

# HB3467



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB3467**

by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/4

from Ch. 48, par. 138.4

Amends the Workers' Compensation Act. Provides that, in the event of insufficient funds in the Injured Workers' Benefit Fund to pay all claims, an amount of money sufficient to make up the deficiency shall be considered to be always appropriated from the Illinois Workers' Compensation Commission Operations Fund, the Rate Adjustment Fund, the Settlement Fund, and the Second Injury Fund. Provides that the minimum payout from the Injured Workers' Benefit Fund for death or permanent total disability is 364 weeks of benefits payable in a lump sum.

LRB099 07078 JLS 27162 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 Workers' Compensation Act is amended by  
5 changing Section 4 as follows:

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

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

12 (1) File with the Commission annually an application  
13 for approval as a self-insurer which shall include a  
14 current financial statement, and annually, thereafter, an  
15 application for renewal of self-insurance, which shall  
16 include a current financial statement. Said application  
17 and financial statement shall be signed and sworn to by the  
18 president or vice president and secretary or assistant  
19 secretary of the employer if it be a corporation, or by all  
20 of the partners, if it be a copartnership, or by the owner  
21 if it be neither a copartnership nor a corporation. All  
22 initial applications and all applications for renewal of  
23 self-insurance must be submitted at least 60 days prior to

1 the requested effective date of self-insurance. An  
2 employer may elect to provide and pay compensation as  
3 provided for in this Act as a member of a group workers'  
4 compensation pool under Article V 3/4 of the Illinois  
5 Insurance Code. If an employer becomes a member of a group  
6 workers' compensation pool, the employer shall not be  
7 relieved of any obligations imposed by this Act.

8 If the sworn application and financial statement of any  
9 such employer does not satisfy the Commission of the  
10 financial ability of the employer who has filed it, the  
11 Commission shall require such employer to,

12 (2) Furnish security, indemnity or a bond guaranteeing  
13 the payment by the employer of the compensation provided  
14 for in this Act, provided that any such employer whose  
15 application and financial statement shall not have  
16 satisfied the commission of his or her financial ability  
17 and who shall have secured his liability in part by excess  
18 liability insurance shall be required to furnish to the  
19 Commission security, indemnity or bond guaranteeing his or  
20 her payment up to the effective limits of the excess  
21 coverage, or

22 (3) Insure his entire liability to pay such  
23 compensation in some insurance carrier authorized,  
24 licensed, or permitted to do such insurance business in  
25 this State. Every policy of an insurance carrier, insuring  
26 the payment of compensation under this Act shall cover all

1 the employees and the entire compensation liability of the  
2 insured: Provided, however, that any employer may insure  
3 his or her compensation liability with 2 or more insurance  
4 carriers or may insure a part and qualify under subsection  
5 1, 2, or 4 for the remainder of his or her liability to pay  
6 such compensation, subject to the following two  
7 provisions:

8 Firstly, the entire compensation liability of the  
9 employer to employees working at or from one location  
10 shall be insured in one such insurance carrier or shall  
11 be self-insured, and

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

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

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

26 (5) Upon becoming subject to this Act and thereafter as

1 often as the Commission may in writing demand, file with  
2 the Commission in form prescribed by it evidence of his or  
3 her compliance with the provision of this Section.

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

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

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

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

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

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

24 The penalty shall not exceed \$1,000 for each day of work  
25 for which the employer failed to make payments upon the premium  
26 rates of the situs where the work or project is located in

1 Illinois, but the total penalty shall not exceed \$50,000 for  
2 each project or each contract under which the work was  
3 performed.

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

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

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

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

25 (3) Any certificate of insurance coverage document  
26 issued to a client company specifying its rights and

1 obligations under the master policy that establishes both  
2 the identity and status of the client, as well as the dates  
3 of inception and termination of coverage, if applicable.

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

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

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

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

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



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

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

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

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

21 (d) Whenever a panel of 3 Commissioners comprised of one  
22 member of the employing class, one member of the employee  
23 class, and one member not identified with either the employing  
24 or employee class, with due process and after a hearing,  
25 determines an employer has knowingly failed to provide coverage  
26 as required by paragraph (a) of this Section, the failure shall

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

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

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

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

17 Employers who are subject to and who knowingly fail to  
18 comply with this Section shall not be entitled to the benefits  
19 of this Act during the period of noncompliance, but shall be  
20 liable in an action under any other applicable law of this  
21 State. In the action, such employer shall not avail himself or  
22 herself of the defenses of assumption of risk or negligence or  
23 that the injury was due to a co-employee. In the action, proof  
24 of the injury shall constitute prima facie evidence of  
25 negligence on the part of such employer and the burden shall be  
26 on such employer to show freedom of negligence resulting in the

1 injury. The employer shall not join any other defendant in any  
2 such civil action. Nothing in this amendatory Act of the 94th  
3 General Assembly shall affect the employee's rights under  
4 subdivision (a)3 of Section 1 of this Act. Any employer or  
5 carrier who makes payments under subdivision (a)3 of Section 1  
6 of this Act shall have a right of reimbursement from the  
7 proceeds of any recovery under this Section.

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

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

18 An investigator with the Illinois Workers' Compensation  
19 Commission Insurance Compliance Division may issue a citation  
20 to any employer that is not in compliance with its obligation  
21 to have workers' compensation insurance under this Act. The  
22 amount of the fine shall be based on the period of time the  
23 employer was in non-compliance, but shall be no less than \$500,  
24 and shall not exceed \$2,500. An employer that has been issued a  
25 citation shall pay the fine to the Commission and provide to  
26 the Commission proof that it obtained the required workers'

1 compensation insurance within 10 days after the citation was  
2 issued. This Section does not affect any other obligations this  
3 Act imposes on employers.

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

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

14 Upon the failure or refusal of any employer, service or  
15 adjustment company or insurance carrier to comply with the  
16 provisions of this Section and with the orders of the  
17 Commission under this Section, or the order of the court on  
18 review after final adjudication, the Commission may bring a  
19 civil action to recover the amount of the penalty in Cook  
20 County or in Sangamon County in which litigation the Commission  
21 shall be represented by the Attorney General. The Commission  
22 shall send notice of its finding of non-compliance and  
23 assessment of the civil penalty to the Attorney General. It  
24 shall be the duty of the Attorney General within 30 days after  
25 receipt of the notice, to institute prosecutions and promptly  
26 prosecute all reported violations of this Section.

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

10 Penalties and fines collected pursuant to this paragraph  
11 (d) shall be deposited upon receipt into a special fund which  
12 shall be designated the Injured Workers' Benefit Fund, of which  
13 the State Treasurer is ex-officio custodian, such special fund  
14 to be held and disbursed in accordance with this paragraph (d)  
15 for the purposes hereinafter stated in this paragraph (d), upon  
16 the final order of the Commission. The Injured Workers' Benefit  
17 Fund shall be deposited the same as are State funds and any  
18 interest accruing thereon shall be added thereto every 6  
19 months. The Injured Workers' Benefit Fund is subject to audit  
20 the same as State funds and accounts and is protected by the  
21 general bond given by the State Treasurer. The Injured Workers'  
22 Benefit Fund is considered always appropriated for the purposes  
23 of disbursements as provided in this paragraph, and shall be  
24 paid out and disbursed as herein provided and shall not at any  
25 time be appropriated or diverted to any other use or purpose.  
26 Moneys in the Injured Workers' Benefit Fund shall be used only



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

1 Commission shall make a disbursement to each eligible claimant.  
2 At the time of disbursement, if there are insufficient moneys  
3 in the Fund to pay all claims, each eligible claimant shall  
4 receive a pro-rata share, as determined by the Commission, of  
5 the available moneys in the Fund for that year. Payment from  
6 the Injured Workers' Benefit Fund to an eligible claimant  
7 pursuant to this provision shall discharge the obligations of  
8 the Injured Workers' Benefit Fund regarding the award entered  
9 by the Commission.

10 If there are insufficient moneys in the Injured Workers'  
11 Benefit Fund to pay all claims, an amount of money sufficient  
12 to make up the deficiency is considered always to be  
13 appropriated for the purposes of disbursements as provided in  
14 this paragraph from the Illinois Workers' Compensation  
15 Commission Operations Fund, the Rate Adjustment Fund, the  
16 Settlement Fund and the Second Injury Fund.

17 In cases of death or permanent total disability that are  
18 paid out of the Injured Workers' Benefit Fund, the minimum  
19 benefit payable to the eligible claimant shall be 364 weeks of  
20 death or permanent total disability benefits in a lump sum,  
21 excluding benefits payable under subsection (a) or (b) of  
22 Section 8. Benefits payable under subsection (a) or (b) of  
23 Section 8 shall be in addition to the minimum 364 weeks of  
24 death or permanent total disability benefits payable in a lump  
25 sum.

26 Proof that an employer was not insured or is not insured

1 constitutes a rebuttable presumption that the employer  
2 knowingly failed to comply with this Section.

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

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

1 benefits therein.

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

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

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

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

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

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

22           The Chairman of the Commission shall promptly act upon all  
23 initial applications and applications for renewal in full  
24 accordance with the recommendations of the Board or, should the  
25 Chairman disagree with any recommendation of disposition of the  
26 Self-Insurer's Advisory Board, he shall within 30 days of

1 receipt of such recommendation provide to the Board in writing  
2 the reasons supporting his decision. The Chairman shall also  
3 promptly notify the employer of his decision within 15 days of  
4 receipt of the recommendation of the Board.

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

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

23 (Source: P.A. 97-18, eff. 6-28-11.)