

# HB5366



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5366

by Rep. Lawrence Walsh, Jr.

### SYNOPSIS AS INTRODUCED:

820 ILCS 305/4

from Ch. 48, par. 138.4

Amends the Workers' Compensation Act. Provides that in addition to other specified prohibitions, an employer may not demote an employee because of his or her exercise of rights under the Act. Effective immediately.

LRB101 18184 JLS 67626 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 4 as follows:

6 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

7 (Text of Section from P.A. 101-40)

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

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

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

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

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

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

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

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

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

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

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

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

25           The penalty shall not exceed \$1,000 for each day of work  
26           for which the employer failed to make payments upon the premium

1 rates of the situs where the work or project is located in  
2 Illinois, but the total penalty shall not exceed \$50,000 for  
3 each project or each contract under which the work was  
4 performed.

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

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

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

25 (2) Any informational schedule attached to the master  
26 policy that identifies any individual client company's

1 name, FEIN, and job location.

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

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

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

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

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

17 (c) Whenever the Commission shall find that any  
18 corporation, company, association, aggregation of individuals,  
19 reciprocal or interinsurers exchange, or other insurer  
20 effecting workers' compensation insurance in this State shall  
21 be insolvent, financially unsound, or unable to fully meet all  
22 payments and liabilities assumed or to be assumed for  
23 compensation insurance in this State, or shall practice a  
24 policy of delay or unfairness toward employees in the  
25 adjustment, settlement, or payment of benefits due such  
26 employees, the Commission may after reasonable notice and



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

24 Whenever the Commission finds that any self-insured  
25 employer has practiced or is practicing delay or unfairness  
26 toward employees in the adjustment, settlement or payment of

1 benefits due such employees, the Commission may, after  
2 reasonable notice and hearing, order and direct that after a  
3 date fixed in the order such self-insured employer shall be  
4 disqualified to operate as a self-insurer and shall be required  
5 to insure his entire liability to pay compensation in some  
6 insurance carrier authorized, licensed and permitted to do such  
7 insurance business in this State, as provided in subparagraph 3  
8 of paragraph (a) of this Section.

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

24 (d) Whenever a Commissioner, with due process and after a  
25 hearing, determines an employer has knowingly failed to provide  
26 coverage as required by paragraph (a) of this Section, the

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

23 Any individual employer, corporate officer or director of a  
24 corporate employer, partner of an employer partnership, or  
25 member of an employer limited liability company who knowingly  
26 fails to provide coverage as required by paragraph (a) of this

1 Section is guilty of a Class 4 felony. This provision shall not  
2 apply to any corporate officer or director of any  
3 publicly-owned corporation. Each day's violation constitutes a  
4 separate offense. The State's Attorney of the county in which  
5 the violation occurred, or the Attorney General, shall bring  
6 such actions in the name of the People of the State of  
7 Illinois, or may, in addition to other remedies provided in  
8 this Section, bring an action for an injunction to restrain the  
9 violation or to enjoin the operation of any such employer.

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

21 The criminal penalties in this subsection (d) shall not  
22 apply where there exists a good faith dispute as to the  
23 existence of an employment relationship. Evidence of good faith  
24 shall include, but not be limited to, compliance with the  
25 definition of employee as used by the Internal Revenue Service.

26 All investigative actions must be acted upon within 90 days

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

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

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

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

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

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

26 If an employer is found to be in non-compliance with any

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

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



1 assessment of the civil penalty to the Attorney General. It  
2 shall be the duty of the Attorney General within 30 days after  
3 receipt of the notice, to institute prosecutions and promptly  
4 prosecute all reported violations of this Section.

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

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

1 of disbursements as provided in this paragraph, and shall be  
2 paid out and disbursed as herein provided and shall not at any  
3 time be appropriated or diverted to any other use or purpose.  
4 Moneys in the Injured Workers' Benefit Fund shall be used only  
5 for payment of workers' compensation benefits for injured  
6 employees when the employer has failed to provide coverage as  
7 determined under this paragraph (d) and has failed to pay the  
8 benefits due to the injured employee. The Commission shall have  
9 the right to obtain reimbursement from the employer for  
10 compensation obligations paid by the Injured Workers' Benefit  
11 Fund. Any such amounts obtained shall be deposited by the  
12 Commission into the Injured Workers' Benefit Fund. If an  
13 injured employee or his or her personal representative receives  
14 payment from the Injured Workers' Benefit Fund, the State of  
15 Illinois has the same rights under paragraph (b) of Section 5  
16 that the employer who failed to pay the benefits due to the  
17 injured employee would have had if the employer had paid those  
18 benefits, and any moneys recovered by the State as a result of  
19 the State's exercise of its rights under paragraph (b) of  
20 Section 5 shall be deposited into the Injured Workers' Benefit  
21 Fund. The custodian of the Injured Workers' Benefit Fund shall  
22 be joined with the employer as a party respondent in the  
23 application for adjustment of claim. After July 1, 2006, the  
24 Commission shall make disbursements from the Fund once each  
25 year to each eligible claimant. An eligible claimant is an  
26 injured worker who has within the previous fiscal year obtained

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

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

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

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

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

20 In the event the employer does not pay the compensation for  
21 which he or she is liable, then an insurance company,  
22 association or insurer which may have insured such employer  
23 against such liability shall become primarily liable to pay to  
24 the employee, his or her personal representative or beneficiary  
25 the compensation required by the provisions of this Act to be  
26 paid by such employer. The insurance carrier may be made a

1 party to the proceedings in which the employer is a party and  
2 an award may be entered jointly against the employer and the  
3 insurance carrier.

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

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

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

23 (j) Within 45 days of receipt of an initial application or  
24 application to renew self-insurance privileges the  
25 Self-Insurers Advisory Board shall review and submit for  
26 approval by the Chairman of the Commission recommendations of

1 disposition of all initial applications to self-insure and all  
2 applications to renew self-insurance privileges filed by  
3 private self-insurers pursuant to the provisions of this  
4 Section and Section 4a-9 of this Act. Each private self-insurer  
5 shall submit with its initial and renewal applications the  
6 application fee required by Section 4a-4 of this Act.

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

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

21 All orders made by the Chairman under this Section shall be  
22 subject to review by the courts, such review to be taken in the  
23 same manner and within the same time as provided by subsection  
24 (f) of Section 19 of this Act for review of awards and  
25 decisions of the Commission, upon the party seeking the review  
26 filing with the clerk of the court to which such review is

1 taken a bond in an amount to be fixed and approved by the court  
2 to which the review is taken, conditioned upon the payment of  
3 all compensation awarded against the person taking such review  
4 pending a decision thereof and further conditioned upon such  
5 other obligations as the court may impose. Upon the review the  
6 Circuit Court shall have power to review all questions of fact  
7 as well as of law.

8 (Source: P.A. 101-40, eff. 1-1-20.)

9 (Text of Section from P.A. 101-384)

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

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

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

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

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

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

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

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

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

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

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

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

25           The penalty shall not exceed \$1,000 for each day of work  
26           for which the employer failed to make payments upon the premium

1 rates of the situs where the work or project is located in  
2 Illinois, but the total penalty shall not exceed \$50,000 for  
3 each project or each contract under which the work was  
4 performed.

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

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

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

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

26 (3) Any certificate of insurance coverage document

1 issued to a client company specifying its rights and  
2 obligations under the master policy that establishes both  
3 the identity and status of the client, as well as the dates  
4 of inception and termination of coverage, if applicable.

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

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

15 Upon the approval of the sworn application and financial  
16 statement, security, indemnity or bond or amount of insurance,  
17 filed, furnished or carried, as the case may be, the Commission  
18 shall send to the employer written notice of its approval  
19 thereof. The certificate of compliance by the employer with the  
20 provisions of subparagraphs (2) and (3) of paragraph (a) of  
21 this Section shall be delivered by the insurance carrier to the  
22 Illinois Workers' Compensation Commission within five days  
23 after the effective date of the policy so certified. The  
24 insurance so certified shall cover all compensation liability  
25 occurring during the time that the insurance is in effect and  
26 no further certificate need be filed in case such insurance is

1 renewed, extended or otherwise continued by such carrier. The  
2 insurance so certified shall not be cancelled or in the event  
3 that such insurance is not renewed, extended or otherwise  
4 continued, such insurance shall not be terminated until at  
5 least 10 days after receipt by the Illinois Workers'  
6 Compensation Commission of notice of the cancellation or  
7 termination of said insurance; provided, however, that if the  
8 employer has secured insurance from another insurance carrier,  
9 or has otherwise secured the payment of compensation in  
10 accordance with this Section, and such insurance or other  
11 security becomes effective prior to the expiration of the 10  
12 days, cancellation or termination may, at the option of the  
13 insurance carrier indicated in such notice, be effective as of  
14 the effective date of such other insurance or security.

15 (c) Whenever the Commission shall find that any  
16 corporation, company, association, aggregation of individuals,  
17 reciprocal or interinsurers exchange, or other insurer  
18 effecting workers' compensation insurance in this State shall  
19 be insolvent, financially unsound, or unable to fully meet all  
20 payments and liabilities assumed or to be assumed for  
21 compensation insurance in this State, or shall practice a  
22 policy of delay or unfairness toward employees in the  
23 adjustment, settlement, or payment of benefits due such  
24 employees, the Commission may after reasonable notice and  
25 hearing order and direct that such corporation, company,  
26 association, aggregation of individuals, reciprocal or

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

22 Whenever the Commission finds that any self-insured  
23 employer has practiced or is practicing delay or unfairness  
24 toward employees in the adjustment, settlement or payment of  
25 benefits due such employees, the Commission may, after  
26 reasonable notice and hearing, order and direct that after a

1 date fixed in the order such self-insured employer shall be  
2 disqualified to operate as a self-insurer and shall be required  
3 to insure his entire liability to pay compensation in some  
4 insurance carrier authorized, licensed and permitted to do such  
5 insurance business in this State, as provided in subparagraph 3  
6 of paragraph (a) of this Section.

7 All orders made by the Commission under this Section shall  
8 be subject to review by the courts, said review to be taken in  
9 the same manner and within the same time as provided by Section  
10 19 of this Act for review of awards and decisions of the  
11 Commission, upon the party seeking the review filing with the  
12 clerk of the court to which said review is taken a bond in an  
13 amount to be fixed and approved by the court to which the  
14 review is taken, conditioned upon the payment of all  
15 compensation awarded against the person taking said review  
16 pending a decision thereof and further conditioned upon such  
17 other obligations as the court may impose. Upon the review the  
18 Circuit Court shall have power to review all questions of fact  
19 as well as of law. The penalty hereinafter provided for in this  
20 paragraph shall not attach and shall not begin to run until the  
21 final determination of the order of the Commission.

22 (d) Whenever a panel of 3 Commissioners comprised of one  
23 member of the employing class, one representative of a labor  
24 organization recognized under the National Labor Relations Act  
25 or an attorney who has represented labor organizations or has  
26 represented employees in workers' compensation cases, and one

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

18 Any individual employer, corporate officer or director of a  
19 corporate employer, partner of an employer partnership, or  
20 member of an employer limited liability company who knowingly  
21 fails to provide coverage as required by paragraph (a) of this  
22 Section is guilty of a Class 4 felony. This provision shall not  
23 apply to any corporate officer or director of any  
24 publicly-owned corporation. Each day's violation constitutes a  
25 separate offense. The State's Attorney of the county in which  
26 the violation occurred, or the Attorney General, shall bring



1 such actions in the name of the People of the State of  
2 Illinois, or may, in addition to other remedies provided in  
3 this Section, bring an action for an injunction to restrain the  
4 violation or to enjoin the operation of any such employer.

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

16 The criminal penalties in this subsection (d) shall not  
17 apply where there exists a good faith dispute as to the  
18 existence of an employment relationship. Evidence of good faith  
19 shall include, but not be limited to, compliance with the  
20 definition of employee as used by the Internal Revenue Service.

21 Employers who are subject to and who knowingly fail to  
22 comply with this Section shall not be entitled to the benefits  
23 of this Act during the period of noncompliance, but shall be  
24 liable in an action under any other applicable law of this  
25 State. In the action, such employer shall not avail himself or  
26 herself of the defenses of assumption of risk or negligence or

1 that the injury was due to a co-employee. In the action, proof  
2 of the injury shall constitute prima facie evidence of  
3 negligence on the part of such employer and the burden shall be  
4 on such employer to show freedom of negligence resulting in the  
5 injury. The employer shall not join any other defendant in any  
6 such civil action. Nothing in this amendatory Act of the 94th  
7 General Assembly shall affect the employee's rights under  
8 subdivision (a)3 of Section 1 of this Act. Any employer or  
9 carrier who makes payments under subdivision (a)3 of Section 1  
10 of this Act shall have a right of reimbursement from the  
11 proceeds of any recovery under this Section.

12 An employee of an uninsured employer, or the employee's  
13 dependents in case death ensued, may, instead of proceeding  
14 against the employer in a civil action in court, file an  
15 application for adjustment of claim with the Commission in  
16 accordance with the provisions of this Act and the Commission  
17 shall hear and determine the application for adjustment of  
18 claim in the manner in which other claims are heard and  
19 determined before the Commission.

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

22 An investigator with the Illinois Workers' Compensation  
23 Commission Insurance Compliance Division may issue a citation  
24 to any employer that is not in compliance with its obligation  
25 to have workers' compensation insurance under this Act. The  
26 amount of the fine shall be based on the period of time the

1 employer was in non-compliance, but shall be no less than \$500,  
2 and shall not exceed \$2,500. An employer that has been issued a  
3 citation shall pay the fine to the Commission and provide to  
4 the Commission proof that it obtained the required workers'  
5 compensation insurance within 10 days after the citation was  
6 issued. This Section does not affect any other obligations this  
7 Act imposes on employers.

8       Upon a finding by the Commission, after reasonable notice  
9 and hearing, of the knowing and wilful failure or refusal of an  
10 employer to comply with any of the provisions of paragraph (a)  
11 of this Section, the failure or refusal of an employer, service  
12 or adjustment company, or an insurance carrier to comply with  
13 any order of the Illinois Workers' Compensation Commission  
14 pursuant to paragraph (c) of this Section disqualifying him or  
15 her to operate as a self insurer and requiring him or her to  
16 insure his or her liability, or the knowing and willful failure  
17 of an employer to comply with a citation issued by an  
18 investigator with the Illinois Workers' Compensation  
19 Commission Insurance Compliance Division, the Commission may  
20 assess a civil penalty of up to \$500 per day for each day of  
21 such failure or refusal after the effective date of this  
22 amendatory Act of 1989. The minimum penalty under this Section  
23 shall be the sum of \$10,000. Each day of such failure or  
24 refusal shall constitute a separate offense. The Commission may  
25 assess the civil penalty personally and individually against  
26 the corporate officers and directors of a corporate employer,

1 the partners of an employer partnership, and the members of an  
2 employer limited liability company, after a finding of a  
3 knowing and willful refusal or failure of each such named  
4 corporate officer, director, partner, or member to comply with  
5 this Section. The liability for the assessed penalty shall be  
6 against the named employer first, and if the named employer  
7 fails or refuses to pay the penalty to the Commission within 30  
8 days after the final order of the Commission, then the named  
9 corporate officers, directors, partners, or members who have  
10 been found to have knowingly and willfully refused or failed to  
11 comply with this Section shall be liable for the unpaid penalty  
12 or any unpaid portion of the penalty. Upon investigation by the  
13 insurance non-compliance unit of the Commission, the Attorney  
14 General shall have the authority to prosecute all proceedings  
15 to enforce the civil and administrative provisions of this  
16 Section before the Commission. The Commission shall promulgate  
17 procedural rules for enforcing this Section.

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

1 assessment of the civil penalty to the Attorney General. It  
2 shall be the duty of the Attorney General within 30 days after  
3 receipt of the notice, to institute prosecutions and promptly  
4 prosecute all reported violations of this Section.

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

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

1 of disbursements as provided in this paragraph, and shall be  
2 paid out and disbursed as herein provided and shall not at any  
3 time be appropriated or diverted to any other use or purpose.  
4 Moneys in the Injured Workers' Benefit Fund shall be used only  
5 for payment of workers' compensation benefits for injured  
6 employees when the employer has failed to provide coverage as  
7 determined under this paragraph (d) and has failed to pay the  
8 benefits due to the injured employee. The Commission shall have  
9 the right to obtain reimbursement from the employer for  
10 compensation obligations paid by the Injured Workers' Benefit  
11 Fund. Any such amounts obtained shall be deposited by the  
12 Commission into the Injured Workers' Benefit Fund. If an  
13 injured employee or his or her personal representative receives  
14 payment from the Injured Workers' Benefit Fund, the State of  
15 Illinois has the same rights under paragraph (b) of Section 5  
16 that the employer who failed to pay the benefits due to the  
17 injured employee would have had if the employer had paid those  
18 benefits, and any moneys recovered by the State as a result of  
19 the State's exercise of its rights under paragraph (b) of  
20 Section 5 shall be deposited into the Injured Workers' Benefit  
21 Fund. The custodian of the Injured Workers' Benefit Fund shall  
22 be joined with the employer as a party respondent in the  
23 application for adjustment of claim. After July 1, 2006, the  
24 Commission shall make disbursements from the Fund once each  
25 year to each eligible claimant. An eligible claimant is an  
26 injured worker who has within the previous fiscal year obtained

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

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

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

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

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

20 In the event the employer does not pay the compensation for  
21 which he or she is liable, then an insurance company,  
22 association or insurer which may have insured such employer  
23 against such liability shall become primarily liable to pay to  
24 the employee, his or her personal representative or beneficiary  
25 the compensation required by the provisions of this Act to be  
26 paid by such employer. The insurance carrier may be made a



1 party to the proceedings in which the employer is a party and  
2 an award may be entered jointly against the employer and the  
3 insurance carrier.

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

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

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

23 (j) Within 45 days of receipt of an initial application or  
24 application to renew self-insurance privileges the  
25 Self-Insurers Advisory Board shall review and submit for  
26 approval by the Chairman of the Commission recommendations of

1 disposition of all initial applications to self-insure and all  
2 applications to renew self-insurance privileges filed by  
3 private self-insurers pursuant to the provisions of this  
4 Section and Section 4a-9 of this Act. Each private self-insurer  
5 shall submit with its initial and renewal applications the  
6 application fee required by Section 4a-4 of this Act.

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

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

21 All orders made by the Chairman under this Section shall be  
22 subject to review by the courts, such review to be taken in the  
23 same manner and within the same time as provided by subsection  
24 (f) of Section 19 of this Act for review of awards and  
25 decisions of the Commission, upon the party seeking the review  
26 filing with the clerk of the court to which such review is

1 taken a bond in an amount to be fixed and approved by the court  
2 to which the review is taken, conditioned upon the payment of  
3 all compensation awarded against the person taking such review  
4 pending a decision thereof and further conditioned upon such  
5 other obligations as the court may impose. Upon the review the  
6 Circuit Court shall have power to review all questions of fact  
7 as well as of law.

8 (Source: P.A. 101-384, eff. 1-1-20.)

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