



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5956

Introduced 2/10/2010, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

820 ILCS 315/3	from Ch. 48, par. 283
820 ILCS 315/4	from Ch. 48, par. 284

Amends the Line of Duty Compensation Act. Provides that the person filing a claim for compensation under the Act for a fireman killed in the line of duty shall have access, on a timely basis and in an efficient manner, to all information related to the court's consideration, processing, or adjudication of the claim. Includes in the definition of "eligible late claimant" persons filing a claim for compensation under the Act for a fireman killed in the line of duty.

LRB096 20692 RLC 36413 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Line of Duty Compensation Act is amended by
5 changing Sections 3 and 4 as follows:

6 (820 ILCS 315/3) (from Ch. 48, par. 283)

7 Sec. 3. Duty death benefit.

8 (a) If a claim therefor is made within one year of the date
9 of death of a law enforcement officer, civil defense worker,
10 civil air patrol member, paramedic, fireman, chaplain, or State
11 employee killed in the line of duty, or if a claim therefor is
12 made within 2 years of the date of death of an Armed Forces
13 member killed in the line of duty, compensation shall be paid
14 to the person designated by the law enforcement officer, civil
15 defense worker, civil air patrol member, paramedic, fireman,
16 chaplain, State employee, or Armed Forces member. However, if
17 the Armed Forces member was killed in the line of duty before
18 October 18, 2004, the claim must be made within one year of
19 October 18, 2004.

20 (b) The amount of compensation, except for an Armed Forces
21 member, shall be \$10,000 if the death in the line of duty
22 occurred prior to January 1, 1974; \$20,000 if such death
23 occurred after December 31, 1973 and before July 1, 1983;

1 \$50,000 if such death occurred on or after July 1, 1983 and
2 before January 1, 1996; \$100,000 if the death occurred on or
3 after January 1, 1996 and before May 18, 2001; \$118,000 if the
4 death occurred on or after May 18, 2001 and before July 1,
5 2002; and \$259,038 if the death occurred on or after July 1,
6 2002 and before January 1, 2003. For an Armed Forces member
7 killed in the line of duty (i) at any time before January 1,
8 2005, the compensation is \$259,038 plus amounts equal to the
9 increases for 2003 and 2004 determined under subsection (c) and
10 (ii) on or after January 1, 2005, the compensation is the
11 amount determined under item (i) plus the applicable increases
12 for 2005 and thereafter determined under subsection (c).

13 (c) Except as provided in subsection (b), for deaths
14 occurring on or after January 1, 2003, the death compensation
15 rate for death in the line of duty occurring in a particular
16 calendar year shall be the death compensation rate for death
17 occurring in the previous calendar year (or in the case of
18 deaths occurring in 2003, the rate in effect on December 31,
19 2002) increased by a percentage thereof equal to the percentage
20 increase, if any, in the index known as the Consumer Price
21 Index for All Urban Consumers: U.S. city average, unadjusted,
22 for all items, as published by the United States Department of
23 Labor, Bureau of Labor Statistics, for the 12 months ending
24 with the month of June of that previous calendar year.

25 (d) If no beneficiary is designated or if no designated
26 beneficiary survives at the death of the law enforcement

1 officer, civil defense worker, civil air patrol member,
2 paramedic, fireman, chaplain, or State employee killed in the
3 line of duty, the compensation shall be paid in accordance with
4 a legally binding will left by the law enforcement officer,
5 civil defense worker, civil air patrol member, paramedic,
6 fireman, chaplain, or State employee. If the law enforcement
7 officer, civil defense worker, civil air patrol member,
8 paramedic, fireman, chaplain, or State employee did not leave a
9 legally binding will, the compensation shall be paid as
10 follows:

11 (1) when there is a surviving spouse, the entire sum
12 shall be paid to the spouse;

13 (2) when there is no surviving spouse, but a surviving
14 descendant of the decedent, the entire sum shall be paid to
15 the decedent's descendants per stirpes;

16 (3) when there is neither a surviving spouse nor a
17 surviving descendant, the entire sum shall be paid to the
18 parents of the decedent in equal parts, allowing to the
19 surviving parent, if one is dead, the entire sum; and

20 (4) when there is no surviving spouse, descendant or
21 parent of the decedent, but there are surviving brothers or
22 sisters, or descendants of a brother or sister, who were
23 receiving their principal support from the decedent at his
24 death, the entire sum shall be paid, in equal parts, to the
25 dependent brothers or sisters or dependent descendant of a
26 brother or sister. Dependency shall be determined by the

1 Court of Claims based upon the investigation and report of
2 the Attorney General.

3 The changes made to this subsection (d) by this amendatory Act
4 of the 94th General Assembly apply to any pending case as long
5 as compensation has not been paid to any party before the
6 effective date of this amendatory Act of the 94th General
7 Assembly.

8 (d-1) For purposes of subsection (d), in the case of a
9 person killed in the line of duty who was born out of wedlock
10 and was not an adoptive child at the time of the person's
11 death, a person shall be deemed to be a parent of the person
12 killed in the line of duty only if that person would be an
13 eligible parent, as defined in Section 2-2 of the Probate Act
14 of 1975, of the person killed in the line of duty. This
15 subsection (d-1) applies to any pending claim if compensation
16 was not paid to the claimant of the pending claim before the
17 effective date of this amendatory Act of the 94th General
18 Assembly.

19 (d-2) If no beneficiary is designated or if no designated
20 beneficiary survives at the death of the Armed Forces member
21 killed in the line of duty, the compensation shall be paid in
22 entirety according to the designation made on the most recent
23 version of the Armed Forces member's Servicemembers' Group Life
24 Insurance Election and Certificate ("SGLI").

25 If no SGLI form exists at the time of the Armed Forces
26 member's death, the compensation shall be paid in accordance

1 with a legally binding will left by the Armed Forces member.

2 If no SGLI form exists for the Armed Forces member and the
3 Armed Forces member did not leave a legally binding will, the
4 compensation shall be paid to the persons and in the priority
5 as set forth in paragraphs (1) through (4) of subsection (d) of
6 this Section.

7 This subsection (d-2) applies to any pending case as long
8 as compensation has not been paid to any party before the
9 effective date of this amendatory Act of the 94th General
10 Assembly.

11 (e) If there is no beneficiary designated or if no
12 designated beneficiary survives at the death of the law
13 enforcement officer, civil defense worker, civil air patrol
14 member, paramedic, fireman, chaplain, State employee, or Armed
15 Forces member killed in the line of duty and there is no other
16 person or entity to whom compensation is payable under this
17 Section, no compensation shall be payable under this Act.

18 (f) No part of such compensation may be paid to any other
19 person for any efforts in securing such compensation.

20 (g) This amendatory Act of the 93rd General Assembly
21 applies to claims made on or after October 18, 2004 with
22 respect to an Armed Forces member killed in the line of duty.

23 (h) In any case for which benefits have not been paid
24 within 6 months of the claim being filed in accordance with
25 this Section, which is pending as of the effective date of this
26 amendatory Act of the 96th General Assembly, and in which there

1 are 2 or more beneficiaries, at least one of whom would receive
2 at least a portion of the total benefit regardless of the
3 manner in which the Court of Claims resolves the claim, the
4 Court shall direct the Comptroller to pay the minimum amount of
5 money which the determinate beneficiary would receive together
6 with all interest payment penalties which have accrued on that
7 portion of the award being paid within 30 days of the effective
8 date of this amendatory Act of the 96th General Assembly. For
9 purposes of this subsection (h), "determinate beneficiary"
10 means the beneficiary who would receive any portion of the
11 total benefit claimed regardless of the manner in which the
12 Court of Claims adjudicates the claim.

13 (i) The Court of Claims shall ensure that all individuals
14 who have filed an application to claim the duty death benefit
15 for a deceased member of the Armed Forces pursuant to this
16 Section or for a fireman pursuant to this Section, or their
17 designated representative, shall have access, on a timely basis
18 and in an efficient manner, to all information related to the
19 court's consideration, processing, or adjudication of the
20 claim, including, but not limited to, the following:

21 (1) a reliable estimate of when the Court of Claims
22 will adjudicate the claim, or if the Court cannot estimate
23 when it will adjudicate the claim, a full written
24 explanation of the reasons for this inability; and

25 (2) a reliable estimate, based upon consultation with
26 the Comptroller, of when the benefit will be paid to the

1 claimant.

2 (j) The Court of Claims shall send written notice to all
3 claimants within 2 weeks of the initiation of a claim
4 indicating whether or not the application is complete. For
5 purposes of this subsection (j), an application is complete if
6 a claimant has submitted to the Court of Claims all documents
7 and information the Court requires for adjudicating and paying
8 the benefit amount. For purposes of this subsection (j), a
9 claim for the duty death benefit is initiated when a claimant
10 submits any of the application materials required for
11 adjudicating the claim to the Court of Claims. In the event a
12 claimant's application is incomplete, the Court shall include
13 in its written notice a list of the information or documents
14 which the claimant must submit in order for the application to
15 be complete. In no case may the Court of Claims deny a claim
16 and subsequently re-adjudicate the same claim for the purpose
17 of evading or reducing the interest penalty payment amount
18 payable to any claimant.

19 (Source: P.A. 95-928, eff. 8-26-08; 96-539, eff. 1-1-10.)

20 (820 ILCS 315/4) (from Ch. 48, par. 284)

21 Sec. 4. Notwithstanding Section 3, no compensation is
22 payable under this Act unless a claim therefor is filed, within
23 the time specified by that Section with the Court of Claims on
24 an application prescribed and furnished by the Attorney General
25 and setting forth:

1 (a) the name, address and title or designation of the
2 position in which the officer, civil defense worker, civil
3 air patrol member, paramedic, fireman, chaplain, State
4 employee, or Armed Forces member was serving at the time of
5 his death;

6 (b) the names and addresses of person or persons
7 designated by the officer, civil defense worker, civil air
8 patrol member, paramedic, fireman, chaplain, State
9 employee, or Armed Forces member to receive the
10 compensation and, if more than one, the percentage or share
11 to be paid to each such person, or if there has been no
12 such designation, the name and address of the personal
13 representative of the estate of the officer, civil defense
14 worker, civil air patrol member, paramedic, fireman,
15 chaplain, State employee, or Armed Forces member;

16 (c) a full, factual account of the circumstances
17 resulting in or the course of events causing the death of
18 the officer, civil defense worker, civil air patrol member,
19 paramedic, fireman, chaplain, State employee, or Armed
20 Forces member; and

21 (d) such other information as the Court of Claims
22 reasonably requires.

23 When a claim is filed, the Attorney General shall make an
24 investigation for substantiation of matters set forth in such
25 an application.

26 For the 2 years immediately following the effective date of

1 this amendatory act of the 96th General Assembly, the Court of
2 Claims shall direct the Comptroller to pay a
3 "Modified-Eligibility Line of Duty Benefit" to eligible late
4 claimants who file a claim for the benefit. A claim for a
5 Modified-Eligibility Line of Duty Benefit must include all the
6 application materials and documents required for all other
7 claims payable under this Act, except as otherwise provided in
8 this Section 4. For purposes of this Section 4 only, an
9 "eligible late claimant" is a person who would have been
10 eligible, at any time after September 11, 2001, to apply for
11 and receive payment of a claim pursuant to this Act in
12 connection with the death of an Armed Forces member killed in
13 the line of duty or a fireman killed in the line of duty, but
14 did not receive the award payment because:

15 (1) the claim was rejected only because the claim was
16 not filed within the time limitation set forth in
17 subsection (a) of Section 3 of this Act; or

18 (2) having met all other preconditions for applying for
19 and receiving the award payment, the claimant did not file
20 a claim because the claim would not have been filed within
21 the time limitation set forth in subsection (a) of Section
22 3 of this Act. For purposes of this Section 4 only, the
23 "Modified-Eligibility Line of Duty Benefit" is an amount of
24 money payable to eligible late claimants equal to the
25 amount set forth in Section 3 of this Act payable to
26 claimants seeking payment of awards under Section 3 of this

1 Act for claims made thereunder in the year in which the
2 claim for the Modified-Eligibility Line of Duty Benefit is
3 made. Within 6 months of receiving a complete claim for the
4 Modified-Eligibility Line of Duty Benefit, the Court of
5 Claims must direct the Comptroller to pay the benefit
6 amount to the eligible late claimant.

7 (Source: P.A. 96-539, eff. 1-1-10.)