

HB4063



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4063

by Rep. Allen Skillicorn

SYNOPSIS AS INTRODUCED:

820 ILCS 305/16a

from Ch. 48, par. 138.16a

Amends the Workers' Compensation Act. Limits attorney's fees to 15%, rather than 20%, of the sum which would be due under this Act for 364 weeks of permanent total disability based upon the employee's average weekly wage. Effective immediately.

LRB100 12968 JLS 27077 b

A BILL FOR

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 Workers' Compensation Act is amended by
5 changing Section 16a as follows:

6 (820 ILCS 305/16a) (from Ch. 48, par. 138.16a)

7 Sec. 16a. (A) In the establishment or approval of
8 attorney's fees in relation to claims brought under this Act,
9 the Commission shall be guided by the provisions of this
10 Section and by the legislative intent, hereby declared, to
11 encourage settlement and prompt administrative handling of
12 such claims and thereby reduce expenses to claimants for
13 compensation under this Act.

14 (B) With respect to any and all proceedings in connection
15 with any initial or original claim under this Act, no claim of
16 any attorney for services rendered in connection with the
17 securing of compensation for an employee or his dependents,
18 whether secured by agreement, order, award or a judgment in any
19 court shall exceed 20% of the amount of compensation recovered
20 and paid, unless further fees shall be allowed to the attorney
21 upon a hearing by the Commission fixing fees, and subject to
22 the other provisions of this Section. However, except as
23 hereinafter provided in this Section, in death cases, total

1 disability cases and partial disability cases, the amount of an
2 attorney's fees shall not exceed 15% ~~20%~~ of the sum which would
3 be due under this Act for 364 weeks of permanent total
4 disability based upon the employee's average gross weekly wage
5 prior to the date of the accident and subject to the maximum
6 weekly benefits provided in this Act unless further fees shall
7 be allowed to the attorney upon a hearing by the Commission
8 fixing fees.

9 (C) All attorneys' fees in connection with the initial or
10 original claim for compensation shall be fixed pursuant to a
11 written contract on forms prescribed by the Commission between
12 the attorney and the employee or his dependents, and every
13 attorney, whether the disposition of the original claim is by
14 agreement, settlement, award, judgment or otherwise, shall
15 file his contract with the Chairman of the Commission who shall
16 approve the contract only if it is in accordance with all
17 provisions of this Section.

18 (D) No attorneys' fees shall be charged with respect to
19 compensation for undisputed medical expenses.

20 (E) No attorneys' fees shall be charged in connection with
21 any temporary total disability compensation unless the payment
22 of such compensation in a timely manner or in the proper amount
23 is refused, or unless such compensation is terminated by the
24 employer and the payment of such compensation is obtained or
25 reinstated by the efforts of the attorney, whether by
26 agreement, settlement, award or judgment.

1 (F) In the following cases in which there is no dispute
2 between the parties as to the liability of the respondent to
3 pay compensation in a timely manner or in the proper amount and
4 there is no dispute that the accident has resulted in:

5 (1) the death of the employee; or

6 (2) a statutory permanent disability; or

7 (3) the amputation of a finger, toe, or member; or

8 (4) the removal of a testicle; or

9 (5) the enucleation of or 100% loss of vision of an
10 eye;

11 the legal fees, if any, for services rendered are to be fixed
12 by the Illinois Workers' Compensation Commission at a nominal
13 amount, not exceeding \$100.

14 (G) In the following cases in which there is no dispute
15 between the parties as to the liability of the respondent to
16 pay compensation and there is no dispute that the accident has
17 resulted in:

18 (1) a fracture of one or more vertebrae; or

19 (2) a skull fracture; or

20 (3) a fracture of one or more spinous or transverse
21 processes; or

22 (4) a fracture of one or more facial bones; or

23 (5) the removal of a kidney, spleen or lung;

24 the legal fees, if any, for services rendered are to be fixed
25 by the Illinois Workers' Compensation Commission at a nominal
26 amount, not exceeding \$100, provided that the employee is

1 awarded the minimum amount for the above injuries as specified
2 in Section 8(d)2.

3 (H) With regard to any claim where the amount to be paid
4 for compensation does not exceed the written offer made to the
5 claimant or claimants by the employer or his agent prior to
6 representation by an attorney, no fees shall be paid to any
7 such attorney.

8 (I) All attorneys' fees for representation of an employee
9 or his dependents shall be only recoverable from compensation
10 actually paid to such employee or dependents.

11 (J) Any and all disputes regarding attorneys' fees, whether
12 such disputes relate to which one or more attorneys represents
13 the claimant or claimants or is entitled to the attorneys'
14 fees, or a division of attorneys' fees where the claimant or
15 claimants are or have been represented by more than one
16 attorney, or any other disputes concerning attorneys' fees or
17 contracts for attorneys' fees, shall be heard and determined by
18 the Commission after reasonable notice to all interested
19 parties and attorneys.

20 (K) After reasonable notice and hearing before the
21 Commission, any attorney found to be in violation of any
22 provision of this Section shall be required to make restitution
23 of any excess fees charged plus interest at a reasonable rate
24 as determined by the Commission.

25 (Source: P.A. 93-721, eff. 1-1-05.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.