



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3408

Introduced 2/17/2023, by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

820 ILCS 305/19

from Ch. 48, par. 138.19

Amends the Workers' Compensation Act. Provides that, when a bond is required because a party against whom the Illinois Workers' Compensation Commission rendered an award for the payment of money seeks judicial review of the award, the bond requirement may be satisfied by posting collateral or guarantee of payment, which may include an insurance policy, a certificate of self-insurance, or funds in an escrow account. Effective immediately.

LRB103 27214 SPS 53584 b

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 19 as follows:

6 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

22 2. Whenever any claimant misconceives his remedy and
23 files an application for adjustment of claim under the

1 Workers' Occupational Diseases Act and it is subsequently
2 discovered, at any time before final disposition of such
3 cause that the claim for injury or death which was the
4 basis for such application should properly have been made
5 under this Act, then the application so filed under the
6 Workers' Occupational Diseases Act may be amended in form,
7 substance or both to assert claim for such disability or
8 death under this Act and it shall be deemed to have been so
9 filed as amended on the date of the original filing
10 thereof, and such compensation may be awarded as is
11 warranted by the whole evidence pursuant to this Act. When
12 such amendment is submitted, further or additional
13 evidence may be heard by the Arbitrator or Commission when
14 deemed necessary. Nothing in this Section contained shall
15 be construed to be or permit a waiver of any provisions of
16 this Act with reference to notice but notice if given
17 shall be deemed to be a notice under the provisions of this
18 Act if given within the time required herein.

19 (b) The Arbitrator shall make such inquiries and
20 investigations as he or they shall deem necessary and may
21 examine and inspect all books, papers, records, places, or
22 premises relating to the questions in dispute and hear such
23 proper evidence as the parties may submit.

24 The hearings before the Arbitrator shall be held in the
25 vicinity where the injury occurred after 10 days' notice of
26 the time and place of such hearing shall have been given to

1 each of the parties or their attorneys of record.

2 The Arbitrator may find that the disabling condition is
3 temporary and has not yet reached a permanent condition and
4 may order the payment of compensation up to the date of the
5 hearing, which award shall be reviewable and enforceable in
6 the same manner as other awards, and in no instance be a bar to
7 a further hearing and determination of a further amount of
8 temporary total compensation or of compensation for permanent
9 disability, but shall be conclusive as to all other questions
10 except the nature and extent of said disability.

11 The decision of the Arbitrator shall be filed with the
12 Commission which Commission shall immediately send to each
13 party or his attorney a copy of such decision, together with a
14 notification of the time when it was filed. As of the effective
15 date of this amendatory Act of the 94th General Assembly, all
16 decisions of the Arbitrator shall set forth in writing
17 findings of fact and conclusions of law, separately stated, if
18 requested by either party. Unless a petition for review is
19 filed by either party within 30 days after the receipt by such
20 party of the copy of the decision and notification of time when
21 filed, and unless such party petitioning for a review shall
22 within 35 days after the receipt by him of the copy of the
23 decision, file with the Commission either an agreed statement
24 of the facts appearing upon the hearing before the Arbitrator,
25 or if such party shall so elect a correct transcript of
26 evidence of the proceedings at such hearings, then the

1 decision shall become the decision of the Commission and in
2 the absence of fraud shall be conclusive. The Petition for
3 Review shall contain a statement of the petitioning party's
4 specific exceptions to the decision of the arbitrator. The
5 jurisdiction of the Commission to review the decision of the
6 arbitrator shall not be limited to the exceptions stated in
7 the Petition for Review. The Commission, or any member
8 thereof, may grant further time not exceeding 30 days, in
9 which to file such agreed statement or transcript of evidence.
10 Such agreed statement of facts or correct transcript of
11 evidence, as the case may be, shall be authenticated by the
12 signatures of the parties or their attorneys, and in the event
13 they do not agree as to the correctness of the transcript of
14 evidence it shall be authenticated by the signature of the
15 Arbitrator designated by the Commission.

16 Whether the employee is working or not, if the employee is
17 not receiving or has not received medical, surgical, or
18 hospital services or other services or compensation as
19 provided in paragraph (a) of Section 8, or compensation as
20 provided in paragraph (b) of Section 8, the employee may at any
21 time petition for an expedited hearing by an Arbitrator on the
22 issue of whether or not he or she is entitled to receive
23 payment of the services or compensation. Provided the employer
24 continues to pay compensation pursuant to paragraph (b) of
25 Section 8, the employer may at any time petition for an
26 expedited hearing on the issue of whether or not the employee

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

21 Expedited hearings shall have priority over all other
22 petitions and shall be heard by the Arbitrator and Commission
23 with all convenient speed. Any party requesting an expedited
24 hearing shall give notice of a request for an expedited
25 hearing under this paragraph. A copy of the Application for
26 Adjustment of Claim shall be attached to the notice. The

1 Commission shall adopt rules and procedures under which the
2 final decision of the Commission under this paragraph is filed
3 not later than 180 days from the date that the Petition for
4 Review is filed with the Commission.

5 Where 2 or more insurance carriers, private self-insureds,
6 or a group workers' compensation pool under Article V 3/4 of
7 the Illinois Insurance Code dispute coverage for the same
8 injury, any such insurance carrier, private self-insured, or
9 group workers' compensation pool may request an expedited
10 hearing pursuant to this paragraph to determine the issue of
11 coverage, provided coverage is the only issue in dispute and
12 all other issues are stipulated and agreed to and further
13 provided that all compensation benefits including medical
14 benefits pursuant to Section 8(a) continue to be paid to or on
15 behalf of petitioner. Any insurance carrier, private
16 self-insured, or group workers' compensation pool that is
17 determined to be liable for coverage for the injury in issue
18 shall reimburse any insurance carrier, private self-insured,
19 or group workers' compensation pool that has paid benefits to
20 or on behalf of petitioner for the injury.

21 (b-1) If the employee is not receiving medical, surgical
22 or hospital services as provided in paragraph (a) of Section 8
23 or compensation as provided in paragraph (b) of Section 8, the
24 employee, in accordance with Commission Rules, may file a
25 petition for an emergency hearing by an Arbitrator on the
26 issue of whether or not he is entitled to receive payment of

1 such compensation or services as provided therein. Such
2 petition shall have priority over all other petitions and
3 shall be heard by the Arbitrator and Commission with all
4 convenient speed.

5 Such petition shall contain the following information and
6 shall be served on the employer at least 15 days before it is
7 filed:

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

9 (ii) the approximate location of the accident;

10 (iii) a description of the accident;

11 (iv) the nature of the injury incurred by the
12 employee;

13 (v) the identity of the person, if known, to whom the
14 accident was reported and the date on which it was
15 reported;

16 (vi) the name and title of the person, if known,
17 representing the employer with whom the employee conferred
18 in any effort to obtain compensation pursuant to paragraph
19 (b) of Section 8 of this Act or medical, surgical or
20 hospital services pursuant to paragraph (a) of Section 8
21 of this Act and the date of such conference;

22 (vii) a statement that the employer has refused to pay
23 compensation pursuant to paragraph (b) of Section 8 of
24 this Act or for medical, surgical or hospital services
25 pursuant to paragraph (a) of Section 8 of this Act;

26 (viii) the name and address, if known, of each witness

1 to the accident and of each other person upon whom the
2 employee will rely to support his allegations;

3 (ix) the dates of treatment related to the accident by
4 medical practitioners, and the names and addresses of such
5 practitioners, including the dates of treatment related to
6 the accident at any hospitals and the names and addresses
7 of such hospitals, and a signed authorization permitting
8 the employer to examine all medical records of all
9 practitioners and hospitals named pursuant to this
10 paragraph;

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

1 (xi) complete copies of any reports, records,
2 documents and affidavits in the possession of the employee
3 on which the employee will rely to support his
4 allegations, provided that the employer shall pay the
5 reasonable cost of reproduction thereof;

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

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

12 Fifteen days after receipt by the employer of the petition
13 with the required information the employee may file said
14 petition and required information and shall serve notice of
15 the filing upon the employer. The employer may file a motion
16 addressed to the sufficiency of the petition. If an objection
17 has been filed to the sufficiency of the petition, the
18 arbitrator shall rule on the objection within 2 working days.
19 If such an objection is filed, the time for filing the final
20 decision of the Commission as provided in this paragraph shall
21 be tolled until the arbitrator has determined that the
22 petition is sufficient.

23 The employer shall, within 15 days after receipt of the
24 notice that such petition is filed, file with the Commission
25 and serve on the employee or his representative a written
26 response to each claim set forth in the petition, including

1 the legal and factual basis for each disputed allegation and
2 the following information: (i) complete copies of any reports,
3 records, documents and affidavits in the possession of the
4 employer on which the employer intends to rely in support of
5 his response, (ii) a list of any reports, records, documents
6 and affidavits which the employer has demanded by subpoena and
7 on which the employer intends to rely in support of his
8 response, (iii) the name and address of each witness on whom
9 the employer will rely to support his response, and (iv) the
10 names and addresses of any medical practitioners selected by
11 the employer pursuant to Section 12 of this Act and the time
12 and place of any examination scheduled to be made pursuant to
13 such Section.

14 Any employer who does not timely file and serve a written
15 response without good cause may not introduce any evidence to
16 dispute any claim of the employee but may cross examine the
17 employee or any witness brought by the employee and otherwise
18 be heard.

19 No document or other evidence not previously identified by
20 either party with the petition or written response, or by any
21 other means before the hearing, may be introduced into
22 evidence without good cause. If, at the hearing, material
23 information is discovered which was not previously disclosed,
24 the Arbitrator may extend the time for closing proof on the
25 motion of a party for a reasonable period of time which may be
26 more than 30 days. No evidence may be introduced pursuant to

1 this paragraph as to permanent disability. No award may be
2 entered for permanent disability pursuant to this paragraph.
3 Either party may introduce into evidence the testimony taken
4 by deposition of any medical practitioner.

5 The Commission shall adopt rules, regulations and
6 procedures whereby the final decision of the Commission is
7 filed not later than 90 days from the date the petition for
8 review is filed but in no event later than 180 days from the
9 date the petition for an emergency hearing is filed with the
10 Illinois Workers' Compensation Commission.

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

22 (c)(1) At a reasonable time in advance of and in
23 connection with the hearing under Section 19(e) or 19(h), the
24 Commission may on its own motion order an impartial physical
25 or mental examination of a petitioner whose mental or physical
26 condition is in issue, when in the Commission's discretion it

1 appears that such an examination will materially aid in the
2 just determination of the case. The examination shall be made
3 by a member or members of a panel of physicians chosen for
4 their special qualifications by the Illinois State Medical
5 Society. The Commission shall establish procedures by which a
6 physician shall be selected from such list.

7 (2) Should the Commission at any time during the hearing
8 find that compelling considerations make it advisable to have
9 an examination and report at that time, the commission may in
10 its discretion so order.

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

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

16 (5) The examination shall be made, and the physician or
17 physicians, if called, shall testify, without cost to the
18 parties. The Commission shall determine the compensation and
19 the pay of the physician or physicians. The compensation for
20 this service shall not exceed the usual and customary amount
21 for such service.

22 (6) The fees and payment thereof of all attorneys and
23 physicians for services authorized by the Commission under
24 this Act shall, upon request of either the employer or the
25 employee or the beneficiary affected, be subject to the review
26 and decision of the Commission.

1 (d) If any employee shall persist in insanitary or
2 injurious practices which tend to either imperil or retard his
3 recovery or shall refuse to submit to such medical, surgical,
4 or hospital treatment as is reasonably essential to promote
5 his recovery, the Commission may, in its discretion, reduce or
6 suspend the compensation of any such injured employee.
7 However, when an employer and employee so agree in writing,
8 the foregoing provision shall not be construed to authorize
9 the reduction or suspension of compensation of an employee who
10 is relying in good faith, on treatment by prayer or spiritual
11 means alone, in accordance with the tenets and practice of a
12 recognized church or religious denomination, by a duly
13 accredited practitioner thereof.

14 (e) This paragraph shall apply to all hearings before the
15 Commission. Such hearings may be held in its office or
16 elsewhere as the Commission may deem advisable. The taking of
17 testimony on such hearings may be had before any member of the
18 Commission. If a petition for review and agreed statement of
19 facts or transcript of evidence is filed, as provided herein,
20 the Commission shall promptly review the decision of the
21 Arbitrator and all questions of law or fact which appear from
22 the statement of facts or transcript of evidence.

23 In all cases in which the hearing before the arbitrator is
24 held after December 18, 1989, no additional evidence shall be
25 introduced by the parties before the Commission on review of
26 the decision of the Arbitrator. In reviewing decisions of an

1 arbitrator the Commission shall award such temporary
2 compensation, permanent compensation and other payments as are
3 due under this Act. The Commission shall file in its office its
4 decision thereon, and shall immediately send to each party or
5 his attorney a copy of such decision and a notification of the
6 time when it was filed. Decisions shall be filed within 60 days
7 after the Statement of Exceptions and Supporting Brief and
8 Response thereto are required to be filed or oral argument
9 whichever is later.

10 In the event either party requests oral argument, such
11 argument shall be had before a panel of 3 members of the
12 Commission (or before all available members pursuant to the
13 determination of 7 members of the Commission that such
14 argument be held before all available members of the
15 Commission) pursuant to the rules and regulations of the
16 Commission. A panel of 3 members, which shall be comprised of
17 not more than one representative citizen of the employing
18 class and not more than one representative from a labor
19 organization recognized under the National Labor Relations Act
20 or an attorney who has represented labor organizations or has
21 represented employees in workers' compensation cases, shall
22 hear the argument; provided that if all the issues in dispute
23 are solely the nature and extent of the permanent partial
24 disability, if any, a majority of the panel may deny the
25 request for such argument and such argument shall not be held;
26 and provided further that 7 members of the Commission may

1 determine that the argument be held before all available
2 members of the Commission. A decision of the Commission shall
3 be approved by a majority of Commissioners present at such
4 hearing if any; provided, if no such hearing is held, a
5 decision of the Commission shall be approved by a majority of a
6 panel of 3 members of the Commission as described in this
7 Section. The Commission shall give 10 days' notice to the
8 parties or their attorneys of the time and place of such taking
9 of testimony and of such argument.

10 In any case the Commission in its decision may find
11 specially upon any question or questions of law or fact which
12 shall be submitted in writing by either party whether ultimate
13 or otherwise; provided that on issues other than nature and
14 extent of the disability, if any, the Commission in its
15 decision shall find specially upon any question or questions
16 of law or fact, whether ultimate or otherwise, which are
17 submitted in writing by either party; provided further that
18 not more than 5 such questions may be submitted by either
19 party. Any party may, within 20 days after receipt of notice of
20 the Commission's decision, or within such further time, not
21 exceeding 30 days, as the Commission may grant, file with the
22 Commission either an agreed statement of the facts appearing
23 upon the hearing, or, if such party shall so elect, a correct
24 transcript of evidence of the additional proceedings presented
25 before the Commission, in which report the party may embody a
26 correct statement of such other proceedings in the case as

1 such party may desire to have reviewed, such statement of
2 facts or transcript of evidence to be authenticated by the
3 signature of the parties or their attorneys, and in the event
4 that they do not agree, then the authentication of such
5 transcript of evidence shall be by the signature of any member
6 of the Commission.

7 If a reporter does not for any reason furnish a transcript
8 of the proceedings before the Arbitrator in any case for use on
9 a hearing for review before the Commission, within the
10 limitations of time as fixed in this Section, the Commission
11 may, in its discretion, order a trial de novo before the
12 Commission in such case upon application of either party. The
13 applications for adjustment of claim and other documents in
14 the nature of pleadings filed by either party, together with
15 the decisions of the Arbitrator and of the Commission and the
16 statement of facts or transcript of evidence hereinbefore
17 provided for in paragraphs (b) and (c) shall be the record of
18 the proceedings of the Commission, and shall be subject to
19 review as hereinafter provided.

20 At the request of either party or on its own motion, the
21 Commission shall set forth in writing the reasons for the
22 decision, including findings of fact and conclusions of law
23 separately stated. The Commission shall by rule adopt a format
24 for written decisions for the Commission and arbitrators. The
25 written decisions shall be concise and shall succinctly state
26 the facts and reasons for the decision. The Commission may

1 adopt in whole or in part, the decision of the arbitrator as
2 the decision of the Commission. When the Commission does so
3 adopt the decision of the arbitrator, it shall do so by order.
4 Whenever the Commission adopts part of the arbitrator's
5 decision, but not all, it shall include in the order the
6 reasons for not adopting all of the arbitrator's decision.
7 When a majority of a panel, after deliberation, has arrived at
8 its decision, the decision shall be filed as provided in this
9 Section without unnecessary delay, and without regard to the
10 fact that a member of the panel has expressed an intention to
11 dissent. Any member of the panel may file a dissent. Any
12 dissent shall be filed no later than 10 days after the decision
13 of the majority has been filed.

14 Decisions rendered by the Commission and dissents, if any,
15 shall be published together by the Commission. The conclusions
16 of law set out in such decisions shall be regarded as
17 precedents by arbitrators for the purpose of achieving a more
18 uniform administration of this Act.

19 (f) The decision of the Commission acting within its
20 powers, according to the provisions of paragraph (e) of this
21 Section shall, in the absence of fraud, be conclusive unless
22 reviewed as in this paragraph hereinafter provided. However,
23 the Arbitrator or the Commission may on his or its own motion,
24 or on the motion of either party, correct any clerical error or
25 errors in computation within 15 days after the date of receipt
26 of any award by such Arbitrator or any decision on review of

1 the Commission and shall have the power to recall the original
2 award on arbitration or decision on review, and issue in lieu
3 thereof such corrected award or decision. Where such
4 correction is made the time for review herein specified shall
5 begin to run from the date of the receipt of the corrected
6 award or decision.

7 (1) Except in cases of claims against the State of
8 Illinois other than those claims under Section 18.1, in
9 which case the decision of the Commission shall not be
10 subject to judicial review, the Circuit Court of the
11 county where any of the parties defendant may be found, or
12 if none of the parties defendant can be found in this State
13 then the Circuit Court of the county where the accident
14 occurred, shall by summons to the Commission have power to
15 review all questions of law and fact presented by such
16 record.

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

1 thereof shall be service upon the Commission, and service
2 upon other parties in interest and their attorneys of
3 record shall be by summons, and such service shall be made
4 upon the Commission and other parties in interest by
5 mailing notices of the commencement of the proceedings and
6 the return day of the summons to the office of the
7 Commission and to the last known place of residence of
8 other parties in interest or their attorney or attorneys
9 of record. The clerk of the court issuing the summons
10 shall on the day of issue mail notice of the commencement
11 of the proceedings which shall be done by mailing a copy of
12 the summons to the office of the Commission, and a copy of
13 the summons to the other parties in interest or their
14 attorney or attorneys of record and the clerk of the court
15 shall make certificate that he has so sent said notices in
16 pursuance of this Section, which shall be evidence of
17 service on the Commission and other parties in interest.

18 The Commission shall not be required to certify the
19 record of their proceedings to the Circuit Court, unless
20 the party commencing the proceedings for review in the
21 Circuit Court as above provided, shall file with the
22 Commission notice of intent to file for review in Circuit
23 Court. It shall be the duty of the Commission upon such
24 filing of notice of intent to file for review in the
25 Circuit Court to prepare a true and correct copy of such
26 testimony and a true and correct copy of all other matters

1 contained in such record and certified to by the Secretary
2 or Assistant Secretary thereof. The changes made to this
3 subdivision (f)(1) by this amendatory Act of the 98th
4 General Assembly apply to any Commission decision entered
5 after the effective date of this amendatory Act of the
6 98th General Assembly.

7 No request for a summons may be filed and no summons
8 shall issue unless the party seeking to review the
9 decision of the Commission shall exhibit to the clerk of
10 the Circuit Court proof of filing with the Commission of
11 the notice of the intent to file for review in the Circuit
12 Court or an affidavit of the attorney setting forth that
13 notice of intent to file for review in the Circuit Court
14 has been given in writing to the Secretary or Assistant
15 Secretary of the Commission.

16 (2) No such summons shall issue unless the one against
17 whom the Commission shall have rendered an award for the
18 payment of money shall upon the filing of his written
19 request for such summons file with the clerk of the court a
20 bond or other collateral and guarantee pursuant to
21 subdivision (f)(3) conditioned that if he shall not
22 successfully prosecute the review, he will pay the award
23 and the costs of the proceedings in the courts. The amount
24 of the bond or other collateral and guarantee pursuant to
25 subdivision (f)(3) shall be fixed by any member of the
26 Commission and the surety or sureties of the bond shall be

1 approved by the clerk of the court. The acceptance of the
2 bond or other collateral and guarantee pursuant to
3 subdivision (f)(3) by the clerk of the court shall
4 constitute evidence of his approval of the bond or other
5 collateral and guarantee pursuant to subdivision (f)(3).

6 (3) If the party seeking judicial review is the party
7 against whom the Commission rendered an award for payment
8 of money, then within the time frame for the commencement
9 of proceedings, the party shall provide to the circuit
10 court collateral or guarantee of payment of the award if
11 the review is not successfully prosecuted.

12 (A) Collateral or guarantee may be provided in the
13 following ways:

14 (i) filing an insurance policy pursuant to
15 Section 392.1 of the Illinois Insurance Code;

16 (ii) filing a certificate of self-insurance;

17 (iii) placing sufficient funds in an escrow
18 account; or

19 (iv) filing a bond signed by the employer or
20 any duly designated representative of the
21 employer, and in the event the employer is
22 insured, any representative of the insurer.

23 (B) If an insurance policy or certificate of
24 self-insurance is filed as collateral or guarantee,
25 the party respondent has 20 days within which to
26 object, and if the objection is sustained, the party

1 so filing the insurance policy or certificate of
2 self-insurance has 10 days to cure the defect or
3 otherwise file another appropriate form of collateral
4 or guarantee. If no objection is filed within the 20
5 days, all objections are waived.

6 (C) On motion supported by good cause made within
7 the time frame for the commencement of proceedings or
8 within any extension granted pursuant to this
9 subdivision, the time for filing and approval of the
10 collateral or guarantee may be extended by the circuit
11 court, but the total extensions of time granted by the
12 circuit court may not aggregate more than 45 days from
13 the original due date unless the parties otherwise
14 stipulate in writing. The motion must be presented to
15 the circuit court at the time of filing the judicial
16 review and called for hearing and ruled upon by the
17 court within 10 days thereafter.

18 (D) The following shall not be required to file a
19 bond or other collateral and guarantee to secure the
20 payment of the award and the costs of the proceedings
21 in the court to authorize the court to issue such
22 summons:

23 (i) ~~(1)~~ the State, including its
24 constitutional officers, boards, commissions,
25 agencies, public institutions of higher learning,
26 and the State Treasurer, for a fund administered

1 by the State Treasurer ex officio against whom the
2 Commission shall have rendered an award for the
3 payment of money; and

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

9 (E) The Treasurer's Office shall not be required
10 to post a bond when appealing on behalf of the Injured
11 Workers' Benefit Fund.

12 The court may confirm or set aside the decision of the
13 Commission. If the decision is set aside and the facts
14 found in the proceedings before the Commission are
15 sufficient, the court may enter such decision as is
16 justified by law, or may remand the cause to the
17 Commission for further proceedings and may state the
18 questions requiring further hearing, and give such other
19 instructions as may be proper. Appeals shall be taken to
20 the Appellate Court in accordance with Supreme Court Rules
21 22(g) and 303. Appeals shall be taken from the Appellate
22 Court to the Supreme Court in accordance with Supreme
23 Court Rule 315.

24 It shall be the duty of the clerk of any court
25 rendering a decision affecting or affirming an award of
26 the Commission to promptly furnish the Commission with a

1 copy of such decision, without charge.

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

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

1 the result of any subsequent proceedings for review, as
2 provided in this Act.

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

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

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

25 On such review, compensation payments may be
26 re-established, increased, diminished or ended. The Commission

1 shall give 15 days' notice to the parties of the hearing for
2 review. Any employee, upon any petition for such review being
3 filed by the employer, shall be entitled to one day's notice
4 for each 100 miles necessary to be traveled by him in attending
5 the hearing of the Commission upon the petition, and 3 days in
6 addition thereto. Such employee shall, at the discretion of
7 the Commission, also be entitled to 5 cents per mile
8 necessarily traveled by him within the State of Illinois in
9 attending such hearing, not to exceed a distance of 300 miles,
10 to be taxed by the Commission as costs and deposited with the
11 petition of the employer.

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

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

26 (j) Whenever in any proceeding testimony has been taken or

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

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

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

26 (l) If the employee has made written demand for payment of

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

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

1 rate.

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

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

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

1 incurred during a calendar year or continued from the previous
2 year shall be furnished to the insured employer by the insurer
3 within 30 days after the end of that calendar year.

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

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

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

1 selected by the chairman except that if the parties do not
2 agree on an arbitrator from among the 5 persons, the parties
3 may, by agreement, select an arbitrator of the American
4 Arbitration Association, whose fee shall be paid by the State
5 in accordance with rules promulgated by the Commission.
6 Arbitration under this subsection (p) shall be voluntary.
7 (Source: P.A. 101-384, eff. 1-1-20; 102-775, eff. 5-13-22.)

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