



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6157

Introduced 2/11/2010, by Rep. David Reis

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/416  
820 ILCS 305/4d

Amends the Illinois Insurance Code and the Workers' Compensation Act. On July 1, 2010, reduces the annual Illinois Workers' Compensation Commission Operations Fund Surcharge from 1.01% to 0.5% and reduces the annual Workers' Compensation Commission Operations Fund Fee from 0.0075% to 0.0035%. Provides that the Illinois Workers' Compensation Commission Operations Fund Surcharge and the Illinois Workers' Compensation Commission Operations Fund Fee may not be charged on or after July 1, 2011, but the Department of Insurance and Illinois Workers' Compensation Commission may continue to exercise powers and duties with respect to payments due before July 1, 2011 and delinquencies, penalties, and overpayments with respect to those payments. Effective July 1, 2010.

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FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning workers' compensation.

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

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

6 (215 ILCS 5/416)

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

9 (a) As of July 30, 2004 (the effective date of Public Act  
10 93-840), every company licensed or authorized by the Illinois  
11 Department of Insurance and insuring employers' liabilities  
12 arising under the Workers' Compensation Act or the Workers'  
13 Occupational Diseases Act shall remit to the Director a  
14 surcharge based upon the annual direct written premium, as  
15 reported under Section 136 of this Act, of the company in the  
16 manner provided in this Section. Such proceeds shall be  
17 deposited into the Illinois Workers' Compensation Commission  
18 Operations Fund as established in the Workers' Compensation  
19 Act. If a company survives or was formed by a merger,  
20 consolidation, reorganization, or reincorporation, the direct  
21 written premiums of all companies party to the merger,  
22 consolidation, reorganization, or reincorporation shall, for  
23 purposes of determining the amount of the fee imposed by this

1 Section, be regarded as those of the surviving or new company.

2 (b) (1) On July 1, 2010 ~~Except as provided in subsection~~  
3 ~~(b) (2) of this Section, beginning on July 30, 2004 (the~~  
4 ~~effective date of Public Act 93-840) and on July 1 of each year~~  
5 ~~thereafter,~~ the Director shall charge an annual Illinois  
6 Workers' Compensation Commission Operations Fund Surcharge  
7 from every company subject to subsection (a) of this Section  
8 equal to 0.5% ~~1.01%~~ of its direct written premium for insuring  
9 employers' liabilities arising under the Workers' Compensation  
10 Act or Workers' Occupational Diseases Act as reported in each  
11 company's annual statement filed for the previous year as  
12 required by Section 136. The Illinois Workers' Compensation  
13 Commission Operations Fund Surcharge shall be collected by  
14 companies subject to subsection (a) of this Section as a  
15 separately stated surcharge on insured employers at the rate of  
16 0.5% ~~1.01%~~ of direct written premium. The Illinois Workers'  
17 Compensation Commission Operations Fund Surcharge shall not be  
18 collected by companies subject to subsection (a) of this  
19 Section from any employer that self-insures its liabilities  
20 arising under the Workers' Compensation Act or Workers'  
21 Occupational Diseases Act, provided that the employer has paid  
22 the Illinois Workers' Compensation Commission Operations Fund  
23 Fee pursuant to Section 4d of the Workers' Compensation Act.  
24 All sums collected by the Department of Insurance under the  
25 provisions of this Section shall be paid promptly after the  
26 receipt of the same, accompanied by a detailed statement

1       thereof, into the Illinois Workers' Compensation Commission  
2       Operations Fund in the State treasury.

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

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

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

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

1 this State.

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

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

19 (h) Notwithstanding any other provision of law, the  
20 Director may not charge an Illinois Workers' Compensation  
21 Commission Operations Fund Surcharge on or after July 1, 2011;  
22 however, the Department may continue to exercise powers and  
23 duties under this Section with respect to payments due before  
24 July 1, 2011 and any delinquencies, penalties, and overpayments  
25 with respect to payments due before July 1, 2011.

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

1 Section 10. The Workers' Compensation Act is amended by  
2 changing Section 4d as follows:

3 (820 ILCS 305/4d)

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

6 (a) As of the effective date of this amendatory Act of the  
7 93rd General Assembly, each employer that self-insures its  
8 liabilities arising under this Act or Workers' Occupational  
9 Diseases Act shall pay a fee measured by the annual actual  
10 wages paid in this State of such an employer in the manner  
11 provided in this Section. Such proceeds shall be deposited in  
12 the Illinois Workers' Compensation Commission Operations Fund.  
13 If an employer survives or was formed by a merger,  
14 consolidation, reorganization, or reincorporation, the actual  
15 wages paid in this State of all employers party to the merger,  
16 consolidation, reorganization, or reincorporation shall, for  
17 purposes of determining the amount of the fee imposed by this  
18 Section, be regarded as those of the surviving or new employer.

19 (b) On July 1, 2010 ~~Beginning on July 30, 2004 (the~~  
20 ~~effective date of Public Act 93-840) and on July 1 of each year~~  
21 ~~thereafter~~, the Chairman shall charge and collect an annual  
22 Illinois Workers' Compensation Commission Operations Fund Fee  
23 from every employer subject to subsection (a) of this Section  
24 equal to 0.0035% ~~0.0075%~~ of its annual actual wages paid in

1 this State as reported in each employer's annual self-insurance  
2 renewal filed for the previous year as required by Section 4 of  
3 this Act and Section 4 of the Workers' Occupational Diseases  
4 Act. All sums collected by the Commission under the provisions  
5 of this Section shall be paid promptly after the receipt of the  
6 same, accompanied by a detailed statement thereof, into the  
7 Illinois Workers' Compensation Commission Operations Fund. The  
8 fee due pursuant to Public Act 93-840 shall be collected  
9 instead of the fee due on July 1, 2004 under Public Act 93-32.  
10 Payment of the fee due under Public Act 93-840 shall discharge  
11 the employer's obligations due on July 1, 2004.

12 (c) In addition to the authority specifically granted under  
13 Section 16, the Chairman shall have such authority to adopt  
14 rules or establish forms as may be reasonably necessary for  
15 purposes of enforcing this Section. The Commission shall have  
16 authority to defer, waive, or abate the fee or any penalties  
17 imposed by this Section if in the Commission's opinion the  
18 employer's solvency and ability to meet its obligations to pay  
19 workers' compensation benefits would be immediately threatened  
20 by payment of the fee due.

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

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

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

18 (h) Notwithstanding any other provision of law, the  
19 Director may not charge an Illinois Workers' Compensation  
20 Commission Operations Fund Fee on or after July 1, 2011;  
21 however, the Commission may continue to exercise powers and  
22 duties under this Section with respect to payments due before  
23 July 1, 2011 and any delinquencies, penalties, and overpayments  
24 with respect to payments due before July 1, 2011.

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

26 Section 99. Effective date. This Act takes effect July 1,



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1 2010.