

1 AN ACT concerning regulation.

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 and by adding Article XLVI 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)(1) Except as provided in subsection (b)(2) of this  
3 Section, beginning on July 30, 2004 (the effective date of  
4 Public Act 93-840) and on July 1 of each year thereafter, the  
5 Director shall charge an annual Illinois Workers' Compensation  
6 Commission Operations Fund Surcharge from every company  
7 subject to subsection (a) of this Section equal to 1.01% of its  
8 direct written premium for insuring employers' liabilities  
9 arising under the Workers' Compensation Act or Workers'  
10 Occupational Diseases Act as reported in each company's annual  
11 statement filed for the previous year as required by Section  
12 136. The Illinois Workers' Compensation Commission Operations  
13 Fund Surcharge shall be collected by companies subject to  
14 subsection (a) of this Section as a separately stated surcharge  
15 on insured employers at the rate of 1.01% of direct written  
16 premium. The Illinois Workers' Compensation Commission  
17 Operations Fund Surcharge shall not be collected by companies  
18 subject to subsection (a) of this Section from any employer  
19 that self-insures its liabilities arising under the Workers'  
20 Compensation Act or Workers' Occupational Diseases Act,  
21 provided that the employer has paid the Illinois Workers'  
22 Compensation Commission Operations Fund Fee pursuant to  
23 Section 4d of the Workers' Compensation Act. All sums collected  
24 by the Department of Insurance under the provisions of this  
25 Section shall be paid promptly after the receipt of the same,  
26 accompanied by a detailed statement thereof, into the Illinois

1 Workers' Compensation Commission Operations Fund in the State  
2 treasury.

3 (b) (2) The surcharge due pursuant to Public Act 93-840  
4 shall be collected instead of the surcharge due on July 1, 2004  
5 under Public Act 93-32. Payment of the surcharge due under  
6 Public Act 93-840 shall discharge the employer's obligations  
7 due on July 1, 2004.

8 (c) In addition to the authority specifically granted under  
9 Article XXV of this Code, the Director shall have such  
10 authority to adopt rules or establish forms as may be  
11 reasonably necessary for purposes of enforcing this Section.  
12 The Director shall also have authority to defer, waive, or  
13 abate the surcharge or any penalties imposed by this Section if  
14 in the Director's opinion the company's solvency and ability to  
15 meet its insured obligations would be immediately threatened by  
16 payment of the surcharge due.

17 (d) When a company fails to pay the full amount of any  
18 annual Illinois Workers' Compensation Commission Operations  
19 Fund Surcharge of \$100 or more due under this Section, there  
20 shall be added to the amount due as a penalty the greater of  
21 \$1,000 or an amount equal to 5% of the deficiency for each  
22 month or part of a month that the deficiency remains unpaid.

23 (e) The Department of Insurance may enforce the collection  
24 of any delinquent payment, penalty, or portion thereof by legal  
25 action or in any other manner by which the collection of debts  
26 due the State of Illinois may be enforced under the laws of

1 this State.

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

16 (g) Annually, the Governor may direct a transfer of up to  
17 2% of all moneys collected under this Section to the Insurance  
18 Financial Regulation Fund.

19 (h) After the effective date of this amendatory Act of the  
20 100th General Assembly, the Director shall make a loan to the  
21 Illinois Employers Mutual Insurance Company of \$10,000,000  
22 from the Illinois Workers' Compensation Commission Operations  
23 Fund for the start-up funding and initial capitalization of the  
24 Illinois Employers Mutual Insurance Company. The Board of  
25 Directors of the Illinois Employers Mutual Insurance Company  
26 shall make an application to the Director for the loans,

1 stating the amount to be loaned to the Illinois Employers  
2 Mutual Insurance Company. The Illinois Employers Mutual  
3 Insurance Company shall repay the loans in full within 5 years  
4 after issuance, plus any interest that would have accrued  
5 thereon had the loan not occurred.

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

7 (215 ILCS 5/Art. XLVI heading new)

8 ARTICLE XLVI.

9 THE ILLINOIS EMPLOYERS MUTUAL INSURANCE COMPANY

10 (215 ILCS 5/1700 new)

11 Sec. 1700. Purpose. The purpose of this Article is to  
12 establish the Illinois Employers Mutual Insurance Company as a  
13 nonprofit, independent public corporation to insure Illinois  
14 employers against liability for workers' compensation and  
15 occupational disease coverage.

16 (215 ILCS 5/1705 new)

17 Sec. 1705. Definitions. As used in this Article:

18 "Board" means the board of directors of the Illinois  
19 Employers Mutual Insurance Company.

20 "Board director" means a member of the board of directors  
21 of the Company.

22 "Company" means the Illinois Employers Mutual Insurance  
23 Company created by this Article.

1 (215 ILCS 5/1710 new)

2 Sec. 1710. Establishment of the Company.

3 (a) There is hereby created the Illinois Employers Mutual  
4 Insurance Company, which shall be a nonprofit, independent  
5 public corporation. The Company shall be operated as a domestic  
6 mutual insurance company, subject to all applicable provisions  
7 of this Code.

8 (b) The Company shall issue insurance for workers'  
9 compensation and occupational disease. The Company shall not  
10 provide any other type of insurance.

11 (c) The Company shall provide workers' compensation  
12 coverage to employers at the highest level of service and  
13 savings consistent with reasonable applicable actuarial  
14 standards and shall maintain the financial integrity of the  
15 Company. The Company shall foster employer involvement in  
16 safety initiatives and the creation of workplace safety plans  
17 set forth in Section 1740 of this Article.

18 (d) The Company shall not be considered a State agency or  
19 instrumentality of the State for any purpose. Employees of the  
20 Company are not employees of the State and are not subject to  
21 the Personnel Code. The Company shall not receive any State  
22 appropriations or funds, except for an initial loan or loans  
23 made pursuant to Section 416 of this Code. The State shall not  
24 borrow or otherwise appropriate funds from the Company. The  
25 Company or its liabilities shall not be deemed to constitute a

1 debt or a liability of the State or a pledge of the full faith  
2 and credit of the State.

3 (215 ILCS 5/1715 new)

4 Sec. 1715. Board of directors.

5 (a) The Company shall be managed by a 7-member board of  
6 directors. The board of directors shall be appointed by the  
7 Governor with the advice and consent of the Senate. For the  
8 initial set of appointments, 2 Board directors shall be  
9 appointed to a term ending July 1, 2019, 2 Board directors  
10 shall be appointed to a term ending July 1, 2020, 2 Board  
11 directors shall be appointed to a term ending July 1, 2021, and  
12 one Board director shall be appointed to a term ending July 1,  
13 2022. All initial appointments shall be made by the Governor  
14 within 30 days after the effective date of this amendatory Act  
15 of the 100th General Assembly. Thereafter, all appointments or  
16 reappointments shall be a for a 5-year term ending on July 1 of  
17 the fifth year. The appointment and reappointment of Board  
18 directors by the Governor shall be subject to the provisions of  
19 Article 3A of the Illinois Governmental Ethics Act.

20 (b) A Board director appointed by the Governor must meet  
21 all of the following qualifications:

22 (1) he or she does not have any interest as a  
23 stockholder, employee, attorney, agent, broker, or  
24 contractor of an insurance entity that writes workers'  
25 compensation insurance or whose affiliates write workers'

1 compensation insurance; however, nothing in this Section  
2 shall be construed to prohibit an individual who previously  
3 had an interest in an insurance entity that writes workers'  
4 compensation insurance or whose affiliates write workers'  
5 compensation insurance from being appointed to the Board;

6 (2) he or she is not the spouse or an immediate family  
7 member living with a person who has an interest as a  
8 stockholder, employee, attorney, agent, broker, or  
9 contractor of an insurance entity that writes workers'  
10 compensation insurance or whose affiliates write workers'  
11 compensation insurance; however, nothing in this Section  
12 shall be construed to prohibit an individual who previously  
13 had an interest in an insurance entity that writes workers'  
14 compensation insurance or whose affiliates write workers'  
15 compensation insurance from being appointed to the Board;

16 (3) he or she is a resident of the State of Illinois;

17 (4) he or she is of good moral character and has never  
18 pleaded guilty to, or been found guilty of, a felony; and

19 (5) he or she is not a registered lobbyist under the  
20 Lobbyist Registration Act.

21 (c) The Board directors shall elect a chairman from the  
22 Board.

23 (d) The Board is vested with the full power, authority, and  
24 jurisdiction over the Company and may perform any necessary or  
25 convenient act in the exercise of its power. The Board shall  
26 discharge its duties with the care, skill, prudence, and



1 diligence as that of prudent directors acting in a similar  
2 enterprise and purpose. The powers of the Board include, but  
3 are not limited to:

4 (1) the ability to enter into contracts;

5 (2) the purchase of reinsurance; and

6 (3) the declaration of dividends.

7 (e) The Board shall develop bylaws which shall be subject  
8 to the restrictions set forth in this Article. The bylaws shall  
9 provide for a schedule of at least quarterly meetings and set  
10 forth rules specifically relating to the conduct of meetings  
11 and voting procedures.

12 (f) The Board shall reflect the ethnic, cultural, and  
13 geographical diversity of the State.

14 (215 ILCS 5/1720 new)

15 Sec. 1720. Ratemaking. The Board shall have full power and  
16 authority to establish rates to be charged by the Company for  
17 insurance, subject to the applicable provisions of this Code.  
18 The Board shall contract for the services of or hire an  
19 independent actuary, who is a member in good standing with the  
20 American Academy of Actuaries, to develop and recommend  
21 actuarially sound rates. Rates shall be set at amounts  
22 sufficient, when invested, to carry all claims to maturity,  
23 meet the reasonable expenses of conducting the business of the  
24 Company, and maintain a reasonable surplus.

1 (215 ILCS 5/1725 new)

2 Sec. 1725. Guaranty fund. The Company shall be subject to  
3 Article XXXIV of this Code and shall pay any assessments  
4 required for members of the Illinois Insurance Guaranty Fund.

5 (215 ILCS 5/1730 new)

6 Sec. 1730. Chief executive officer.

7 (a) The Board shall hire a chief executive officer who  
8 shall serve at the pleasure of the Board. The chief executive  
9 officer shall not be a member of the Board and must be  
10 qualified by education and experience to manage an organization  
11 with financial and operational obligations to policyholders  
12 and claimants. The compensation of the chief executive officer  
13 shall be determined by the Board.

14 (b) The chief executive officer shall be responsible for  
15 conducting the day-to-day operations of the Company, including  
16 the hiring of personnel. The chief executive officer shall also  
17 maintain an Internet website for the Company, which shall  
18 include information regarding the purchase of policies from the  
19 Company, as well as any reports required to be published under  
20 this Article.

21 (c) The chief executive officer shall present a proposed  
22 operating budget for the Company to the Board for its approval  
23 on an annual basis. The operating budget shall include a  
24 description of administrative and personnel costs.

1 (215 ILCS 5/1735 new)

2 Sec. 1735. Liability. The Board and its employees shall  
3 not be personally liable for acts performed in good faith,  
4 without the intent to defraud, and made in an official  
5 capacity.

6 (215 ILCS 5/1740 new)

7 Sec. 1740. Workplace safety plan.

8 (a) The chief executive officer shall formulate,  
9 implement, and monitor a workplace safety plan for all  
10 policyholders. This plan shall include written guidance to  
11 reduce workplace accidents, prevent injuries, and promote safe  
12 working conditions. Each plan shall have clearly stated safety  
13 objectives for the policyholder.

14 (b) Employees of the Company shall have access to the  
15 premises of any policyholder for the purpose of examining the  
16 safety conditions of the workplace. The Company may terminate a  
17 policy if there is a refusal by the policyholder to permit  
18 on-site examinations by the Company or if the policyholder  
19 disregards or fails to comply with the safety objectives set  
20 forth by the Company in the workplace safety plan.

21 (215 ILCS 5/1745 new)

22 Sec. 1745. Investments.

23 (a) The Company shall formulate and adopt an investment  
24 policy that safeguards the value of all assets and maximizes

1 investment potential. All investments by the Company shall be  
2 subject to the applicable restrictions for domestic mutual  
3 insurers set forth in this Code.

4 (b) The Company may retain an independent investment  
5 counsel who shall be subject to standards applicable to  
6 fiduciaries responsible for safeguarding the assets of a  
7 corporation.

8 (215 ILCS 5/1750 new)

9 Sec. 1750. Dividends.

10 (a) The Company may declare a dividend in accordance with  
11 the requirements set forth in this Code.

12 (b) Dividends may be distributed in the form of premium  
13 discounts, dividends, or a combination of dividends and  
14 discounts.

15 (c) In addition to any requirements for dividends set forth  
16 in this Code, dividends may only be distributed if:

17 (1) the initial funding of the Company has been repaid  
18 in full;

19 (2) an independent actuarial report of the prior year's  
20 operations has been completed and reviewed by the Board;

21 (3) the Company has met all expenses for administration  
22 and claims for the prior year; and

23 (4) adequate reserves exist to pay all claims.

24 (215 ILCS 5/1755 new)

1       Sec. 1755. Sale of policies. The Company shall administer  
2 the sale of policies for workers' compensation and occupational  
3 disease coverage. The Company shall utilize the Internet and  
4 other technologies to the greatest extent possible in order to  
5 facilitate the purchase of a policy for employers in this  
6 State.

7           (215 ILCS 5/1760 new)

8       Sec. 1760. Auditing requirements.

9       (a) The Company shall be subject to all examinations and  
10 audits required under this Code.

11       (b) The Board shall retain a competent and independent firm  
12 of certified public accountants to perform an annual audit of  
13 the performance and management of the Company and an audit of  
14 the accounts, funds, and securities of the Company. The costs  
15 of these audits shall be paid for by the Company. The audits  
16 shall be published on the Company's Internet website.

17           (215 ILCS 5/1765 new)

18       Sec. 1765. Annual report.

19       (a) On July 1, 2018, the Board shall prepare and submit a  
20 report to the Governor, the President of the Senate, the  
21 Minority Leader of the Senate, the Speaker of the House, and  
22 the Minority Leader of the House. This report shall describe  
23 the progress of the Company to date in establishing its  
24 operations as a domestic mutual insurance company in this State

1 providing workers' compensation and occupational disease  
2 coverage. This report shall include the information required in  
3 subsection (b) of this Section, if available.

4 (b) Beginning July 1, 2019 and continuing every July 1  
5 thereafter, the Board shall prepare and submit a report to the  
6 Governor, the President of the Senate, the Minority Leader of  
7 the Senate, the Speaker of the House, and the Minority Leader  
8 of the House. This report shall contain, at a minimum, the  
9 following information:

10 (1) a summary of the most recent audits performed  
11 pursuant to Section 1760 of this Code;

12 (2) statistical and actuarial data related to the  
13 determination of premium rate levels; and

14 (3) the incidence of work-related injuries and costs  
15 related to those injuries.

16 (c) The reports required under this Section shall be  
17 submitted electronically and posted on the Internet website of  
18 the Company.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/416

4 215 ILCS 5/Art. XLVI

5 heading new

6 215 ILCS 5/1700 new

7 215 ILCS 5/1705 new

8 215 ILCS 5/1710 new

9 215 ILCS 5/1715 new

10 215 ILCS 5/1720 new

11 215 ILCS 5/1725 new

12 215 ILCS 5/1730 new

13 215 ILCS 5/1735 new

14 215 ILCS 5/1740 new

15 215 ILCS 5/1745 new

16 215 ILCS 5/1750 new

17 215 ILCS 5/1755 new

18 215 ILCS 5/1760 new

19 215 ILCS 5/1765 new