

**SB1863**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**SB1863**

Introduced 2/9/2017, by Sen. Dan McConchie

**SYNOPSIS AS INTRODUCED:**

820 ILCS 305/16a

from Ch. 48, par. 138.16a

Amends the Workers' Compensation Act. Limits attorney's fees to 15%, rather than 20%, of the sum which would be due under this Act for 364 weeks of permanent total disability based upon the employee's average weekly wage. Effective immediately.

LRB100 05492 JLS 15503 b

**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 16a as follows:

6 (820 ILCS 305/16a) (from Ch. 48, par. 138.16a)

7 Sec. 16a. (A) In the establishment or approval of  
8 attorney's fees in relation to claims brought under this Act,  
9 the Commission shall be guided by the provisions of this  
10 Section and by the legislative intent, hereby declared, to  
11 encourage settlement and prompt administrative handling of  
12 such claims and thereby reduce expenses to claimants for  
13 compensation under this Act.

14 (B) With respect to any and all proceedings in connection  
15 with any initial or original claim under this Act, no claim of  
16 any attorney for services rendered in connection with the  
17 securing of compensation for an employee or his dependents,  
18 whether secured by agreement, order, award or a judgment in any  
19 court shall exceed 20% of the amount of compensation recovered  
20 and paid, unless further fees shall be allowed to the attorney  
21 upon a hearing by the Commission fixing fees, and subject to  
22 the other provisions of this Section. However, except as  
23 hereinafter provided in this Section, in death cases, total

1 disability cases and partial disability cases, the amount of an  
2 attorney's fees shall not exceed 15% ~~20%~~ of the sum which would  
3 be due under this Act for 364 weeks of permanent total  
4 disability based upon the employee's average gross weekly wage  
5 prior to the date of the accident and subject to the maximum  
6 weekly benefits provided in this Act unless further fees shall  
7 be allowed to the attorney upon a hearing by the Commission  
8 fixing fees.

9 (C) All attorneys' fees in connection with the initial or  
10 original claim for compensation shall be fixed pursuant to a  
11 written contract on forms prescribed by the Commission between  
12 the attorney and the employee or his dependents, and every  
13 attorney, whether the disposition of the original claim is by  
14 agreement, settlement, award, judgment or otherwise, shall  
15 file his contract with the Chairman of the Commission who shall  
16 approve the contract only if it is in accordance with all  
17 provisions of this Section.

18 (D) No attorneys' fees shall be charged with respect to  
19 compensation for undisputed medical expenses.

20 (E) No attorneys' fees shall be charged in connection with  
21 any temporary total disability compensation unless the payment  
22 of such compensation in a timely manner or in the proper amount  
23 is refused, or unless such compensation is terminated by the  
24 employer and the payment of such compensation is obtained or  
25 reinstated by the efforts of the attorney, whether by  
26 agreement, settlement, award or judgment.

1 (F) In the following cases in which there is no dispute  
2 between the parties as to the liability of the respondent to  
3 pay compensation in a timely manner or in the proper amount and  
4 there is no dispute that the accident has resulted in:

5 (1) the death of the employee; or

6 (2) a statutory permanent disability; or

7 (3) the amputation of a finger, toe, or member; or

8 (4) the removal of a testicle; or

9 (5) the enucleation of or 100% loss of vision of an  
10 eye;

11 the legal fees, if any, for services rendered are to be fixed  
12 by the Illinois Workers' Compensation Commission at a nominal  
13 amount, not exceeding \$100.

14 (G) In the following cases in which there is no dispute  
15 between the parties as to the liability of the respondent to  
16 pay compensation and there is no dispute that the accident has  
17 resulted in:

18 (1) a fracture of one or more vertebrae; or

19 (2) a skull fracture; or

20 (3) a fracture of one or more spinous or transverse  
21 processes; or

22 (4) a fracture of one or more facial bones; or

23 (5) the removal of a kidney, spleen or lung;

24 the legal fees, if any, for services rendered are to be fixed  
25 by the Illinois Workers' Compensation Commission at a nominal  
26 amount, not exceeding \$100, provided that the employee is

1 awarded the minimum amount for the above injuries as specified  
2 in Section 8(d)2.

3 (H) With regard to any claim where the amount to be paid  
4 for compensation does not exceed the written offer made to the  
5 claimant or claimants by the employer or his agent prior to  
6 representation by an attorney, no fees shall be paid to any  
7 such attorney.

8 (I) All attorneys' fees for representation of an employee  
9 or his dependents shall be only recoverable from compensation  
10 actually paid to such employee or dependents.

11 (J) Any and all disputes regarding attorneys' fees, whether  
12 such disputes relate to which one or more attorneys represents  
13 the claimant or claimants or is entitled to the attorneys'  
14 fees, or a division of attorneys' fees where the claimant or  
15 claimants are or have been represented by more than one  
16 attorney, or any other disputes concerning attorneys' fees or  
17 contracts for attorneys' fees, shall be heard and determined by  
18 the Commission after reasonable notice to all interested  
19 parties and attorneys.

20 (K) After reasonable notice and hearing before the  
21 Commission, any attorney found to be in violation of any  
22 provision of this Section shall be required to make restitution  
23 of any excess fees charged plus interest at a reasonable rate  
24 as determined by the Commission.

25 (Source: P.A. 93-721, eff. 1-1-05.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.