



Rep. Jay Hoffman

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LRB103 28652 SPS 73503 a

1 AMENDMENT TO SENATE BILL 1996

2 AMENDMENT NO. _____. Amend Senate Bill 1996, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (215 ILCS 5/416)

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

10 (a) As of July 30, 2004 (the effective date of Public Act
11 93-840), every company licensed or authorized by the Illinois
12 Department of Insurance and insuring employers' liabilities
13 arising under the Workers' Compensation Act or the Workers'
14 Occupational Diseases Act shall remit to the Director a
15 surcharge based upon the annual direct written premium, as
16 reported under Section 136 of this Act, of the company in the

1 manner provided in this Section. Such proceeds shall be
2 deposited into the Illinois Workers' Compensation Commission
3 Operations Fund as established in the Workers' Compensation
4 Act. If a company survives or was formed by a merger,
5 consolidation, reorganization, or reincorporation, the direct
6 written premiums of all companies party to the merger,
7 consolidation, reorganization, or reincorporation shall, for
8 purposes of determining the amount of the fee imposed by this
9 Section, be regarded as those of the surviving or new company.

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

1 arising under the Workers' Compensation Act or Workers'
2 Occupational Diseases Act as reported in each company's annual
3 statement filed for the previous year as required by Section
4 136. The Illinois Workers' Compensation Commission Operations
5 Fund Surcharge shall be collected by companies subject to
6 subsection (a) of this Section as a separately stated
7 surcharge on insured employers at the rate of 1.092% ~~1.01%~~ of
8 direct written premium for the surcharge due in 2024 and each
9 year thereafter. The Illinois Workers' Compensation Commission
10 Operations Fund Surcharge shall not be collected by companies
11 subject to subsection (a) of this Section from any employer
12 that self-insures its liabilities arising under the Workers'
13 Compensation Act or Workers' Occupational Diseases Act,
14 provided that the employer has paid the Illinois Workers'
15 Compensation Commission Operations Fund Fee pursuant to
16 Section 4d of the Workers' Compensation Act. All sums
17 collected by the Department of Insurance under the provisions
18 of this Section shall be paid promptly after the receipt of the
19 same, accompanied by a detailed statement thereof, into the
20 Illinois Workers' Compensation Commission Operations Fund in
21 the State treasury.

22 (b) (2) (Blank). ~~The surcharge due pursuant to Public Act~~
23 ~~93-840 shall be collected instead of the surcharge due on July~~
24 ~~1, 2004 under Public Act 93-32. Payment of the surcharge due~~
25 ~~under Public Act 93-840 shall discharge the employer's~~
26 ~~obligations due on July 1, 2004.~~

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

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

16 (e) The Department of Insurance may enforce the collection
17 of any delinquent payment, penalty, or portion thereof by
18 legal action or in any other manner by which the collection of
19 debts due the State of Illinois may be enforced under the laws
20 of this State.

21 (f) Whenever it appears to the satisfaction of the
22 Director that a company has paid pursuant to this Act an
23 Illinois Workers' Compensation Commission Operations Fund
24 Surcharge in an amount in excess of the amount legally
25 collectable from the company, the Director shall issue a
26 credit memorandum for an amount equal to the amount of such

1 overpayment. A credit memorandum may be applied for the 2-year
2 period from the date of issuance, against the payment of any
3 amount due during that period under the surcharge imposed by
4 this Section or, subject to reasonable rule of the Department
5 of Insurance including requirement of notification, may be
6 assigned to any other company subject to regulation under this
7 Act. Any application of credit memoranda after the period
8 provided for in this Section is void.

9 (g) Annually, the Governor may direct a transfer of up to
10 2% of all moneys collected under this Section to the Insurance
11 Financial Regulation Fund.

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

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

15 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

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

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

22 (1) File with the Commission annually an application
23 for approval as a self-insurer which shall include a
24 current financial statement, and annually, thereafter, an

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

17 If the sworn application and financial statement of
18 any such employer does not satisfy the Commission of the
19 financial ability of the employer who has filed it, the
20 Commission shall require such employer to,

21 (2) Furnish security, indemnity or a bond guaranteeing
22 the payment by the employer of the compensation provided
23 for in this Act, provided that any such employer whose
24 application and financial statement shall not have
25 satisfied the commission of his or her financial ability
26 and who shall have secured his liability in part by excess

1 liability insurance shall be required to furnish to the
2 Commission security, indemnity or bond guaranteeing his or
3 her payment up to the effective limits of the excess
4 coverage, or

5 (3) Insure his entire liability to pay such
6 compensation in some insurance carrier authorized,
7 licensed, or permitted to do such insurance business in
8 this State. Every policy of an insurance carrier, insuring
9 the payment of compensation under this Act shall cover all
10 the employees and the entire compensation liability of the
11 insured: Provided, however, that any employer may insure
12 his or her compensation liability with 2 or more insurance
13 carriers or may insure a part and qualify under subsection
14 1, 2, or 4 for the remainder of his or her liability to pay
15 such compensation, subject to the following two
16 provisions:

17 Firstly, the entire compensation liability of the
18 employer to employees working at or from one location
19 shall be insured in one such insurance carrier or
20 shall be self-insured, and

21 Secondly, the employer shall submit evidence
22 satisfactorily to the Commission that his or her
23 entire liability for the compensation provided for in
24 this Act will be secured. Any provisions in any
25 policy, or in any endorsement attached thereto,
26 attempting to limit or modify in any way, the

1 liability of the insurance carriers issuing the same
2 except as otherwise provided herein shall be wholly
3 void.

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

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

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

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

19 (A) the employer is engaged primarily in the building
20 and construction industry; and

21 (B) subdivision (a) (3) of this Section applies to the
22 employer or the employer is a member of a group
23 self-insurance plan as defined in subsection (1) of
24 Section 4a.

25 The Illinois Workers' Compensation Commission shall impose
26 a penalty upon an employer for violation of this subsection

1 (a-1) if:

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

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

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

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

1 subsection (c) of Section 25.5 of this Act.

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

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

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

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

17 (b) The sworn application and financial statement, or
18 security, indemnity or bond, or amount of insurance, or other
19 provisions, filed, furnished, carried, or made by the
20 employer, as the case may be, shall be subject to the approval
21 of the Commission.

22 Deposits under escrow agreements shall be cash, negotiable
23 United States government bonds or negotiable general
24 obligation bonds of the State of Illinois. Such cash or bonds
25 shall be deposited in escrow with any State or National Bank or
26 Trust Company having trust authority in the State of Illinois.

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

1 insurance or security.

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

1 otherwise handle claims under this Act, has practiced or is
2 practicing a policy of delay or unfairness toward employees in
3 the adjustment, settlement or payment of benefits due such
4 employees, the Commission may after reasonable notice and
5 hearing order and direct that such service or adjustment
6 company shall from and after a date fixed in such order be
7 prohibited from processing, adjusting, investigating,
8 compromising or otherwise handling claims under this Act.

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

20 All orders made by the Commission under this Section shall
21 be subject to review by the courts, said review to be taken in
22 the same manner and within the same time as provided by Section
23 19 of this Act for review of awards and decisions of the
24 Commission, upon the party seeking the review filing with the
25 clerk of the court to which said review is taken a bond in an
26 amount to be fixed and approved by the court to which the

1 review is taken, conditioned upon the payment of all
2 compensation awarded against the person taking said review
3 pending a decision thereof and further conditioned upon such
4 other obligations as the court may impose. Upon the review the
5 Circuit Court shall have power to review all questions of fact
6 as well as of law. The penalty hereinafter provided for in this
7 paragraph shall not attach and shall not begin to run until the
8 final determination of the order of the Commission.

9 (d) Whenever a Commissioner, with due process and after a
10 hearing, determines an employer has knowingly failed to
11 provide coverage as required by paragraph (a) of this Section,
12 the failure shall be deemed an immediate serious danger to
13 public health, safety, and welfare sufficient to justify
14 service by the Commission of a work-stop order on such
15 employer, requiring the cessation of all business operations
16 of such employer at the place of employment or job site. If a
17 business is declared to be extra hazardous, as defined in
18 Section 3, a Commissioner may issue an emergency work-stop
19 order on such an employer ex parte, prior to holding a hearing,
20 requiring the cessation of all business operations of such
21 employer at the place of employment or job site while awaiting
22 the ruling of the Commission. Whenever a Commissioner issues
23 an emergency work-stop order, the Commission shall issue a
24 notice of emergency work-stop hearing to be posted at the
25 employer's places of employment and job sites. Any law
26 enforcement agency in the State shall, at the request of the

1 Commission, render any assistance necessary to carry out the
2 provisions of this Section, including, but not limited to,
3 preventing any employee of such employer from remaining at a
4 place of employment or job site after a work-stop order has
5 taken effect. Any work-stop order shall be lifted upon proof
6 of insurance as required by this Act. Any orders under this
7 Section are appealable under Section 19(f) to the Circuit
8 Court.

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

22 Any individual employer, corporate officer or director of
23 a corporate employer, partner of an employer partnership, or
24 member of an employer limited liability company who
25 negligently fails to provide coverage as required by paragraph
26 (a) of this Section is guilty of a Class A misdemeanor. This

1 provision shall not apply to any corporate officer or director
2 of any publicly-owned corporation. Each day's violation
3 constitutes a separate offense. The State's Attorney of the
4 county in which the violation occurred, or the Attorney
5 General, shall bring such actions in the name of the People of
6 the State of Illinois.

7 The criminal penalties in this subsection (d) shall not
8 apply where there exists a good faith dispute as to the
9 existence of an employment relationship. Evidence of good
10 faith shall include, but not be limited to, compliance with
11 the definition of employee as used by the Internal Revenue
12 Service.

13 All investigative actions must be acted upon within 90
14 days of the issuance of the complaint. Employers who are
15 subject to and who knowingly fail to comply with this Section
16 shall not be entitled to the benefits of this Act during the
17 period of noncompliance, but shall be liable in an action
18 under any other applicable law of this State. In the action,
19 such employer shall not avail himself or herself of the
20 defenses of assumption of risk or negligence or that the
21 injury was due to a co-employee. In the action, proof of the
22 injury shall constitute prima facie evidence of negligence on
23 the part of such employer and the burden shall be on such
24 employer to show freedom of negligence resulting in the
25 injury. The employer shall not join any other defendant in any
26 such civil action. Nothing in this amendatory Act of the 94th

1 General Assembly shall affect the employee's rights under
2 subdivision (a)3 of Section 1 of this Act. Any employer or
3 carrier who makes payments under subdivision (a)3 of Section 1
4 of this Act shall have a right of reimbursement from the
5 proceeds of any recovery under this Section.

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

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

17 An investigator with the Department of Insurance may issue
18 a citation to any employer that is not in compliance with its
19 obligation to have workers' compensation insurance under this
20 Act. The amount of the fine shall be based on the period of
21 time the employer was in non-compliance, but shall be no less
22 than \$500, and shall not exceed \$10,000. An employer that has
23 been issued a citation shall pay the fine to the Department of
24 Insurance and provide to the Department of Insurance proof
25 that it obtained the required workers' compensation insurance
26 within 10 days after the citation was issued. This Section

1 does not affect any other obligations this Act imposes on
2 employers.

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

1 first, and if the named employer fails or refuses to pay the
2 penalty to the Commission within 30 days after the final order
3 of the Commission, then the named corporate officers,
4 directors, partners, or members who have been found to have
5 knowingly and willfully refused or failed to comply with this
6 Section shall be liable for the unpaid penalty or any unpaid
7 portion of the penalty. Upon investigation by the Department
8 of Insurance, the Attorney General shall have the authority to
9 prosecute all proceedings to enforce the civil and
10 administrative provisions of this Section before the
11 Commission. The Commission and the Department of Insurance
12 shall promulgate procedural rules for enforcing this Section
13 relating to their respective duties prescribed herein.

14 If an employer is found to be in non-compliance with any
15 provisions of paragraph (a) of this Section more than once,
16 all minimum penalties will double. Therefore, upon the failure
17 or refusal of an employer, service or adjustment company, or
18 insurance carrier to comply with any order of the Commission
19 pursuant to paragraph (c) of this Section disqualifying him or
20 her to operate as a self-insurer and requiring him or her to
21 insure his or her liability, or the knowing and willful
22 failure of an employer to comply with a citation issued by an
23 investigator with the Department of Insurance, the Commission
24 may assess a civil penalty of up to \$1,000 per day for each day
25 of such failure or refusal after the effective date of this
26 amendatory Act of the 101st General Assembly. The minimum

1 penalty under this Section shall be the sum of \$20,000. In
2 addition, employers with 2 or more violations of any
3 provisions of paragraph (a) of this Section may not
4 self-insure for one year or until all penalties are paid.

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

21 ~~Upon the failure or refusal of any employer, service or~~
22 ~~adjustment company or insurance carrier to comply with the~~
23 ~~provisions of this Section and with the orders of the~~
24 ~~Commission under this Section, or the order of the court on~~
25 ~~review after final adjudication, the Commission may bring a~~
26 ~~civil action to recover the amount of the penalty in Cook~~

1 ~~County or in Sangamon County in which litigation the~~
2 ~~Commission shall be represented by the Attorney General. The~~
3 ~~Commission shall send notice of its finding of non-compliance~~
4 ~~and assessment of the civil penalty to the Attorney General.~~
5 ~~It shall be the duty of the Attorney General within 30 days~~
6 ~~after receipt of the notice, to institute prosecutions and~~
7 ~~promptly prosecute all reported violations of this Section.~~

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

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

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

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

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

24 (e) This Act shall not affect or disturb the continuance
25 of any existing insurance, mutual aid, benefit, or relief
26 association or department, whether maintained in whole or in

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

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

23 (g) Any contract, oral, written or implied, of employment
24 providing for relief benefit, or insurance or any other device
25 whereby the employee is required to pay any premium or
26 premiums for insurance against the compensation provided for

1 in this Act shall be null and void. Any employer withholding
2 from the wages of any employee any amount for the purpose of
3 paying any such premium shall be guilty of a Class B
4 misdemeanor.

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

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

23 It shall be unlawful for any employer, individually or
24 through any insurance company or service or adjustment
25 company, to discharge or to threaten to discharge, or to
26 refuse to rehire or recall to active service in a suitable

1 capacity an employee because of the exercise of his or her
2 rights or remedies granted to him or her by this Act.

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

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

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

1 15 days of receipt of the recommendation of the Board.

2 If an employer is denied a renewal of self-insurance
3 privileges pursuant to application it shall retain said
4 privilege for 120 days after receipt of a notice of
5 cancellation of the privilege from the Chairman of the
6 Commission.

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

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

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

22 Sec. 4. (a) Any employer, including but not limited to
23 general contractors and their subcontractors, who shall come
24 within the provisions of Section 3 of this Act, and any other
25 employer who shall elect to provide and pay the compensation

1 provided for in this Act shall:

2 (1) File with the Commission annually an application
3 for approval as a self-insurer which shall include a
4 current financial statement, and annually, thereafter, an
5 application for renewal of self-insurance, which shall
6 include a current financial statement. Said application
7 and financial statement shall be signed and sworn to by
8 the president or vice president and secretary or assistant
9 secretary of the employer if it be a corporation, or by all
10 of the partners, if it be a copartnership, or by the owner
11 if it be neither a copartnership nor a corporation. All
12 initial applications and all applications for renewal of
13 self-insurance must be submitted at least 60 days prior to
14 the requested effective date of self-insurance. An
15 employer may elect to provide and pay compensation as
16 provided for in this Act as a member of a group workers'
17 compensation pool under Article V 3/4 of the Illinois
18 Insurance Code. If an employer becomes a member of a group
19 workers' compensation pool, the employer shall not be
20 relieved of any obligations imposed by this Act.

21 If the sworn application and financial statement of
22 any such employer does not satisfy the Commission of the
23 financial ability of the employer who has filed it, the
24 Commission shall require such employer to,

25 (2) Furnish security, indemnity or a bond guaranteeing
26 the payment by the employer of the compensation provided

1 for in this Act, provided that any such employer whose
2 application and financial statement shall not have
3 satisfied the commission of his or her financial ability
4 and who shall have secured his liability in part by excess
5 liability insurance shall be required to furnish to the
6 Commission security, indemnity or bond guaranteeing his or
7 her payment up to the effective limits of the excess
8 coverage, or

9 (3) Insure his entire liability to pay such
10 compensation in some insurance carrier authorized,
11 licensed, or permitted to do such insurance business in
12 this State. Every policy of an insurance carrier, insuring
13 the payment of compensation under this Act shall cover all
14 the employees and the entire compensation liability of the
15 insured: Provided, however, that any employer may insure
16 his or her compensation liability with 2 or more insurance
17 carriers or may insure a part and qualify under subsection
18 1, 2, or 4 for the remainder of his or her liability to pay
19 such compensation, subject to the following two
20 provisions:

21 Firstly, the entire compensation liability of the
22 employer to employees working at or from one location
23 shall be insured in one such insurance carrier or
24 shall be self-insured, and

25 Secondly, the employer shall submit evidence
26 satisfactorily to the Commission that his or her

1 entire liability for the compensation provided for in
2 this Act will be secured. Any provisions in any
3 policy, or in any endorsement attached thereto,
4 attempting to limit or modify in any way, the
5 liability of the insurance carriers issuing the same
6 except as otherwise provided herein shall be wholly
7 void.

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

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

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

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

23 (A) the employer is engaged primarily in the building
24 and construction industry; and

25 (B) subdivision (a) (3) of this Section applies to the
26 employer or the employer is a member of a group

1 self-insurance plan as defined in subsection (1) of
2 Section 4a.

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

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

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

13 The penalty shall not exceed \$1,000 for each day of work
14 for which the employer failed to make payments upon the
15 premium rates of the situs where the work or project is located
16 in Illinois, but the total penalty shall not exceed \$50,000
17 for each project or each contract under which the work was
18 performed.

19 Any penalty under this subsection (a-1) must be imposed
20 not later than one year after the expiration of the applicable
21 limitation period specified in subsection (d) of Section 6 of
22 this Act. Penalties imposed under this subsection (a-1) shall
23 be deposited into the Illinois Workers' Compensation
24 Commission Operations Fund, a special fund that is created in
25 the State treasury. Subject to appropriation, moneys in the
26 Fund shall be used solely for the operations of the Illinois

1 Workers' Compensation Commission and by the Department of
2 Insurance for the purposes authorized in subsection (c) of
3 Section 25.5 of this Act.

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

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

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

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

19 (b) The sworn application and financial statement, or
20 security, indemnity or bond, or amount of insurance, or other
21 provisions, filed, furnished, carried, or made by the
22 employer, as the case may be, shall be subject to the approval
23 of the Commission.

24 Deposits under escrow agreements shall be cash, negotiable
25 United States government bonds or negotiable general
26 obligation bonds of the State of Illinois. Such cash or bonds

1 shall be deposited in escrow with any State or National Bank or
2 Trust Company having trust authority in the State of Illinois.

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

1 may, at the option of the insurance carrier indicated in such
2 notice, be effective as of the effective date of such other
3 insurance or security.

4 (c) Whenever the Commission shall find that any
5 corporation, company, association, aggregation of individuals,
6 reciprocal or interinsurers exchange, or other insurer
7 effecting workers' compensation insurance in this State shall
8 be insolvent, financially unsound, or unable to fully meet all
9 payments and liabilities assumed or to be assumed for
10 compensation insurance in this State, or shall practice a
11 policy of delay or unfairness toward employees in the
12 adjustment, settlement, or payment of benefits due such
13 employees, the Commission may after reasonable notice and
14 hearing order and direct that such corporation, company,
15 association, aggregation of individuals, reciprocal or
16 interinsurers exchange, or insurer, shall from and after a
17 date fixed in such order discontinue the writing of any such
18 workers' compensation insurance in this State. Subject to such
19 modification of the order as the Commission may later make on
20 review of the order, as herein provided, it shall thereupon be
21 unlawful for any such corporation, company, association,
22 aggregation of individuals, reciprocal or interinsurers
23 exchange, or insurer to effect any workers' compensation
24 insurance in this State. A copy of the order shall be served
25 upon the Director of Insurance by registered mail. Whenever
26 the Commission finds that any service or adjustment company

1 used or employed by a self-insured employer or by an insurance
2 carrier to process, adjust, investigate, compromise or
3 otherwise handle claims under this Act, has practiced or is
4 practicing a policy of delay or unfairness toward employees in
5 the adjustment, settlement or payment of benefits due such
6 employees, the Commission may after reasonable notice and
7 hearing order and direct that such service or adjustment
8 company shall from and after a date fixed in such order be
9 prohibited from processing, adjusting, investigating,
10 compromising or otherwise handling claims under this Act.

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

22 All orders made by the Commission under this Section shall
23 be subject to review by the courts, said review to be taken in
24 the same manner and within the same time as provided by Section
25 19 of this Act for review of awards and decisions of the
26 Commission, upon the party seeking the review filing with the

1 clerk of the court to which said review is taken a bond in an
2 amount to be fixed and approved by the court to which the
3 review is taken, conditioned upon the payment of all
4 compensation awarded against the person taking said review
5 pending a decision thereof and further conditioned upon such
6 other obligations as the court may impose. Upon the review the
7 Circuit Court shall have power to review all questions of fact
8 as well as of law. The penalty hereinafter provided for in this
9 paragraph shall not attach and shall not begin to run until the
10 final determination of the order of the Commission.

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

1 provisions of this Section, including, but not limited to,
2 preventing any employee of such employer from remaining at a
3 place of employment or job site after a work-stop order has
4 taken effect. Any work-stop order shall be lifted upon proof
5 of insurance as required by this Act. Any orders under this
6 Section are appealable under Section 19(f) to the Circuit
7 Court.

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

21 Any individual employer, corporate officer or director of
22 a corporate employer, partner of an employer partnership, or
23 member of an employer limited liability company who
24 negligently fails to provide coverage as required by paragraph
25 (a) of this Section is guilty of a Class A misdemeanor. This
26 provision shall not apply to any corporate officer or director

1 of any publicly-owned corporation. Each day's violation
2 constitutes a separate offense. The State's Attorney of the
3 county in which the violation occurred, or the Attorney
4 General, shall bring such actions in the name of the People of
5 the State of Illinois.

6 The criminal penalties in this subsection (d) shall not
7 apply where there exists a good faith dispute as to the
8 existence of an employment relationship. Evidence of good
9 faith shall include, but not be limited to, compliance with
10 the definition of employee as used by the Internal Revenue
11 Service.

12 Employers who are subject to and who knowingly fail to
13 comply with this Section shall not be entitled to the benefits
14 of this Act during the period of noncompliance, but shall be
15 liable in an action under any other applicable law of this
16 State. In the action, such employer shall not avail himself or
17 herself of the defenses of assumption of risk or negligence or
18 that the injury was due to a co-employee. In the action, proof
19 of the injury shall constitute prima facie evidence of
20 negligence on the part of such employer and the burden shall be
21 on such employer to show freedom of negligence resulting in
22 the injury. The employer shall not join any other defendant in
23 any such civil action. Nothing in this amendatory Act of the
24 94th General Assembly shall affect the employee's rights under
25 subdivision (a)3 of Section 1 of this Act. Any employer or
26 carrier who makes payments under subdivision (a)3 of Section 1

1 of this Act shall have a right of reimbursement from the
2 proceeds of any recovery under this Section.

3 An employee of an uninsured employer, or the employee's
4 dependents in case death ensued, may, instead of proceeding
5 against the employer in a civil action in court, file an
6 application for adjustment of claim with the Commission in
7 accordance with the provisions of this Act and the Commission
8 shall hear and determine the application for adjustment of
9 claim in the manner in which other claims are heard and
10 determined before the Commission.

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

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

26 Upon a finding by the Commission, after reasonable notice

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

1 directors, partners, or members who have been found to have
2 knowingly and willfully refused or failed to comply with this
3 Section shall be liable for the unpaid penalty or any unpaid
4 portion of the penalty. Upon investigation by the Department
5 of Insurance, the Attorney General shall have the authority to
6 prosecute all proceedings to enforce the civil and
7 administrative provisions of this Section before the
8 Commission. The Commission and the Department of Insurance
9 shall promulgate procedural rules for enforcing this Section
10 relating to their respective duties prescribed herein.

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

1 ~~Upon the failure or refusal of any employer, service or~~
2 ~~adjustment company or insurance carrier to comply with the~~
3 ~~provisions of this Section and with the orders of the~~
4 ~~Commission under this Section, or the order of the court on~~
5 ~~review after final adjudication, the Commission may bring a~~
6 ~~civil action to recover the amount of the penalty in Cook~~
7 ~~County or in Sangamon County in which litigation the~~
8 ~~Commission shall be represented by the Attorney General. The~~
9 ~~Commission shall send notice of its finding of non-compliance~~
10 ~~and assessment of the civil penalty to the Attorney General.~~
11 ~~It shall be the duty of the Attorney General within 30 days~~
12 ~~after receipt of the notice, to institute prosecutions and~~
13 ~~promptly prosecute all reported violations of this Section.~~

14 Any individual employer, corporate officer or director of
15 a corporate employer, partner of an employer partnership, or
16 member of an employer limited liability company who, with the
17 intent to avoid payment of compensation under this Act to an
18 injured employee or the employee's dependents, knowingly
19 transfers, sells, encumbers, assigns, or in any manner
20 disposes of, conceals, secretes, or destroys any property
21 belonging to the employer, officer, director, partner, or
22 member is guilty of a Class 4 felony.

23 Penalties and fines collected pursuant to this paragraph
24 (d) shall be deposited upon receipt into a special fund which
25 shall be designated the Injured Workers' Benefit Fund, of
26 which the State Treasurer is ex-officio custodian, such

1 special fund to be held and disbursed in accordance with this
2 paragraph (d) for the purposes hereinafter stated in this
3 paragraph (d), upon the final order of the Commission. The
4 Injured Workers' Benefit Fund shall be deposited the same as
5 are State funds and any interest accruing thereon shall be
6 added thereto every 6 months. The Injured Workers' Benefit
7 Fund is subject to audit the same as State funds and accounts
8 and is protected by the general bond given by the State
9 Treasurer. The Injured Workers' Benefit Fund is considered
10 always appropriated for the purposes of disbursements as
11 provided in this paragraph, and shall be paid out and
12 disbursed as herein provided and shall not at any time be
13 appropriated or diverted to any other use or purpose. Moneys
14 in the Injured Workers' Benefit Fund shall be used only for
15 payment of workers' compensation benefits for injured
16 employees when the employer has failed to provide coverage as
17 determined under this paragraph (d) and has failed to pay the
18 benefits due to the injured employee. The employer shall
19 reimburse the Injured Workers' Benefit Fund for any amounts
20 paid to an employee on account of the compensation awarded by
21 the Commission. The Attorney General shall make reasonable
22 efforts to obtain reimbursement for the Injured Workers'
23 Benefit Fund.

24 ~~The Commission shall have the right to obtain~~
25 ~~reimbursement from the employer for compensation obligations~~
26 ~~paid by the Injured Workers' Benefit Fund.~~ Any such amounts

1 obtained shall be deposited by the Commission into the Injured
2 Workers' Benefit Fund. If an injured employee or his or her
3 personal representative receives payment from the Injured
4 Workers' Benefit Fund, the State of Illinois has the same
5 rights under paragraph (b) of Section 5 that the employer who
6 failed to pay the benefits due to the injured employee would
7 have had if the employer had paid those benefits, and any
8 moneys recovered by the State as a result of the State's
9 exercise of its rights under paragraph (b) of Section 5 shall
10 be deposited into the Injured Workers' Benefit Fund. The
11 custodian of the Injured Workers' Benefit Fund shall be joined
12 with the employer as a party respondent in the application for
13 adjustment of claim. After July 1, 2006, the Commission shall
14 make disbursements from the Fund once each year to each
15 eligible claimant. An eligible claimant is an injured worker
16 who has within the previous fiscal year obtained a final award
17 for benefits from the Commission against the employer and the
18 Injured Workers' Benefit Fund and has notified the Commission
19 within 90 days of receipt of such award. Within a reasonable
20 time after the end of each fiscal year, the Commission shall
21 make a disbursement to each eligible claimant. At the time of
22 disbursement, if there are insufficient moneys in the Fund to
23 pay all claims, each eligible claimant shall receive a
24 pro-rata share, as determined by the Commission, of the
25 available moneys in the Fund for that year. Payment from the
26 Injured Workers' Benefit Fund to an eligible claimant pursuant

1 to this provision shall discharge the obligations of the
2 Injured Workers' Benefit Fund regarding the award entered by
3 the Commission.

4 (e) This Act shall not affect or disturb the continuance
5 of any existing insurance, mutual aid, benefit, or relief
6 association or department, whether maintained in whole or in
7 part by the employer or whether maintained by the employees,
8 the payment of benefits of such association or department
9 being guaranteed by the employer or by some person, firm or
10 corporation for him or her: Provided, the employer contributes
11 to such association or department an amount not less than the
12 full compensation herein provided, exclusive of the cost of
13 the maintenance of such association or department and without
14 any expense to the employee. This Act shall not prevent the
15 organization and maintaining under the insurance laws of this
16 State of any benefit or insurance company for the purpose of
17 insuring against the compensation provided for in this Act,
18 the expense of which is maintained by the employer. This Act
19 shall not prevent the organization or maintaining under the
20 insurance laws of this State of any voluntary mutual aid,
21 benefit or relief association among employees for the payment
22 of additional accident or sick benefits.

23 (f) No existing insurance, mutual aid, benefit or relief
24 association or department shall, by reason of anything herein
25 contained, be authorized to discontinue its operation without
26 first discharging its obligations to any and all persons

1 carrying insurance in the same or entitled to relief or
2 benefits therein.

3 (g) Any contract, oral, written or implied, of employment
4 providing for relief benefit, or insurance or any other device
5 whereby the employee is required to pay any premium or
6 premiums for insurance against the compensation provided for
7 in this Act shall be null and void. Any employer withholding
8 from the wages of any employee any amount for the purpose of
9 paying any such premium shall be guilty of a Class B
10 misdemeanor.

11 In the event the employer does not pay the compensation
12 for which he or she is liable, then an insurance company,
13 association or insurer which may have insured such employer
14 against such liability shall become primarily liable to pay to
15 the employee, his or her personal representative or
16 beneficiary the compensation required by the provisions of
17 this Act to be paid by such employer. The insurance carrier may
18 be made a party to the proceedings in which the employer is a
19 party and an award may be entered jointly against the employer
20 and the insurance carrier.

21 (h) It shall be unlawful for any employer, insurance
22 company or service or adjustment company to interfere with,
23 restrain or coerce an employee in any manner whatsoever in the
24 exercise of the rights or remedies granted to him or her by
25 this Act or to discriminate, attempt to discriminate, or
26 threaten to discriminate against an employee in any way

1 because of his or her exercise of the rights or remedies
2 granted to him or her by this Act.

3 It shall be unlawful for any employer, individually or
4 through any insurance company or service or adjustment
5 company, to discharge or to threaten to discharge, or to
6 refuse to rehire or recall to active service in a suitable
7 capacity an employee because of the exercise of his or her
8 rights or remedies granted to him or her by this Act.

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

14 (j) Within 45 days of receipt of an initial application or
15 application to renew self-insurance privileges the
16 Self-Insurers Advisory Board shall review and submit for
17 approval by the Chairman of the Commission recommendations of
18 disposition of all initial applications to self-insure and all
19 applications to renew self-insurance privileges filed by
20 private self-insurers pursuant to the provisions of this
21 Section and Section 4a-9 of this Act. Each private
22 self-insurer shall submit with its initial and renewal
23 applications the application fee required by Section 4a-4 of
24 this Act.

25 The Chairman of the Commission shall promptly act upon all
26 initial applications and applications for renewal in full

1 accordance with the recommendations of the Board or, should
2 the Chairman disagree with any recommendation of disposition
3 of the Self-Insurer's Advisory Board, he shall within 30 days
4 of receipt of such recommendation provide to the Board in
5 writing the reasons supporting his decision. The Chairman
6 shall also promptly notify the employer of his decision within
7 15 days of receipt of the recommendation of the Board.

8 If an employer is denied a renewal of self-insurance
9 privileges pursuant to application it shall retain said
10 privilege for 120 days after receipt of a notice of
11 cancellation of the privilege from the Chairman of the
12 Commission.

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

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

1 (820 ILCS 305/4a-5) (from Ch. 48, par. 138.4a-5)

2 Sec. 4a-5. There is hereby created a Self-Insurers
3 Security Fund. The State Treasurer shall be the ex officio
4 custodian of the Self-Insurers Security Fund. Moneys in the
5 Fund shall be deposited in a separate account in the same
6 manner as are State Funds and any interest accruing thereon
7 shall be added thereto every 6 months. It shall be subject to
8 audit the same as State funds and accounts and shall be
9 protected by the general bond given by the State Treasurer.
10 The funds in the Self-Insurers Security Fund shall not be
11 subject to appropriation and shall be made available for the
12 purposes of compensating employees who are eligible to receive
13 benefits from their employers pursuant to the provisions of
14 the Workers' Compensation Act or Workers' Occupational
15 Diseases Act, when, pursuant to this Section, the Board has
16 determined that a private self-insurer has become an insolvent
17 self-insurer and is unable to pay compensation benefits due to
18 financial insolvency. Moneys in the Fund may be used to
19 compensate any type of injury or occupational disease which is
20 compensable under either Act, ~~and~~ for all claims for related
21 administrative fees, operating costs of the Board, attorney's
22 fees, and other costs reasonably incurred by the Board. Moneys
23 in the Self-Insurers Security Fund may also be used for paying
24 the salaries and benefits of the Self-Insurers Advisory Board
25 employees and the operating costs of the Board. The Chairman,

1 with the advice of the Board, may direct the State Comptroller
2 and the State Treasurer to transfer up to \$2,000,000 in any
3 fiscal year from the Self-Insurers Security Fund to the
4 Illinois Workers' Compensation Commission Operations Fund, to
5 the extent that there are insufficient funds in the Illinois
6 Workers' Compensation Commission Operations Fund to pay the
7 operating costs of the Illinois Workers' Compensation
8 Commission or the salaries and benefits of employees of the
9 Illinois Workers' Compensation Commission. No later than
10 October 31 of the fiscal year following any transfer from the
11 Self-Insurers Security Fund to the Illinois Workers'
12 Compensation Commission Operations Fund, the Chairman, with
13 the advice of the Board, shall direct the State Comptroller
14 and the State Treasurer to transfer from the Illinois Workers'
15 Compensation Commission Operations Fund to the Self-Insurers
16 Security Fund an amount equivalent to the sum of all amounts
17 transferred from the Self-Insurers Security Fund to the
18 Illinois Workers' Compensation Commission Operations Fund in
19 the prior fiscal year with interest at the rate earned by
20 moneys on deposit in the Self-Insurers Security Fund. Upon
21 receipt of funds from any transfer between the Self-Insurers
22 Security Fund and the Illinois Workers' Compensation
23 Commission Operations Fund, the Chairman shall submit notice,
24 including the date and amount of the transfer, to the Governor
25 and the General Assembly. Payment from the Self-Insurers
26 Security Fund shall be made by the Comptroller only upon the

1 authorization of the Chairman as evidenced by properly
2 certified vouchers of the Commission, upon the direction of
3 the Board.

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

6 (820 ILCS 305/4d)

7 Sec. 4d. Illinois Workers' Compensation Commission
8 Operations Fund Fee.

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

23 (b) Beginning on July 30, 2004 (the effective date of
24 Public Act 93-840) and on July 1 of each year thereafter
25 through 2023, the Chairman shall charge and collect an annual

1 Illinois Workers' Compensation Commission Operations Fund Fee
2 from every employer subject to subsection (a) of this Section
3 equal to 0.0075% of its annual actual wages paid in this State
4 as reported in each employer's annual self-insurance renewal
5 filed for the previous year as required by Section 4 of this
6 Act and Section 4 of the Workers' Occupational Diseases Act.
7 Beginning on July 1, 2024 and on July 1 of each year
8 thereafter, the Chairman shall charge and collect an annual
9 Illinois Workers' Compensation Commission Operations Fund Fee
10 from every employer subject to subsection (a) of this Section
11 equal to 0.0081% of its annual actual wages paid in this State
12 as reported in each employer's annual self-insurance renewal
13 filed for the previous year as required by Section 4 of this
14 Act and Section 4 of the Workers' Occupational Diseases Act.
15 All sums collected by the Commission under the provisions of
16 this Section shall be paid promptly after the receipt of the
17 same, accompanied by a detailed statement thereof, into the
18 Illinois Workers' Compensation Commission Operations Fund. The
19 fee due pursuant to Public Act 93-840 shall be collected
20 instead of the fee due on July 1, 2004 under Public Act 93-32.
21 Payment of the fee due under Public Act 93-840 shall discharge
22 the employer's obligations due on July 1, 2004.

23 (c) In addition to the authority specifically granted
24 under Section 16, the Chairman shall have such authority to
25 adopt rules or establish forms as may be reasonably necessary
26 for purposes of enforcing this Section. The Commission shall

1 have authority to defer, waive, or abate the fee or any
2 penalties imposed by this Section if in the Commission's
3 opinion the employer's solvency and ability to meet its
4 obligations to pay workers' compensation benefits would be
5 immediately threatened by payment of the fee due.

6 (d) When an employer fails to pay the full amount of any
7 annual Illinois Workers' Compensation Commission Operations
8 Fund Fee of \$100 or more due under this Section, there shall be
9 added to the amount due as a penalty the greater of \$1,000 or
10 an amount equal to 5% of the deficiency for each month or part
11 of a month that the deficiency remains unpaid.

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

16 (f) Whenever it appears to the satisfaction of the
17 Chairman that an employer has paid pursuant to this Act an
18 Illinois Workers' Compensation Commission Operations Fund Fee
19 in an amount in excess of the amount legally collectable from
20 the employer, the Chairman shall issue a credit memorandum for
21 an amount equal to the amount of such overpayment. A credit
22 memorandum may be applied for the 2-year period from the date
23 of issuance against the payment of any amount due during that
24 period under the fee imposed by this Section or, subject to
25 reasonable rule of the Commission including requirement of
26 notification, may be assigned to any other employer subject to

1 regulation under this Act. Any application of credit memoranda
2 after the period provided for in this Section is void.

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

4 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

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

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

21 The term "child" means a child whom the deceased employee
22 left surviving, including a posthumous child, a child legally
23 adopted, a child whom the deceased employee was legally
24 obligated to support or a child to whom the deceased employee
25 stood in loco parentis. The term "children" means the plural

1 of "child".

2 The term "physically or mentally incapacitated child or
3 children" means a child or children incapable of engaging in
4 regular and substantial gainful employment.

5 In the event of the remarriage of a widow or widower, where
6 the decedent did not leave surviving any child or children
7 who, at the time of such remarriage, are entitled to
8 compensation benefits under this Act, the surviving spouse
9 shall be paid a lump sum equal to 2 years compensation benefits
10 and all further rights of such widow or widower shall be
11 extinguished.

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

18 Any beneficiary entitled to compensation under this
19 paragraph (a) of this Section shall receive from the special
20 fund provided in paragraph (f) of this Section, in addition to
21 the compensation herein provided, supplemental benefits in
22 accordance with paragraph (g) of Section 8.

23 (b) If no compensation is payable under paragraph (a) of
24 this Section and the employee leaves surviving a parent or
25 parents who at the time of the accident were totally dependent
26 upon the earnings of the employee then weekly payments equal

1 to the compensation rate payable in the case where the
2 employee leaves surviving a widow or widower, shall be paid to
3 such parent or parents for the duration of their lives, and in
4 the event of the death of either, for the life of the survivor.

5 (c) If no compensation is payable under paragraphs (a) or
6 (b) of this Section and the employee leaves surviving any
7 child or children who are not entitled to compensation under
8 the foregoing paragraph (a) but who at the time of the accident
9 were nevertheless in any manner dependent upon the earnings of
10 the employee, or leaves surviving a parent or parents who at
11 the time of the accident were partially dependent upon the
12 earnings of the employee, then there shall be paid to such
13 dependent or dependents for a period of 8 years weekly
14 compensation payments at such proportion of the applicable
15 rate if the employee had left surviving a widow or widower as
16 such dependency bears to total dependency. In the event of the
17 death of any such beneficiary the share of such beneficiary
18 shall be divided equally among the surviving beneficiaries and
19 in the event of the death of the last such beneficiary all the
20 rights under this paragraph shall be extinguished.

21 (d) If no compensation is payable under paragraphs (a),
22 (b) or (c) of this Section and the employee leaves surviving
23 any grandparent, grandparents, grandchild or grandchildren or
24 collateral heirs dependent upon the employee's earnings to the
25 extent of 50% or more of total dependency, then there shall be
26 paid to such dependent or dependents for a period of 5 years

1 weekly compensation payments at such proportion of the
2 applicable rate if the employee had left surviving a widow or
3 widower as such dependency bears to total dependency. In the
4 event of the death of any such beneficiary the share of such
5 beneficiary shall be divided equally among the surviving
6 beneficiaries and in the event of the death of the last such
7 beneficiary all rights hereunder shall be extinguished.

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

23 The payments of compensation by the employer in accordance
24 with the order or award of the Commission discharges such
25 employer from all further obligation as to such compensation.

26 (f) The sum of \$8,000 for burial expenses shall be paid by

1 the employer to the widow or widower, other dependent, next of
2 kin or to the person or persons incurring the expense of
3 burial.

4 In the event the employer failed to provide necessary
5 first aid, medical, surgical or hospital service, he shall pay
6 the cost thereof to the person or persons entitled to
7 compensation under paragraphs (a), (b), (c) or (d) of this
8 Section, or to the person or persons incurring the obligation
9 therefore, or providing the same.

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

1 State funds and accounts and is protected by the General bond
2 given by the State Treasurer. It is considered always
3 appropriated for the purposes of disbursements as provided in
4 Section 8, paragraph (f), of this Act, and shall be paid out
5 and disbursed as therein provided and shall not at any time be
6 appropriated or diverted to any other use or purpose.

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

1 into the Rate Adjustment Fund a sum equal to one half of 1% of
2 all such compensation payments made in the first 6 months of
3 the same calendar year. Within 60 days after January 15 of 1997
4 and each subsequent year through 2005, the employer shall pay
5 into the Rate Adjustment Fund a sum equal to three-fourths of
6 1% of all such compensation payments made in the last 6 months
7 of the preceding calendar year. Within 60 days after July 15 of
8 1996 and each subsequent year through 2004, the employer shall
9 pay into the Rate Adjustment Fund a sum equal to three-fourths
10 of 1% of all such compensation payments made in the first 6
11 months of the same calendar year. Within 60 days after July 15
12 of 2005, the employer shall pay into the Rate Adjustment Fund a
13 sum equal to 1% of such compensation payments made in the first
14 6 months of the same calendar year. Within 60 days after
15 January 15 of 2006 and each subsequent year through 2024, the
16 employer shall pay into the Rate Adjustment Fund a sum equal to
17 1.25% of such compensation payments made in the last 6 months
18 of the preceding calendar year. Within 60 days after July 15 of
19 2006 and each subsequent year through 2023, the employer shall
20 pay into the Rate Adjustment Fund a sum equal to 1.25% of such
21 compensation payments made in the first 6 months of the same
22 calendar year. Within 60 days after July 15 of 2024 and each
23 subsequent year thereafter, the employer shall pay into the
24 Rate Adjustment Fund a sum equal to 1.375% of such
25 compensation payments made in the first 6 months of the same
26 calendar year. Within 60 days after January 15 of 2025 and each

1 subsequent year thereafter, the employer shall pay into the
2 Rate Adjustment Fund a sum equal to 1.375% of such
3 compensation payments made in the last 6 months of the
4 preceding calendar year. The administrative costs of
5 collecting assessments from employers for the Rate Adjustment
6 Fund shall be paid from the Rate Adjustment Fund. The cost of
7 an actuarial audit of the Fund shall be paid from the Rate
8 Adjustment Fund. The State Treasurer is ex officio custodian
9 of such Special Fund and the same shall be held and disbursed
10 for the purposes hereinafter stated in paragraphs (f) and (g)
11 of Section 8 upon the order of the Commission or of a competent
12 court. The Rate Adjustment Fund shall be deposited the same as
13 are State funds and any interest accruing thereon shall be
14 added thereto every 6 months. It shall be subject to audit the
15 same as State funds and accounts and shall be protected by the
16 general bond given by the State Treasurer. It is considered
17 always appropriated for the purposes of disbursements as
18 provided in paragraphs (f) and (g) of Section 8 of this Act and
19 shall be paid out and disbursed as therein provided and shall
20 not at any time be appropriated or diverted to any other use or
21 purpose. Within 5 days after the effective date of this
22 amendatory Act of 1990, the Comptroller and the State
23 Treasurer shall transfer \$1,000,000 from the General Revenue
24 Fund to the Rate Adjustment Fund. By February 15, 1991, the
25 Comptroller and the State Treasurer shall transfer \$1,000,000
26 from the Rate Adjustment Fund to the General Revenue Fund. The

1 Comptroller and Treasurer are authorized to make transfers at
2 the request of the Chairman up to a total of \$19,000,000 from
3 the Second Injury Fund, the General Revenue Fund, and the
4 Workers' Compensation Benefit Trust Fund to the Rate
5 Adjustment Fund to the extent that there is insufficient money
6 in the Rate Adjustment Fund to pay claims and obligations.
7 Amounts may be transferred from the General Revenue Fund only
8 if the funds in the Second Injury Fund or the Workers'
9 Compensation Benefit Trust Fund are insufficient to pay claims
10 and obligations of the Rate Adjustment Fund. All amounts
11 transferred from the Second Injury Fund, the General Revenue
12 Fund, and the Workers' Compensation Benefit Trust Fund shall
13 be repaid from the Rate Adjustment Fund within 270 days of a
14 transfer, together with interest at the rate earned by moneys
15 on deposit in the Fund or Funds from which the moneys were
16 transferred.

17 Upon a finding by the Commission, after reasonable notice
18 and hearing, that any employer has willfully and knowingly
19 failed to pay the proper amounts into the Second Injury Fund or
20 the Rate Adjustment Fund required by this Section or if such
21 payments are not made within the time periods prescribed by
22 this Section, the employer shall, in addition to such
23 payments, pay a penalty of 20% of the amount required to be
24 paid or \$2,500, whichever is greater, for each year or part
25 thereof of such failure to pay. This penalty shall only apply
26 to obligations of an employer to the Second Injury Fund or the

1 Rate Adjustment Fund accruing after the effective date of this
2 amendatory Act of 1989. All or part of such a penalty may be
3 waived by the Commission for good cause shown.

4 Any obligations of an employer to the Second Injury Fund
5 and Rate Adjustment Fund accruing prior to the effective date
6 of this amendatory Act of 1989 shall be paid in full by such
7 employer within 5 years of the effective date of this
8 amendatory Act of 1989, with at least one-fifth of such
9 obligation to be paid during each year following the effective
10 date of this amendatory Act of 1989. If the Commission finds,
11 following reasonable notice and hearing, that an employer has
12 failed to make timely payment of any obligation accruing under
13 the preceding sentence, the employer shall, in addition to all
14 other payments required by this Section, be liable for a
15 penalty equal to 20% of the overdue obligation or \$2,500,
16 whichever is greater, for each year or part thereof that
17 obligation is overdue. All or part of such a penalty may be
18 waived by the Commission for good cause shown.

19 The Chairman of the Illinois Workers' Compensation
20 Commission shall, annually, furnish to the Director of the
21 Department of Insurance a list of the amounts paid into the
22 Second Injury Fund and the Rate Adjustment Fund by each
23 insurance company on behalf of their insured employers. The
24 Director shall verify to the Chairman that the amounts paid by
25 each insurance company are accurate as best as the Director
26 can determine from the records available to the Director. The

1 Chairman shall verify that the amounts paid by each
2 self-insurer are accurate as best as the Chairman can
3 determine from records available to the Chairman. The Chairman
4 may require each self-insurer to provide information
5 concerning the total compensation payments made upon which
6 contributions to the Second Injury Fund and the Rate
7 Adjustment Fund are predicated and any additional information
8 establishing that such payments have been made into these
9 funds. Any deficiencies in payments noted by the Director or
10 Chairman shall be subject to the penalty provisions of this
11 Act.

12 The State Treasurer, or his duly authorized
13 representative, shall be named as a party to all proceedings
14 in all cases involving claim for the loss of, or the permanent
15 and complete loss of the use of one eye, one foot, one leg, one
16 arm or one hand.

17 The State Treasurer or his duly authorized agent shall
18 have the same rights as any other party to the proceeding,
19 including the right to petition for review of any award. The
20 reasonable expenses of litigation, such as medical
21 examinations, testimony, and transcript of evidence, incurred
22 by the State Treasurer or his duly authorized representative,
23 shall be borne by the Second Injury Fund.

24 If the award is not paid within 30 days after the date the
25 award has become final, the Commission shall proceed to take
26 judgment thereon in its own name as is provided for other

1 awards by paragraph (g) of Section 19 of this Act and take the
2 necessary steps to collect the award.

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

7 For the purpose of administration, receipts and
8 disbursements, the Special Fund provided for in paragraph (f)
9 of this Section shall be administered jointly with the Special
10 Fund provided for in Section 7, paragraph (f) of the Workers'
11 Occupational Diseases Act.

12 (g) All compensation, except for burial expenses provided
13 in this Section to be paid in case accident results in death,
14 shall be paid in installments equal to the percentage of the
15 average earnings as provided for in Section 8, paragraph (b)
16 of this Act, at the same intervals at which the wages or
17 earnings of the employees were paid. If this is not feasible,
18 then the installments shall be paid weekly. Such compensation
19 may be paid in a lump sum upon petition as provided in Section
20 9 of this Act. However, in addition to the benefits provided by
21 Section 9 of this Act where compensation for death is payable
22 to the deceased's widow, widower or to the deceased's widow,
23 widower and one or more children, and where a partial lump sum
24 is applied for by such beneficiary or beneficiaries within 18
25 months after the deceased's death, the Commission may, in its
26 discretion, grant a partial lump sum of not to exceed 100 weeks

1 of the compensation capitalized at their present value upon
2 the basis of interest calculated at 3% per annum with annual
3 rests, upon a showing that such partial lump sum is for the
4 best interest of such beneficiary or beneficiaries.

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

9 Nothing herein contained repeals or amends the provisions
10 of the Child Labor Law relating to the employment of minors
11 under the age of 16 years.

12 However, where an employer has on file an employment
13 certificate issued pursuant to the Child Labor Law or work
14 permit issued pursuant to the Federal Fair Labor Standards
15 Act, as amended, or a birth certificate properly and duly
16 issued, such certificate, permit or birth certificate is
17 conclusive evidence as to the age of the injured minor
18 employee for the purposes of this Section only.

19 (i) Whenever the dependents of a deceased employee are
20 noncitizens not residing in the United States, Mexico or
21 Canada, the amount of compensation payable is limited to the
22 beneficiaries described in paragraphs (a), (b) and (c) of this
23 Section and is 50% of the compensation provided in paragraphs
24 (a), (b) and (c) of this Section, except as otherwise provided
25 by treaty.

26 In a case where any of the persons who would be entitled to

1 compensation is living at any place outside of the United
2 States, then payment shall be made to the personal
3 representative of the deceased employee. The distribution by
4 such personal representative to the persons entitled shall be
5 made to such persons and in such manner as the Commission
6 orders.

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

8 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

24 2. Whenever any claimant misconceives his remedy and
25 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 (d) of
21 Section 4 and paragraph (e) of this Section shall, in the
22 absence of fraud, be conclusive unless reviewed as in this
23 paragraph hereinafter provided. However, the Arbitrator or the
24 Commission may on his or its own motion, or on the motion of
25 either party, correct any clerical error or errors in
26 computation within 15 days after the date of receipt of any

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

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

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

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

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

1 testimony and a true and correct copy of all other matters
2 contained in such record and certified to by the Secretary
3 or Assistant Secretary thereof. The changes made to this
4 subdivision (f)(1) by this amendatory Act of the 98th
5 General Assembly apply to any Commission decision entered
6 after the effective date of this amendatory Act of the
7 98th General Assembly.

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

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

1 of the court shall constitute evidence of his approval of
2 the bond.

3 The following shall not be required to file a bond to
4 secure the payment of the award and the costs of the
5 proceedings in the court to authorize the court to issue
6 such summons:

7 (1) the State Treasurer, for a fund administered
8 by the State Treasurer ex officio against whom the
9 Commission shall have rendered an award for the
10 payment of money; and

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

15 The court may confirm or set aside the decision of the
16 Commission. If the decision is set aside and the facts
17 found in the proceedings before the Commission are
18 sufficient, the court may enter such decision as is
19 justified by law, or may remand the cause to the
20 Commission for further proceedings and may state the
21 questions requiring further hearing, and give such other
22 instructions as may be proper. If the court affirms the
23 Commission's decision imposing fines on the employer under
24 subsection (d) of Section 4, the court shall enter
25 judgment against the employer in the amount of the fines
26 assessed by the Commission. Appeals shall be taken to the

1 Appellate Court in accordance with Supreme Court Rules
2 22(g) and 303. Appeals shall be taken from the Appellate
3 Court to the Supreme Court in accordance with Supreme
4 Court Rule 315.

5 It shall be the duty of the clerk of any court
6 rendering a decision affecting or affirming an award of
7 the Commission to promptly furnish the Commission with a
8 copy of such decision, without charge.

9 The decision of a majority of the members of the panel
10 of the Commission, shall be considered the decision of the
11 Commission.

12 (g) Except in the case of a claim against the State of
13 Illinois, either party may present a certified copy of the
14 award of the Arbitrator, or a certified copy of the decision of
15 the Commission when the same has become final, when no
16 proceedings for review are pending, providing for the payment
17 of compensation according to this Act, to the Circuit Court of
18 the county in which such accident occurred or either of the
19 parties are residents, whereupon the court shall enter a
20 judgment in accordance therewith. In a case where the employer
21 refuses to pay compensation according to such final award or
22 such final decision upon which such judgment is entered the
23 court shall in entering judgment thereon, tax as costs against
24 him the reasonable costs and attorney fees in the arbitration
25 proceedings and in the court entering the judgment for the
26 person in whose favor the judgment is entered, which judgment

1 and costs taxed as therein provided shall, until and unless
2 set aside, have the same effect as though duly entered in an
3 action duly tried and determined by the court, and shall with
4 like effect, be entered and docketed. The Circuit Court shall
5 have power at any time upon application to make any such
6 judgment conform to any modification required by any
7 subsequent decision of the Supreme Court upon appeal, or as
8 the result of any subsequent proceedings for review, as
9 provided in this Act.

10 Judgment shall not be entered until 15 days' notice of the
11 time and place of the application for the entry of judgment
12 shall be served upon the employer by filing such notice with
13 the Commission, which Commission shall, in case it has on file
14 the address of the employer or the name and address of its
15 agent upon whom notices may be served, immediately send a copy
16 of the notice to the employer or such designated agent.

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

23 However, as to accidents occurring subsequent to July 1,
24 1955, which are covered by any agreement or award under this
25 Act providing for compensation in installments made as a
26 result of such accident, such agreement or award may at any

1 time within 30 months, or 60 months in the case of an award
2 under Section 8(d)1, after such agreement or award be reviewed
3 by the Commission at the request of either the employer or the
4 employee on the ground that the disability of the employee has
5 subsequently recurred, increased, diminished or ended.

6 On such review, compensation payments may be
7 re-established, increased, diminished or ended. The Commission
8 shall give 15 days' notice to the parties of the hearing for
9 review. Any employee, upon any petition for such review being
10 filed by the employer, shall be entitled to one day's notice
11 for each 100 miles necessary to be traveled by him in attending
12 the hearing of the Commission upon the petition, and 3 days in
13 addition thereto. Such employee shall, at the discretion of
14 the Commission, also be entitled to 5 cents per mile
15 necessarily traveled by him within the State of Illinois in
16 attending such hearing, not to exceed a distance of 300 miles,
17 to be taxed by the Commission as costs and deposited with the
18 petition of the employer.

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

23 (i) Each party, upon taking any proceedings or steps
24 whatsoever before any Arbitrator, Commission or court, shall
25 file with the Commission his address, or the name and address
26 of any agent upon whom all notices to be given to such party

1 shall be served, either personally or by registered mail,
2 addressed to such party or agent at the last address so filed
3 with the Commission. In the event such party has not filed his
4 address, or the name and address of an agent as above provided,
5 service of any notice may be had by filing such notice with the
6 Commission.

7 (j) Whenever in any proceeding testimony has been taken or
8 a final decision has been rendered and after the taking of such
9 testimony or after such decision has become final, the injured
10 employee dies, then in any subsequent proceedings brought by
11 the personal representative or beneficiaries of the deceased
12 employee, such testimony in the former proceeding may be
13 introduced with the same force and effect as though the
14 witness having so testified were present in person in such
15 subsequent proceedings and such final decision, if any, shall
16 be taken as final adjudication of any of the issues which are
17 the same in both proceedings.

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

1 paragraph (b) of this Act, shall be considered unreasonable
2 delay.

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

7 (l) If the employee has made written demand for payment of
8 benefits under Section 8(a) or Section 8(b), the employer
9 shall have 14 days after receipt of the demand to set forth in
10 writing the reason for the delay. In the case of demand for
11 payment of medical benefits under Section 8(a), the time for
12 the employer to respond shall not commence until the
13 expiration of the allotted 30 days specified under Section
14 8.2(d). In case the employer or his or her insurance carrier
15 shall without good and just cause fail, neglect, refuse, or
16 unreasonably delay the payment of benefits under Section 8(a)
17 or Section 8(b), the Arbitrator or the Commission shall allow
18 to the employee additional compensation in the sum of \$30 per
19 day for each day that the benefits under Section 8(a) or
20 Section 8(b) have been so withheld or refused, not to exceed
21 \$10,000. A delay in payment of 14 days or more shall create a
22 rebuttable presumption of unreasonable delay.

23 (m) If the commission finds that an accidental injury was
24 directly and proximately caused by the employer's wilful
25 violation of a health and safety standard under the Health and
26 Safety Act or the Occupational Safety and Health Act in force

1 at the time of the accident, the arbitrator or the Commission
2 shall allow to the injured employee or his dependents, as the
3 case may be, additional compensation equal to 25% of the
4 amount which otherwise would be payable under the provisions
5 of this Act exclusive of this paragraph. The additional
6 compensation herein provided shall be allowed by an
7 appropriate increase in the applicable weekly compensation
8 rate.

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

23 The employer or his insurance carrier may tender the
24 payments due under the award to stop the further accrual of
25 interest on such award notwithstanding the prosecution by
26 either party of review, certiorari, appeal to the Supreme

1 Court or other steps to reverse, vacate or modify the award.

2 (o) By the 15th day of each month each insurer providing
3 coverage for losses under this Act shall notify each insured
4 employer of any compensable claim incurred during the
5 preceding month and the amounts paid or reserved on the claim
6 including a summary of the claim and a brief statement of the
7 reasons for compensability. A cumulative report of all claims
8 incurred during a calendar year or continued from the previous
9 year shall be furnished to the insured employer by the insurer
10 within 30 days after the end of that calendar year.

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

1 (p) After filing an application for adjustment of claim
2 but prior to the hearing on arbitration the parties may
3 voluntarily agree to submit such application for adjustment of
4 claim for decision by an arbitrator under this subsection (p)
5 where such application for adjustment of claim raises only a
6 dispute over temporary total disability, permanent partial
7 disability or medical expenses. Such agreement shall be in
8 writing in such form as provided by the Commission.
9 Applications for adjustment of claim submitted for decision by
10 an arbitrator under this subsection (p) shall proceed
11 according to rule as established by the Commission. The
12 Commission shall promulgate rules including, but not limited
13 to, rules to ensure that the parties are adequately informed
14 of their rights under this subsection (p) and of the voluntary
15 nature of proceedings under this subsection (p). The findings
16 of fact made by an arbitrator acting within his or her powers
17 under this subsection (p) in the absence of fraud shall be
18 conclusive. However, the arbitrator may on his own motion, or
19 the motion of either party, correct any clerical errors or
20 errors in computation within 15 days after the date of receipt
21 of such award of the arbitrator and shall have the power to
22 recall the original award on arbitration, and issue in lieu
23 thereof such corrected award. The decision of the arbitrator
24 under this subsection (p) shall be considered the decision of
25 the Commission and proceedings for review of questions of law
26 arising from the decision may be commenced by either party

1 pursuant to subsection (f) of Section 19. The Advisory Board
2 established under Section 13.1 shall compile a list of
3 certified Commission arbitrators, each of whom shall be
4 approved by at least 7 members of the Advisory Board. The
5 chairman shall select 5 persons from such list to serve as
6 arbitrators under this subsection (p). By agreement, the
7 parties shall select one arbitrator from among the 5 persons
8 selected by the chairman except that if the parties do not
9 agree on an arbitrator from among the 5 persons, the parties
10 may, by agreement, select an arbitrator of the American
11 Arbitration Association, whose fee shall be paid by the State
12 in accordance with rules promulgated by the Commission.
13 Arbitration under this subsection (p) shall be voluntary.

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

15 (820 ILCS 305/25.5)

16 Sec. 25.5. Unlawful acts; penalties.

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

19 (1) Intentionally present or cause to be presented any
20 false or fraudulent claim for the payment of any workers'
21 compensation benefit.

22 (2) Intentionally make or cause to be made any false
23 or fraudulent material statement or material
24 representation for the purpose of obtaining or denying any
25 workers' compensation benefit.

1 (3) Intentionally make or cause to be made any false
2 or fraudulent statements with regard to entitlement to
3 workers' compensation benefits with the intent to prevent
4 an injured worker from making a legitimate claim for any
5 workers' compensation benefits.

6 (4) Intentionally prepare or provide an invalid,
7 false, or counterfeit certificate of insurance as proof of
8 workers' compensation insurance.

9 (5) Intentionally make or cause to be made any false
10 or fraudulent material statement or material
11 representation for the purpose of obtaining workers'
12 compensation insurance at less than the proper amount for
13 that insurance.

14 (6) Intentionally make or cause to be made any false
15 or fraudulent material statement or material
16 representation on an initial or renewal self-insurance
17 application or accompanying financial statement for the
18 purpose of obtaining self-insurance status or reducing the
19 amount of security that may be required to be furnished
20 pursuant to Section 4 of this Act.

21 (7) Intentionally make or cause to be made any false
22 or fraudulent material statement to the Department of
23 Insurance's fraud and insurance non-compliance unit in the
24 course of an investigation of fraud or insurance
25 non-compliance.

26 (8) Intentionally assist, abet, solicit, or conspire

1 with any person, company, or other entity to commit any of
2 the acts in paragraph (1), (2), (3), ~~(4)~~, (5), (6), or (7)
3 of this subsection (a).

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

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

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

13 (b) Sentences for violations of paragraphs (1), (2), (3),
14 (5), (6), (7), (8), and (9) of subsection (a) are as follows:

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

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

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

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

1 (5) A person convicted under this subsection ~~Section~~
2 shall be ordered to pay monetary restitution to the
3 injured worker, insurance company, ~~or~~ self-insured entity,
4 or any other person for any financial loss sustained as a
5 result of a violation of this Section, ~~including any court~~
6 ~~costs and attorney fees~~. An order of restitution also
7 includes expenses incurred and paid by the State of
8 Illinois, ~~or~~ an insurance company, a ~~or~~ self-insured
9 entity, an injured worker, or any other person in
10 connection with any medical evaluation or treatment
11 services. For the purposes of this subsection, "person"
12 includes any legal entity created under Section 535 of the
13 Illinois Insurance Code.

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

26 (b-5) Sentences for violations of paragraphs (4) and (8.5)

1 of subsection (a) are as follows:

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

7 (2) A violation in which the value of the property
8 obtained or attempted to be obtained is more than \$10,000,
9 but not more than \$100,000, is a Class 2 felony and a civil
10 penalty of up to \$10,000 per violation, payable to the
11 Injured Workers' Benefit Fund, shall be assessed.

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

17 (4) A person convicted under this subsection shall be
18 ordered to pay monetary restitution to the injured worker,
19 insurance company, self-insured entity, or any other
20 person for any financial loss sustained as a result of a
21 violation of this Section. An order of restitution also
22 includes expenses incurred and paid by the State of
23 Illinois, an insurance company, a self-insured entity, an
24 injured person, or any other person in connection with any
25 medical evaluation or treatment services.

26 For the purposes of this subsection, the value of the

1 property obtained or attempted to be obtained shall be the
2 amount of premiums saved by use of the invalid, false, or
3 counterfeit certificate of insurance, the value of any
4 payments under any contract obtained by reliance on the
5 invalid, false, or counterfeit certificate of insurance, or
6 both. Notwithstanding the foregoing, an injured worker,
7 insurance company, self-insured entity, or any other person
8 suffering financial loss sustained as a result of violation of
9 this subsection may seek restitution, including court costs
10 and attorney's fees in a civil action in a court of competent
11 jurisdiction.

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

1 the authority to prosecute violations under this Section.

2 With respect to the subject of any investigation being
3 conducted, the fraud and insurance non-compliance unit shall
4 have the general power of subpoena of the Department of
5 Insurance, including the authority to issue a subpoena to a
6 medical provider, pursuant to Section 8-802 of the Code of
7 Civil Procedure.

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

1 (e) In order for the fraud and insurance non-compliance
2 unit to investigate a report of fraud related to an employee's
3 claim, (i) the employee must have filed with the Commission an
4 Application for Adjustment of Claim and the employee must have
5 either received or attempted to receive benefits under this
6 Act that are related to the reported fraud or (ii) the employee
7 must have made a written demand for the payment of benefits
8 that are related to the reported fraud. There shall be no
9 immunity, under this Act or otherwise, for any person who
10 files a false report or who files a report without good and
11 just cause. Confidentiality of medical information shall be
12 strictly maintained. Investigations that are not referred for
13 prosecution shall be destroyed upon the expiration of the
14 statute of limitations for the acts under investigation and
15 shall not be disclosed except that the person making the
16 report shall be notified that the investigation is being
17 closed. It is unlawful for any employer, insurance carrier,
18 service adjustment company, third party administrator,
19 self-insured, or similar entity to file or threaten to file a
20 report of fraud against an employee because of the exercise by
21 the employee of the rights and remedies granted to the
22 employee by this Act.

23 (e-5) (Blank).

24 (f) Any person convicted of fraud related to workers'
25 compensation pursuant to this Section shall be subject to the
26 penalties prescribed in the Criminal Code of 2012 and shall be

1 ineligible to receive or retain any compensation, disability,
2 or medical benefits as defined in this Act if the
3 compensation, disability, or medical benefits were owed or
4 received as a result of fraud for which the recipient of the
5 compensation, disability, or medical benefit was convicted.
6 This subsection applies to accidental injuries or diseases
7 that occur on or after the effective date of this amendatory
8 Act of the 94th General Assembly.

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

24 (h) The fraud and insurance non-compliance unit shall
25 submit a written report on an annual basis to the Chairman of
26 the Commission, the Workers' Compensation Advisory Board, the

1 General Assembly, the Governor, and the Attorney General by
2 January 1 and July 1 of each year. This report shall include,
3 at the minimum, the following information:

4 (1) The number of allegations of insurance
5 non-compliance and fraud reported to the fraud and
6 insurance non-compliance unit.

7 (2) The source of the reported allegations
8 (individual, employer, or other).

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

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

14 (5) All proceedings under this Section.

15 (6) Recommendations regarding opportunities for
16 additional fraud detection.

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

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