may find  
3 specially upon any question or questions of law or fact which  
4 shall be submitted in writing by either party whether ultimate  
5 or otherwise; provided that on issues other than nature and  
6 extent of the disability, if any, the Commission in its  
7 decision shall find specially upon any question or questions  
8 of law or fact, whether ultimate or otherwise, which are  
9 submitted in writing by either party; provided further that  
10 not more than 5 such questions may be submitted by either  
11 party. Any party may, within 20 days after receipt of notice of  
12 the Commission's decision, or within such further time, not  
13 exceeding 30 days, as the Commission may grant, file with the  
14 Commission either an agreed statement of the facts appearing  
15 upon the hearing, or, if such party shall so elect, a correct  
16 transcript of evidence of the additional proceedings presented  
17 before the Commission, in which report the party may embody a  
18 correct statement of such other proceedings in the case as  
19 such party may desire to have reviewed, such statement of  
20 facts or transcript of evidence to be authenticated by the  
21 signature of the parties or their attorneys, and in the event  
22 that they do not agree, then the authentication of such  
23 transcript of evidence shall be by the signature of any member  
24 of the Commission.

25 If a reporter does not for any reason furnish a transcript  
26 of the proceedings before the Arbitrator in any case for use on

1 a hearing for review before the Commission, within the  
2 limitations of time as fixed in this Section, the Commission  
3 may, in its discretion, order a trial de novo before the  
4 Commission in such case upon application of either party. The  
5 applications for adjustment of claim and other documents in  
6 the nature of pleadings filed by either party, together with  
7 the decisions of the Arbitrator and of the Commission and the  
8 statement of facts or transcript of evidence hereinbefore  
9 provided for in paragraphs (b) and (c) shall be the record of  
10 the proceedings of the Commission, and shall be subject to  
11 review as hereinafter provided.

12 At the request of either party or on its own motion, the  
13 Commission shall set forth in writing the reasons for the  
14 decision, including findings of fact and conclusions of law  
15 separately stated. The Commission shall by rule adopt a format  
16 for written decisions for the Commission and arbitrators. The  
17 written decisions shall be concise and shall succinctly state  
18 the facts and reasons for the decision. The Commission may  
19 adopt in whole or in part, the decision of the arbitrator as  
20 the decision of the Commission. When the Commission does so  
21 adopt the decision of the arbitrator, it shall do so by order.  
22 Whenever the Commission adopts part of the arbitrator's  
23 decision, but not all, it shall include in the order the  
24 reasons for not adopting all of the arbitrator's decision.  
25 When a majority of a panel, after deliberation, has arrived at  
26 its decision, the decision shall be filed as provided in this

1 Section without unnecessary delay, and without regard to the  
2 fact that a member of the panel has expressed an intention to  
3 dissent. Any member of the panel may file a dissent. Any  
4 dissent shall be filed no later than 10 days after the decision  
5 of the majority has been filed.

6 Decisions rendered by the Commission and dissents, if any,  
7 shall be published together by the Commission. The conclusions  
8 of law set out in such decisions shall be regarded as  
9 precedents by arbitrators for the purpose of achieving a more  
10 uniform administration of this Act.

11 (f) The decision of the Commission acting within its  
12 powers, according to the provisions of paragraph (d) of  
13 Section 4 and paragraph (e) of this Section shall, in the  
14 absence of fraud, be conclusive unless reviewed as in this  
15 paragraph hereinafter provided. However, the Arbitrator or the  
16 Commission may on his or its own motion, or on the motion of  
17 either party, correct any clerical error or errors in  
18 computation within 15 days after the date of receipt of any  
19 award by such Arbitrator or any decision on review of the  
20 Commission and shall have the power to recall the original  
21 award on arbitration or decision on review, and issue in lieu  
22 thereof such corrected award or decision. Where such  
23 correction is made the time for review herein specified shall  
24 begin to run from the date of the receipt of the corrected  
25 award or decision.

26 (1) Except in cases of claims against the State of

1 Illinois other than those claims under Section 18.1, in  
2 which case the decision of the Commission shall not be  
3 subject to judicial review, the Circuit Court of the  
4 county where any of the parties defendant may be found, or  
5 if none of the parties defendant can be found in this State  
6 then the Circuit Court of the county where the accident  
7 occurred, shall by summons to the Commission have power to  
8 review all questions of law and fact presented by such  
9 record.

10 A proceeding for review shall be commenced within 20  
11 days of the receipt of notice of the decision of the  
12 Commission. The summons shall be issued by the clerk of  
13 such court upon written request returnable on a designated  
14 return day, not less than 10 or more than 60 days from the  
15 date of issuance thereof, and the written request shall  
16 contain the last known address of other parties in  
17 interest and their attorneys of record who are to be  
18 served by summons. Service upon any member of the  
19 Commission or the Secretary or the Assistant Secretary  
20 thereof shall be service upon the Commission, and service  
21 upon other parties in interest and their attorneys of  
22 record shall be by summons, and such service shall be made  
23 upon the Commission and other parties in interest by  
24 mailing notices of the commencement of the proceedings and  
25 the return day of the summons to the office of the  
26 Commission and to the last known place of residence of

1 other parties in interest or their attorney or attorneys  
2 of record. The clerk of the court issuing the summons  
3 shall on the day of issue mail notice of the commencement  
4 of the proceedings which shall be done by mailing a copy of  
5 the summons to the office of the Commission, and a copy of  
6 the summons to the other parties in interest or their  
7 attorney or attorneys of record and the clerk of the court  
8 shall make certificate that he has so sent said notices in  
9 pursuance of this Section, which shall be evidence of  
10 service on the Commission and other parties in interest.

11 The Commission shall not be required to certify the  
12 record of their proceedings to the Circuit Court, unless  
13 the party commencing the proceedings for review in the  
14 Circuit Court as above provided, shall file with the  
15 Commission notice of intent to file for review in Circuit  
16 Court. It shall be the duty of the Commission upon such  
17 filing of notice of intent to file for review in the  
18 Circuit Court to prepare a true and correct copy of such  
19 testimony and a true and correct copy of all other matters  
20 contained in such record and certified to by the Secretary  
21 or Assistant Secretary thereof. The changes made to this  
22 subdivision (f)(1) by this amendatory Act of the 98th  
23 General Assembly apply to any Commission decision entered  
24 after the effective date of this amendatory Act of the  
25 98th General Assembly.

26 No request for a summons may be filed and no summons

1 shall issue unless the party seeking to review the  
2 decision of the Commission shall exhibit to the clerk of  
3 the Circuit Court proof of filing with the Commission of  
4 the notice of the intent to file for review in the Circuit  
5 Court or an affidavit of the attorney setting forth that  
6 notice of intent to file for review in the Circuit Court  
7 has been given in writing to the Secretary or Assistant  
8 Secretary of the Commission.

9 (2) No such summons shall issue unless the one against  
10 whom the Commission shall have rendered an award for the  
11 payment of money shall upon the filing of his written  
12 request for such summons file with the clerk of the court a  
13 bond conditioned that if he shall not successfully  
14 prosecute the review, he will pay the award and the costs  
15 of the proceedings in the courts. The amount of the bond  
16 shall be fixed by any member of the Commission and the  
17 surety or sureties of the bond shall be approved by the  
18 clerk of the court. The acceptance of the bond by the clerk  
19 of the court shall constitute evidence of his approval of  
20 the bond.

21 The following shall not be required to file a bond to  
22 secure the payment of the award and the costs of the  
23 proceedings in the court to authorize the court to issue  
24 such summons:

25 (1) the State Treasurer, for a fund administered  
26 by the State Treasurer ex officio against whom the

1 Commission shall have rendered an award for the  
2 payment of money; and

3 (2) a county, city, town, township, incorporated  
4 village, school district, body politic, or municipal  
5 corporation against whom the Commission shall have  
6 rendered an award for the payment of money.

7 The court may confirm or set aside the decision of the  
8 Commission. If the decision is set aside and the facts  
9 found in the proceedings before the Commission are  
10 sufficient, the court may enter such decision as is  
11 justified by law, or may remand the cause to the  
12 Commission for further proceedings and may state the  
13 questions requiring further hearing, and give such other  
14 instructions as may be proper. If the court affirms the  
15 Commission's decision imposing fines on the employer under  
16 subsection (d) of Section 4, the court shall enter  
17 judgment against the employer in the amount of the fines  
18 assessed by the Commission. Appeals shall be taken to the  
19 Appellate Court in accordance with Supreme Court Rules  
20 22(g) and 303. Appeals shall be taken from the Appellate  
21 Court to the Supreme Court in accordance with Supreme  
22 Court Rule 315.

23 It shall be the duty of the clerk of any court  
24 rendering a decision affecting or affirming an award of  
25 the Commission to promptly furnish the Commission with a  
26 copy of such decision, without charge.

1           The decision of a majority of the members of the panel  
2           of the Commission, shall be considered the decision of the  
3           Commission.

4           (g) Except in the case of a claim against the State of  
5           Illinois, either party may present a certified copy of the  
6           award of the Arbitrator, or a certified copy of the decision of  
7           the Commission when the same has become final, when no  
8           proceedings for review are pending, providing for the payment  
9           of compensation according to this Act, to the Circuit Court of  
10          the county in which such accident occurred or either of the  
11          parties are residents, whereupon the court shall enter a  
12          judgment in accordance therewith. In a case where the employer  
13          refuses to pay compensation according to such final award or  
14          such final decision upon which such judgment is entered the  
15          court shall in entering judgment thereon, tax as costs against  
16          him the reasonable costs and attorney fees in the arbitration  
17          proceedings and in the court entering the judgment for the  
18          person in whose favor the judgment is entered, which judgment  
19          and costs taxed as therein provided shall, until and unless  
20          set aside, have the same effect as though duly entered in an  
21          action duly tried and determined by the court, and shall with  
22          like effect, be entered and docketed. The Circuit Court shall  
23          have power at any time upon application to make any such  
24          judgment conform to any modification required by any  
25          subsequent decision of the Supreme Court upon appeal, or as  
26          the result of any subsequent proceedings for review, as



1 provided in this Act.

2 Judgment shall not be entered until 15 days' notice of the  
3 time and place of the application for the entry of judgment  
4 shall be served upon the employer by filing such notice with  
5 the Commission, which Commission shall, in case it has on file  
6 the address of the employer or the name and address of its  
7 agent upon whom notices may be served, immediately send a copy  
8 of the notice to the employer or such designated agent.

9 (h) An agreement or award under this Act providing for  
10 compensation in installments, may at any time within 18 months  
11 after such agreement or award be reviewed by the Commission at  
12 the request of either the employer or the employee, on the  
13 ground that the disability of the employee has subsequently  
14 recurred, increased, diminished or ended.

15 However, as to accidents occurring subsequent to July 1,  
16 1955, which are covered by any agreement or award under this  
17 Act providing for compensation in installments made as a  
18 result of such accident, such agreement or award may at any  
19 time within 30 months, or 60 months in the case of an award  
20 under Section 8(d)1, after such agreement or award be reviewed  
21 by the Commission at the request of either the employer or the  
22 employee on the ground that the disability of the employee has  
23 subsequently recurred, increased, diminished or ended.

24 On such review, compensation payments may be  
25 re-established, increased, diminished or ended. The Commission  
26 shall give 15 days' notice to the parties of the hearing for

1 review. Any employee, upon any petition for such review being  
2 filed by the employer, shall be entitled to one day's notice  
3 for each 100 miles necessary to be traveled by him in attending  
4 the hearing of the Commission upon the petition, and 3 days in  
5 addition thereto. Such employee shall, at the discretion of  
6 the Commission, also be entitled to 5 cents per mile  
7 necessarily traveled by him within the State of Illinois in  
8 attending such hearing, not to exceed a distance of 300 miles,  
9 to be taxed by the Commission as costs and deposited with the  
10 petition of the employer.

11 When compensation which is payable in accordance with an  
12 award or settlement contract approved by the Commission, is  
13 ordered paid in a lump sum by the Commission, no review shall  
14 be had as in this paragraph mentioned.

15 (i) Each party, upon taking any proceedings or steps  
16 whatsoever before any Arbitrator, Commission or court, shall  
17 file with the Commission his address, or the name and address  
18 of any agent upon whom all notices to be given to such party  
19 shall be served, either personally or by registered mail,  
20 addressed to such party or agent at the last address so filed  
21 with the Commission. In the event such party has not filed his  
22 address, or the name and address of an agent as above provided,  
23 service of any notice may be had by filing such notice with the  
24 Commission.

25 (j) Whenever in any proceeding testimony has been taken or  
26 a final decision has been rendered and after the taking of such

1 testimony or after such decision has become final, the injured  
2 employee dies, then in any subsequent proceedings brought by  
3 the personal representative or beneficiaries of the deceased  
4 employee, such testimony in the former proceeding may be  
5 introduced with the same force and effect as though the  
6 witness having so testified were present in person in such  
7 subsequent proceedings and such final decision, if any, shall  
8 be taken as final adjudication of any of the issues which are  
9 the same in both proceedings.

10 (k) In case where there has been any unreasonable or  
11 vexatious delay of payment or intentional underpayment of  
12 compensation, or proceedings have been instituted or carried  
13 on by the one liable to pay the compensation, which do not  
14 present a real controversy, but are merely frivolous or for  
15 delay, then the Commission may award compensation additional  
16 to that otherwise payable under this Act equal to 50% of the  
17 amount payable at the time of such award. Failure to pay  
18 compensation in accordance with the provisions of Section 8,  
19 paragraph (b) of this Act, shall be considered unreasonable  
20 delay.

21 When determining whether this subsection (k) shall apply,  
22 the Commission shall consider whether an Arbitrator has  
23 determined that the claim is not compensable or whether the  
24 employer has made payments under Section 8(j).

25 (l) If the employee has made written demand for payment of  
26 benefits under Section 8(a) or Section 8(b), the employer

1 shall have 14 days after receipt of the demand to set forth in  
2 writing the reason for the delay. In the case of demand for  
3 payment of medical benefits under Section 8(a), the time for  
4 the employer to respond shall not commence until the  
5 expiration of the allotted 30 days specified under Section  
6 8.2(d). In case the employer or his or her insurance carrier  
7 shall without good and just cause fail, neglect, refuse, or  
8 unreasonably delay the payment of benefits under Section 8(a)  
9 or Section 8(b), the Arbitrator or the Commission shall allow  
10 to the employee additional compensation in the sum of \$30 per  
11 day for each day that the benefits under Section 8(a) or  
12 Section 8(b) have been so withheld or refused, not to exceed  
13 \$10,000. A delay in payment of 14 days or more shall create a  
14 rebuttable presumption of unreasonable delay.

15 (m) If the commission finds that an accidental injury was  
16 directly and proximately caused by the employer's wilful  
17 violation of a health and safety standard under the Health and  
18 Safety Act or the Occupational Safety and Health Act in force  
19 at the time of the accident, the arbitrator or the Commission  
20 shall allow to the injured employee or his dependents, as the  
21 case may be, additional compensation equal to 25% of the  
22 amount which otherwise would be payable under the provisions  
23 of this Act exclusive of this paragraph. The additional  
24 compensation herein provided shall be allowed by an  
25 appropriate increase in the applicable weekly compensation  
26 rate.

1           (n) After June 30, 1984, decisions of the Illinois  
2 Workers' Compensation Commission reviewing an award of an  
3 arbitrator of the Commission shall draw interest at a rate  
4 equal to the yield on indebtedness issued by the United States  
5 Government with a 26-week maturity next previously auctioned  
6 on the day on which the decision is filed. Said rate of  
7 interest shall be set forth in the Arbitrator's Decision.  
8 Interest shall be drawn from the date of the arbitrator's  
9 award on all accrued compensation due the employee through the  
10 day prior to the date of payments. However, when an employee  
11 appeals an award of an Arbitrator or the Commission, and the  
12 appeal results in no change or a decrease in the award,  
13 interest shall not further accrue from the date of such  
14 appeal.

15           The employer or his insurance carrier may tender the  
16 payments due under the award to stop the further accrual of  
17 interest on such award notwithstanding the prosecution by  
18 either party of review, certiorari, appeal to the Supreme  
19 Court or other steps to reverse, vacate or modify the award.

20           (o) By the 15th day of each month each insurer providing  
21 coverage for losses under this Act shall notify each insured  
22 employer of any compensable claim incurred during the  
23 preceding month and the amounts paid or reserved on the claim  
24 including a summary of the claim and a brief statement of the  
25 reasons for compensability. A cumulative report of all claims  
26 incurred during a calendar year or continued from the previous

1 year shall be furnished to the insured employer by the insurer  
2 within 30 days after the end of that calendar year.

3 The insured employer may challenge, in proceeding before  
4 the Commission, payments made by the insurer without  
5 arbitration and payments made after a case is determined to be  
6 noncompensable. If the Commission finds that the case was not  
7 compensable, the insurer shall purge its records as to that  
8 employer of any loss or expense associated with the claim,  
9 reimburse the employer for attorneys' fees arising from the  
10 challenge and for any payment required of the employer to the  
11 Rate Adjustment Fund or the Second Injury Fund, and may not  
12 reflect the loss or expense for rate making purposes. The  
13 employee shall not be required to refund the challenged  
14 payment. The decision of the Commission may be reviewed in the  
15 same manner as in arbitrated cases. No challenge may be  
16 initiated under this paragraph more than 3 years after the  
17 payment is made. An employer may waive the right of challenge  
18 under this paragraph on a case by case basis.

19 (p) After filing an application for adjustment of claim  
20 but prior to the hearing on arbitration the parties may  
21 voluntarily agree to submit such application for adjustment of  
22 claim for decision by an arbitrator under this subsection (p)  
23 where such application for adjustment of claim raises only a  
24 dispute over temporary total disability, permanent partial  
25 disability or medical expenses. Such agreement shall be in  
26 writing in such form as provided by the Commission.

1 Applications for adjustment of claim submitted for decision by  
2 an arbitrator under this subsection (p) shall proceed  
3 according to rule as established by the Commission. The  
4 Commission shall promulgate rules including, but not limited  
5 to, rules to ensure that the parties are adequately informed  
6 of their rights under this subsection (p) and of the voluntary  
7 nature of proceedings under this subsection (p). The findings  
8 of fact made by an arbitrator acting within his or her powers  
9 under this subsection (p) in the absence of fraud shall be  
10 conclusive. However, the arbitrator may on his own motion, or  
11 the motion of either party, correct any clerical errors or  
12 errors in computation within 15 days after the date of receipt  
13 of such award of the arbitrator and shall have the power to  
14 recall the original award on arbitration, and issue in lieu  
15 thereof such corrected award. The decision of the arbitrator  
16 under this subsection (p) shall be considered the decision of  
17 the Commission and proceedings for review of questions of law  
18 arising from the decision may be commenced by either party  
19 pursuant to subsection (f) of Section 19. The Advisory Board  
20 established under Section 13.1 shall compile a list of  
21 certified Commission arbitrators, each of whom shall be  
22 approved by at least 7 members of the Advisory Board. The  
23 chairman shall select 5 persons from such list to serve as  
24 arbitrators under this subsection (p). By agreement, the  
25 parties shall select one arbitrator from among the 5 persons  
26 selected by the chairman except that if the parties do not

1 agree on an arbitrator from among the 5 persons, the parties  
2 may, by agreement, select an arbitrator of the American  
3 Arbitration Association, whose fee shall be paid by the State  
4 in accordance with rules promulgated by the Commission.  
5 Arbitration under this subsection (p) shall be voluntary.

6 (Source: P.A. 101-384, eff. 1-1-20; 102-775, eff. 5-13-22.)

7 (820 ILCS 305/25.5)

8 Sec. 25.5. Unlawful acts; penalties.

9 (a) It is unlawful for any person, company, corporation,  
10 insurance carrier, healthcare provider, or other entity to:

11 (1) Intentionally present or cause to be presented any  
12 false or fraudulent claim for the payment of any workers'  
13 compensation benefit.

14 (2) Intentionally make or cause to be made any false  
15 or fraudulent material statement or material  
16 representation for the purpose of obtaining or denying any  
17 workers' compensation benefit.

18 (3) Intentionally make or cause to be made any false  
19 or fraudulent statements with regard to entitlement to  
20 workers' compensation benefits with the intent to prevent  
21 an injured worker from making a legitimate claim for any  
22 workers' compensation benefits.

23 (4) Intentionally prepare or provide an invalid,  
24 false, or counterfeit certificate of insurance as proof of  
25 workers' compensation insurance.



1           (5) Intentionally make or cause to be made any false  
2 or fraudulent material statement or material  
3 representation for the purpose of obtaining workers'  
4 compensation insurance at less than the proper amount for  
5 that insurance.

6           (6) Intentionally make or cause to be made any false  
7 or fraudulent material statement or material  
8 representation on an initial or renewal self-insurance  
9 application or accompanying financial statement for the  
10 purpose of obtaining self-insurance status or reducing the  
11 amount of security that may be required to be furnished  
12 pursuant to Section 4 of this Act.

13           (7) Intentionally make or cause to be made any false  
14 or fraudulent material statement to the Department of  
15 Insurance's fraud and insurance non-compliance unit in the  
16 course of an investigation of fraud or insurance  
17 non-compliance.

18           (8) Intentionally assist, abet, solicit, or conspire  
19 with any person, company, or other entity to commit any of  
20 the acts in paragraph (1), (2), (3), ~~(4)~~, (5), (6), or (7)  
21 of this subsection (a).

22           (8.5) Intentionally assist, abet, solicit, or conspire  
23 with any person, company, or other entity to commit any of  
24 the acts in paragraph (4) of this subsection (a).

25           (9) Intentionally present a bill or statement for the  
26 payment for medical services that were not provided.

1 For the purposes of paragraphs (2), (3), (5), (6), (7),  
2 and (9), the term "statement" includes any writing, notice,  
3 proof of injury, bill for services, hospital or doctor records  
4 and reports, or X-ray and test results.

5 (b) Sentences for violations of paragraphs (1), (2), (3),  
6 (5), (6), (7), (8), and (9) of subsection (a) are as follows:

7 (1) A violation in which the value of the property  
8 obtained or attempted to be obtained is \$300 or less is a  
9 Class A misdemeanor.

10 (2) A violation in which the value of the property  
11 obtained or attempted to be obtained is more than \$300 but  
12 not more than \$10,000 is a Class 3 felony.

13 (3) A violation in which the value of the property  
14 obtained or attempted to be obtained is more than \$10,000  
15 but not more than \$100,000 is a Class 2 felony.

16 (4) A violation in which the value of the property  
17 obtained or attempted to be obtained is more than \$100,000  
18 is a Class 1 felony.

19 (5) A person convicted under this subsection ~~Section~~  
20 shall be ordered to pay monetary restitution to the  
21 injured worker, insurance company, ~~or~~ self-insured entity,  
22 or any other person for any financial loss sustained as a  
23 result of a violation of this Section, ~~including any court~~  
24 ~~costs and attorney fees.~~ An order of restitution also  
25 includes expenses incurred and paid by the State of  
26 Illinois, ~~or~~ an insurance company, a ~~or~~ self-insured

1        entity, an injured worker, or any other person in  
2        connection with any medical evaluation or treatment  
3        services. For the purposes of this subsection, "person"  
4        includes any legal entity created under Section 535 of the  
5        Illinois Insurance Code.

6        For the purposes of this subsection ~~Section~~, where the  
7        exact value of property obtained or attempted to be obtained  
8        is either not alleged or is not specifically set by the terms  
9        of a policy of insurance, the value of the property shall be  
10       the fair market replacement value of the property claimed to  
11       be lost, the reasonable costs of reimbursing a vendor or other  
12       claimant for services to be rendered, or both. Notwithstanding  
13       the foregoing, an injured worker, an insurance company,  
14       self-insured entity, or any other person suffering financial  
15       loss sustained as a result of violation of this Section may  
16       seek restitution, including court costs and attorney's fees in  
17       a civil action in a court of competent jurisdiction.

18        (b-5) Sentences for violations of paragraphs (4) and (8.5)  
19        of subsection (a) are as follows:

20            (1) A violation in which the value of the property  
21            obtained or attempted to be obtained is \$10,000 or less,  
22            is a Class 3 felony and a civil penalty of up to \$10,000  
23            per violation, payable to the Injured Workers' Benefit  
24            Fund, shall be assessed.

25            (2) A violation in which the value of the property  
26            obtained or attempted to be obtained is more than \$10,000,

1 but not more than \$100,000, is a Class 2 felony and a civil  
2 penalty of up to \$10,000 per violation, payable to the  
3 Injured Workers' Benefit Fund, shall be assessed.

4 (3) A violation in which the value of the property  
5 obtained or attempted to be obtained is more than \$100,000  
6 is a Class 1 felony and a civil penalty of up to \$10,000  
7 per violation, payable to the Injured Workers' Benefit  
8 Fund, shall be assessed.

9 (4) A person convicted under this subsection shall be  
10 ordered to pay monetary restitution to the injured worker,  
11 insurance company, self-insured entity, or any other  
12 person for any financial loss sustained as a result of a  
13 violation of this Section. An order of restitution also  
14 includes expenses incurred and paid by the State of  
15 Illinois, an insurance company, a self-insured entity, an  
16 injured person, or any other person in connection with any  
17 medical evaluation or treatment services.

18 For the purposes of this subsection, the value of the  
19 property obtained or attempted to be obtained shall be the  
20 amount of premiums saved by use of the invalid, false, or  
21 counterfeit certificate of insurance, the value of any  
22 payments under any contract obtained by reliance on the  
23 invalid, false, or counterfeit certificate of insurance, or  
24 both. Notwithstanding the foregoing, an injured worker,  
25 insurance company, self-insured entity, or any other person  
26 suffering financial loss sustained as a result of violation of

1 this subsection may seek restitution, including court costs  
2 and attorney's fees in a civil action in a court of competent  
3 jurisdiction.

4 (c) The Department of Insurance shall establish a fraud  
5 and insurance non-compliance unit responsible for  
6 investigating incidences of fraud and insurance non-compliance  
7 pursuant to this Section. The size of the staff of the unit  
8 shall be subject to appropriation by the General Assembly. It  
9 shall be the duty of the fraud and insurance non-compliance  
10 unit to determine the identity of insurance carriers,  
11 employers, employees, or other persons or entities who have  
12 violated the fraud and insurance non-compliance provisions of  
13 this Section. The fraud and insurance non-compliance unit  
14 shall report violations of the fraud and insurance  
15 non-compliance provisions of this Section to the Special  
16 Prosecutions Bureau of the Criminal Division of the Office of  
17 the Attorney General or to the State's Attorney of the county  
18 in which the offense allegedly occurred, either of whom has  
19 the authority to prosecute violations under this Section.

20 With respect to the subject of any investigation being  
21 conducted, the fraud and insurance non-compliance unit shall  
22 have the general power of subpoena of the Department of  
23 Insurance, including the authority to issue a subpoena to a  
24 medical provider, pursuant to Section 8-802 of the Code of  
25 Civil Procedure.

26 (d) Any person may report allegations of insurance

1 non-compliance and fraud pursuant to this Section to the  
2 Department of Insurance's fraud and insurance non-compliance  
3 unit whose duty it shall be to investigate the report. The unit  
4 shall notify the Commission of reports of insurance  
5 non-compliance. Any person reporting an allegation of  
6 insurance non-compliance or fraud against either an employee  
7 or employer under this Section must identify himself. Except  
8 as provided in this subsection and in subsection (e), all  
9 reports shall remain confidential except to refer an  
10 investigation to the Attorney General or State's Attorney for  
11 prosecution or if the fraud and insurance non-compliance  
12 unit's investigation reveals that the conduct reported may be  
13 in violation of other laws or regulations of the State of  
14 Illinois, the unit may report such conduct to the appropriate  
15 governmental agency charged with administering such laws and  
16 regulations. Any person who intentionally makes a false report  
17 under this Section to the fraud and insurance non-compliance  
18 unit is guilty of a Class A misdemeanor.

19 (e) In order for the fraud and insurance non-compliance  
20 unit to investigate a report of fraud related to an employee's  
21 claim, (i) the employee must have filed with the Commission an  
22 Application for Adjustment of Claim and the employee must have  
23 either received or attempted to receive benefits under this  
24 Act that are related to the reported fraud or (ii) the employee  
25 must have made a written demand for the payment of benefits  
26 that are related to the reported fraud. There shall be no

1 immunity, under this Act or otherwise, for any person who  
2 files a false report or who files a report without good and  
3 just cause. Confidentiality of medical information shall be  
4 strictly maintained. Investigations that are not referred for  
5 prosecution shall be destroyed upon the expiration of the  
6 statute of limitations for the acts under investigation and  
7 shall not be disclosed except that the person making the  
8 report shall be notified that the investigation is being  
9 closed. It is unlawful for any employer, insurance carrier,  
10 service adjustment company, third party administrator,  
11 self-insured, or similar entity to file or threaten to file a  
12 report of fraud against an employee because of the exercise by  
13 the employee of the rights and remedies granted to the  
14 employee by this Act.

15 (e-5) (Blank).

16 (f) Any person convicted of fraud related to workers'  
17 compensation pursuant to this Section shall be subject to the  
18 penalties prescribed in the Criminal Code of 2012 and shall be  
19 ineligible to receive or retain any compensation, disability,  
20 or medical benefits as defined in this Act if the  
21 compensation, disability, or medical benefits were owed or  
22 received as a result of fraud for which the recipient of the  
23 compensation, disability, or medical benefit was convicted.  
24 This subsection applies to accidental injuries or diseases  
25 that occur on or after the effective date of this amendatory  
26 Act of the 94th General Assembly.

1 (g) Civil liability. Any person convicted of fraud who  
2 knowingly obtains, attempts to obtain, or causes to be  
3 obtained any benefits under this Act by the making of a false  
4 claim or who knowingly misrepresents any material fact shall  
5 be civilly liable to the payor of benefits or the insurer or  
6 the payor's or insurer's subrogee or assignee in an amount  
7 equal to 3 times the value of the benefits or insurance  
8 coverage wrongfully obtained or twice the value of the  
9 benefits or insurance coverage attempted to be obtained, plus  
10 reasonable attorney's fees and expenses incurred by the payor  
11 or the payor's subrogee or assignee who successfully brings a  
12 claim under this subsection. This subsection applies to  
13 accidental injuries or diseases that occur on or after the  
14 effective date of this amendatory Act of the 94th General  
15 Assembly.

16 (h) The fraud and insurance non-compliance unit shall  
17 submit a written report on an annual basis to the Chairman of  
18 the Commission, the Workers' Compensation Advisory Board, the  
19 General Assembly, the Governor, and the Attorney General by  
20 January 1 and July 1 of each year. This report shall include,  
21 at the minimum, the following information:

22 (1) The number of allegations of insurance  
23 non-compliance and fraud reported to the fraud and  
24 insurance non-compliance unit.

25 (2) The source of the reported allegations  
26 (individual, employer, or other).



1           (3) The number of allegations investigated by the  
2 fraud and insurance non-compliance unit.

3           (4) The number of criminal referrals made in  
4 accordance with this Section and the entity to which the  
5 referral was made.

6           (5) All proceedings under this Section.

7           (6) Recommendations regarding opportunities for  
8 additional fraud detection.

9 (Source: P.A. 102-37, eff. 7-1-21.)

10           Section 99. Effective date. This Act takes effect upon  
11 becoming law.