



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5575

Introduced 2/9/2024, by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

820 ILCS 305/4	from Ch. 48, par. 138.4
820 ILCS 305/19	from Ch. 48, par. 138.19
820 ILCS 305/25.5	

Amends the Workers' Compensation Act. Makes changes in provisions concerning the collection of civil penalties or reimbursements for amounts paid by the Injured Workers' Benefit Fund due under an order of the Illinois Workers' Compensation Commission. Makes changes to penalties for any person, company, corporation, insurance carrier, healthcare provider, or other entity that intentionally prepares or provides an invalid, false, or counterfeit certificate of insurance as proof of workers' compensation insurance or intentionally assists, abets, solicits, or conspires with any person, company, or other entity to intentionally prepare or provide an invalid, false, or counterfeit certificate of insurance as proof of workers' compensation insurance. Makes other changes.

LRB103 36543 SPS 66650 b

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 Sections 4, 19, and 25.5 as follows:

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

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

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

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

1 self-insurance must be submitted at least 60 days prior to
2 the requested effective date of self-insurance. An
3 employer may elect to provide and pay compensation as
4 provided for in this Act as a member of a group workers'
5 compensation pool under Article V 3/4 of the Illinois
6 Insurance Code. If an employer becomes a member of a group
7 workers' compensation pool, the employer shall not be
8 relieved of any obligations imposed by this Act.

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

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

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

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

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

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

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

25 (4) Make some other provision, satisfactory to the
26 Commission, for the securing of the payment of

1 compensation provided for in this Act, and

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

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

11 (A) the employer is engaged primarily in the building
12 and construction industry; and

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

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

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

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

1 The penalty shall not exceed \$1,000 for each day of work
2 for which the employer failed to make payments upon the
3 premium rates of the situs where the work or project is located
4 in Illinois, but the total penalty shall not exceed \$50,000
5 for each project or each contract under which the work was
6 performed.

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

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

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

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

4 (3) Any certificate of insurance coverage document
5 issued to a client company specifying its rights and
6 obligations under the master policy that establishes both
7 the identity and status of the client, as well as the dates
8 of inception and termination of coverage, if applicable.

9 (b) The sworn application and financial statement, or
10 security, indemnity or bond, or amount of insurance, or other
11 provisions, filed, furnished, carried, or made by the
12 employer, as the case may be, shall be subject to the approval
13 of the Commission.

14 Deposits under escrow agreements shall be cash, negotiable
15 United States government bonds or negotiable general
16 obligation bonds of the State of Illinois. Such cash or bonds
17 shall be deposited in escrow with any State or National Bank or
18 Trust Company having trust authority in the State of Illinois.

19 Upon the approval of the sworn application and financial
20 statement, security, indemnity or bond or amount of insurance,
21 filed, furnished or carried, as the case may be, the
22 Commission shall send to the employer written notice of its
23 approval thereof. The certificate of compliance by the
24 employer with the provisions of subparagraphs (2) and (3) of
25 paragraph (a) of this Section shall be delivered by the
26 insurance carrier to the Illinois Workers' Compensation

1 Commission within five days after the effective date of the
2 policy so certified. The insurance so certified shall cover
3 all compensation liability occurring during the time that the
4 insurance is in effect and no further certificate need be
5 filed in case such insurance is renewed, extended or otherwise
6 continued by such carrier. The insurance so certified shall
7 not be cancelled or in the event that such insurance is not
8 renewed, extended or otherwise continued, such insurance shall
9 not be terminated until at least 10 days after receipt by the
10 Illinois Workers' Compensation Commission of notice of the
11 cancellation or termination of said insurance; provided,
12 however, that if the employer has secured insurance from
13 another insurance carrier, or has otherwise secured the
14 payment of compensation in accordance with this Section, and
15 such insurance or other security becomes effective prior to
16 the expiration of the 10 days, cancellation or termination
17 may, at the option of the insurance carrier indicated in such
18 notice, be effective as of the effective date of such other
19 insurance or security.

20 (c) Whenever the Commission shall find that any
21 corporation, company, association, aggregation of individuals,
22 reciprocal or interinsurers exchange, or other insurer
23 effecting workers' compensation insurance in this State shall
24 be insolvent, financially unsound, or unable to fully meet all
25 payments and liabilities assumed or to be assumed for
26 compensation insurance in this State, or shall practice a

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

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

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

1 (d) Whenever a Commissioner, with due process and after a
2 hearing, determines an employer has knowingly failed to
3 provide coverage as required by paragraph (a) of this Section,
4 the failure shall be deemed an immediate serious danger to
5 public health, safety, and welfare sufficient to justify
6 service by the Commission of a work-stop order on such
7 employer, requiring the cessation of all business operations
8 of such employer at the place of employment or job site. If a
9 business is declared to be extra hazardous, as defined in
10 Section 3, a Commissioner may issue an emergency work-stop
11 order on such an employer ex parte, prior to holding a hearing,
12 requiring the cessation of all business operations of such
13 employer at the place of employment or job site while awaiting
14 the ruling of the Commission. Whenever a Commissioner issues
15 an emergency work-stop order, the Commission shall issue a
16 notice of emergency work-stop hearing to be posted at the
17 employer's places of employment and job sites. Any law
18 enforcement agency in the State shall, at the request of the
19 Commission, render any assistance necessary to carry out the
20 provisions of this Section, including, but not limited to,
21 preventing any employee of such employer from remaining at a
22 place of employment or job site after a work-stop order has
23 taken effect. Any work-stop order shall be lifted upon proof
24 of insurance as required by this Act. Any orders under this
25 Section are appealable under Section 19(f) to the Circuit
26 Court.

1 Any individual employer, corporate officer or director of
2 a corporate employer, partner of an employer partnership, or
3 member of an employer limited liability company who knowingly
4 fails to provide coverage as required by paragraph (a) of this
5 Section is guilty of a Class 4 felony. This provision shall not
6 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, or may, in addition to other remedies provided in
12 this Section, bring an action for an injunction to restrain
13 the violation or to enjoin the operation of any such employer.

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
17 negligently fails to provide coverage as required by paragraph
18 (a) of this Section is guilty of a Class A misdemeanor. This
19 provision shall not apply to any corporate officer or director
20 of any publicly-owned corporation. Each day's violation
21 constitutes a separate offense. The State's Attorney of the
22 county in which the violation occurred, or the Attorney
23 General, shall bring such actions in the name of the People of
24 the State of Illinois.

25 The criminal penalties in this subsection (d) shall not
26 apply where there exists a good faith dispute as to the

1 existence of an employment relationship. Evidence of good
2 faith shall include, but not be limited to, compliance with
3 the definition of employee as used by the Internal Revenue
4 Service.

5 All investigative actions must be acted upon within 90
6 days of the issuance of the complaint. Employers who are
7 subject to and who knowingly fail to comply with this Section
8 shall not be entitled to the benefits of this Act during the
9 period of noncompliance, but shall be liable in an action
10 under any other applicable law of this State. In the action,
11 such employer shall not avail himself or herself of the
12 defenses of assumption of risk or negligence or that the
13 injury was due to a co-employee. In the action, proof of the
14 injury shall constitute prima facie evidence of negligence on
15 the part of such employer and the burden shall be on such
16 employer to show freedom of negligence resulting in the
17 injury. The employer shall not join any other defendant in any
18 such civil action. Nothing in this amendatory Act of the 94th
19 General Assembly shall affect the employee's rights under
20 subdivision (a)3 of Section 1 of this Act. Any employer or
21 carrier who makes payments under subdivision (a)3 of Section 1
22 of this Act shall have a right of reimbursement from the
23 proceeds of any recovery under this Section.

24 An employee of an uninsured employer, or the employee's
25 dependents in case death ensued, may, instead of proceeding
26 against the employer in a civil action in court, file an

1 application for adjustment of claim with the Commission in
2 accordance with the provisions of this Act and the Commission
3 shall hear and determine the application for adjustment of
4 claim in the manner in which other claims are heard and
5 determined before the Commission.

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

9 An investigator with the Department of Insurance may issue
10 a citation to any employer that is not in compliance with its
11 obligation to have workers' compensation insurance under this
12 Act. The amount of the fine shall be based on the period of
13 time the employer was in non-compliance, but shall be no less
14 than \$500, and shall not exceed \$10,000. An employer that has
15 been issued a citation shall pay the fine to the Department of
16 Insurance and provide to the Department of Insurance proof
17 that it obtained the required workers' compensation insurance
18 within 10 days after the citation was issued. This Section
19 does not affect any other obligations this Act imposes on
20 employers.

21 Upon a finding by the Commission, after reasonable notice
22 and hearing, of the knowing and willful failure or refusal of
23 an employer to comply with any of the provisions of paragraph
24 (a) of this Section, the failure or refusal of an employer,
25 service or adjustment company, or an insurance carrier to
26 comply with any order of the Illinois Workers' Compensation

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

1 prosecute all proceedings to enforce the civil and
2 administrative provisions of this Section before the
3 Commission. The Commission and the Department of Insurance
4 shall promulgate procedural rules for enforcing this Section
5 relating to their respective duties prescribed herein.

6 If an employer is found to be in non-compliance with any
7 provisions of paragraph (a) of this Section more than once,
8 all minimum penalties will double. Therefore, upon the failure
9 or refusal of an employer, service or adjustment company, or
10 insurance carrier to comply with any order of the Commission
11 pursuant to paragraph (c) of this Section disqualifying him or
12 her to operate as a self-insurer and requiring him or her to
13 insure his or her liability, or the knowing and willful
14 failure of an employer to comply with a citation issued by an
15 investigator with the Department of Insurance, the Commission
16 may assess a civil penalty of up to \$1,000 per day for each day
17 of such failure or refusal after the effective date of this
18 amendatory Act of the 101st General Assembly. The minimum
19 penalty under this Section shall be the sum of \$20,000. In
20 addition, employers with 2 or more violations of any
21 provisions of paragraph (a) of this Section may not
22 self-insure for one year or until all penalties are paid.

23 Any final order of the Commission imposing penalties under
24 this Section may be reviewed as described in subsection (f) of
25 Section 19. It shall be the duty of the Attorney General to
26 represent the Commission in any review proceeding. After all

1 reviews have been exhausted or waived, the Commission's order
2 imposing penalties is a debt due and owing the State and may be
3 enforced in the same manner as a judgment entered by a court of
4 competent jurisdiction as described in subsection (g) of
5 Section 19. It shall be the duty of the Attorney General to
6 make all reasonable efforts to collect the amounts due under
7 the Commission's order.

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

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, with the
24 intent to avoid payment of compensation under this Act to an
25 injured employee or the employee's dependents, knowingly
26 transfers, sells, encumbers, assigns, or in any manner

1 disposes of, conceals, secretes, or destroys any property
2 belonging to the employer, officer, director, partner, or
3 member is guilty of a Class 4 felony.

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

26 The Commission shall have the right to order any employer

1 who has failed to properly secure its workers' compensation
2 obligations to reimburse ~~obtain reimbursement from the~~
3 ~~employer for compensation obligations paid by~~ the Injured
4 Workers' Benefit Fund for amounts paid by the Injured Workers'
5 Benefit Fund to the employer's employees. The Commission shall
6 reserve jurisdiction in any matter in which an award is made
7 against the Injured Workers' Benefit Fund for the purpose of
8 issuing an order requiring reimbursement of the Injured
9 Workers' Benefit Fund once the amount paid is known. Within 30
10 days after payment by the Injured Workers' Benefit Fund to the
11 employee, the Commission shall enter an order requiring the
12 employer to reimburse the Injured Workers' Benefit Fund. Any
13 final order may be reviewed as described in subsection (f) of
14 Section 19. It shall be the duty of the Attorney General to
15 represent the Commission in any review proceeding. After all
16 reviews have been exhausted or waived, the Commission's order
17 requiring reimbursement is a debt due and owing this State and
18 may be enforced in the same manner as a judgment entered by a
19 court of competent jurisdiction as described in subsection (g)
20 of Section 19. It shall be the duty of the Attorney General to
21 make all reasonable efforts to collect the amounts due under
22 the Commission's order. Any such amounts obtained shall be
23 deposited by the Commission into the Injured Workers' Benefit
24 Fund. If an injured employee or his or her personal
25 representative receives payment from the Injured Workers'
26 Benefit Fund, the State of Illinois has the same rights under

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

25 (e) This Act shall not affect or disturb the continuance
26 of any existing insurance, mutual aid, benefit, or relief

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

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

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

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

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

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

24 It shall be unlawful for any employer, individually or
25 through any insurance company or service or adjustment
26 company, to discharge or to threaten to discharge, or to

1 refuse to rehire or recall to active service in a suitable
2 capacity an employee because of the exercise of his or her
3 rights or remedies granted to him or her by this Act.

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

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

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

1 shall also promptly notify the employer of his decision within
2 15 days of receipt of the recommendation of the Board.

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

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

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

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

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

1 employer who shall elect to provide and pay the compensation
2 provided for in this Act shall:

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

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

26 (2) Furnish security, indemnity or a bond guaranteeing

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

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

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

26 Secondly, the employer shall submit evidence

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

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

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

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

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

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

26 (B) subdivision (a) (3) of this Section applies to the

1 employer or the employer is a member of a group
2 self-insurance plan as defined in subsection (1) of
3 Section 4a.

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

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

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

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

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

1 Fund shall be used solely for the operations of the Illinois
2 Workers' Compensation Commission and by the Department of
3 Insurance for the purposes authorized in subsection (c) of
4 Section 25.5 of this Act.

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

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

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

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

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

25 Deposits under escrow agreements shall be cash, negotiable
26 United States government bonds or negotiable general

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

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

1 the expiration of the 10 days, cancellation or termination
2 may, at the option of the insurance carrier indicated in such
3 notice, be effective as of the effective date of such other
4 insurance or security.

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

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

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

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

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

12 (d) Whenever a panel of 3 Commissioners comprised of one
13 member of the employing class, one representative of a labor
14 organization recognized under the National Labor Relations Act
15 or an attorney who has represented labor organizations or has
16 represented employees in workers' compensation cases, and one
17 member not identified with either the employing class or a
18 labor organization, with due process and after a hearing,
19 determines an employer has knowingly failed to provide
20 coverage as required by paragraph (a) of this Section, the
21 failure shall be deemed an immediate serious danger to public
22 health, safety, and welfare sufficient to justify service by
23 the Commission of a work-stop order on such employer,
24 requiring the cessation of all business operations of such
25 employer at the place of employment or job site. 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 Employers who are subject to and who knowingly fail to
14 comply with this Section shall not be entitled to the benefits
15 of this Act during the period of noncompliance, but shall be
16 liable in an action under any other applicable law of this
17 State. In the action, such employer shall not avail himself or
18 herself of the defenses of assumption of risk or negligence or
19 that the injury was due to a co-employee. In the action, proof
20 of the injury shall constitute prima facie evidence of
21 negligence on the part of such employer and the burden shall be
22 on such employer to show freedom of negligence resulting in
23 the injury. The employer shall not join any other defendant in
24 any such civil action. Nothing in this amendatory Act of the
25 94th General Assembly shall affect the employee's rights under
26 subdivision (a)3 of Section 1 of this Act. Any employer or

1 carrier who makes payments under subdivision (a)3 of Section 1
2 of this Act shall have a right of reimbursement from the
3 proceeds of any recovery under this Section.

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

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

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

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

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

12 Any final order of the Commission imposing penalties under
13 this Section may be reviewed as described in subsection (f) of
14 Section 19. It shall be the duty of the Attorney General to
15 represent the Commission in any review proceeding. After all
16 reviews have been exhausted or waived, the Commission's order
17 imposing penalties is a debt due and owing the State and may be
18 enforced in the same manner as a judgment entered by a court of
19 competent jurisdiction as described in subsection (g) of
20 Section 19. It shall be the duty of the Attorney General to
21 make all reasonable efforts to collect the amounts due under
22 the Commission's order.

23 ~~Upon the failure or refusal of any employer, service or~~
24 ~~adjustment company or insurance carrier to comply with the~~
25 ~~provisions of this Section and with the orders of the~~
26 ~~Commission under this Section, or the order of the court on~~

~~review after final adjudication, the Commission may bring a civil action to recover the amount of the penalty in Cook County or in Sangamon County in which litigation the Commission shall be represented by the Attorney General. The Commission shall send notice of its finding of non compliance and assessment of the civil penalty to the Attorney General. It shall be the duty of the Attorney General within 30 days after receipt of the notice, to institute prosecutions and promptly prosecute all reported violations of this Section.~~

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

Penalties and fines collected pursuant to this paragraph (d) shall be deposited upon receipt into a special fund which shall be designated the Injured Workers' Benefit Fund, of which the State Treasurer is ex-officio custodian, such special fund to be held and disbursed in accordance with this paragraph (d) for the purposes hereinafter stated in this paragraph (d), upon the final order of the Commission. The Injured Workers' Benefit Fund shall be deposited the same as

1 are State funds and any interest accruing thereon shall be
2 added thereto every 6 months. The Injured Workers' Benefit
3 Fund is subject to audit the same as State funds and accounts
4 and is protected by the general bond given by the State
5 Treasurer. The Injured Workers' Benefit Fund is considered
6 always appropriated for the purposes of disbursements as
7 provided in this paragraph, and shall be paid out and
8 disbursed as herein provided and shall not at any time be
9 appropriated or diverted to any other use or purpose. Moneys
10 in the Injured Workers' Benefit Fund shall be used only for
11 payment of workers' compensation benefits for injured
12 employees when the employer has failed to provide coverage as
13 determined under this paragraph (d) and has failed to pay the
14 benefits due to the injured employee.

15 The Commission shall have the right to order any employer
16 who has failed to properly secure their workers' compensation
17 obligations to reimburse ~~obtain reimbursement from the~~
18 ~~employer for compensation obligations paid by the Injured~~
19 ~~Workers' Benefit Fund~~ for amounts paid by the Injured Workers'
20 Benefit Fund to the employer's employees. The Commission shall
21 reserve jurisdiction in any matter in which an award is made
22 against the Injured Workers' Benefit Fund for the purpose of
23 issuing an order requiring reimbursement of the Injured
24 Workers' Benefit Fund once the amount paid is known. Within 30
25 days after payment by the Injured Workers' Benefit Fund to the
26 employee, the Commission shall enter an order requiring the

1 employer to reimburse the Injured Workers' Benefit Fund. Any
2 final order may be reviewed as described in subsection (f) of
3 Section 19. It shall be the duty of the Attorney General to
4 represent the Commission in any review proceeding. After all
5 reviews have been exhausted or waived, the Commission's order
6 requiring reimbursement is a debt due and owing this State and
7 may be enforced in the same manner as a judgment entered by a
8 court of competent jurisdiction as described in subsection (g)
9 of Section 19. It shall be the duty of the Attorney General to
10 make all reasonable efforts to collect the amounts due under
11 the Commission's order. Any such amounts obtained shall be
12 deposited by the Commission into the Injured Workers' Benefit
13 Fund. If an injured employee or his or her personal
14 representative receives payment from the Injured Workers'
15 Benefit Fund, the State of Illinois has the same rights under
16 paragraph (b) of Section 5 that the employer who failed to pay
17 the benefits due to the injured employee would have had if the
18 employer had paid those benefits, and any moneys recovered by
19 the State as a result of the State's exercise of its rights
20 under paragraph (b) of Section 5 shall be deposited into the
21 Injured Workers' Benefit Fund. The custodian of the Injured
22 Workers' Benefit Fund shall be joined with the employer as a
23 party respondent in the application for adjustment of claim.
24 After July 1, 2006, the Commission shall make disbursements
25 from the Fund once each year to each eligible claimant. An
26 eligible claimant is an injured worker who has within the

1 previous fiscal year obtained a final award for benefits from
2 the Commission against the employer and the Injured Workers'
3 Benefit Fund and has notified the Commission within 90 days of
4 receipt of such award. Within a reasonable time after the end
5 of each fiscal year, the Commission shall make a disbursement
6 to each eligible claimant. At the time of disbursement, if
7 there are insufficient moneys in the Fund to pay all claims,
8 each eligible claimant shall receive a pro-rata share, as
9 determined by the Commission, of the available moneys in the
10 Fund for that year. Payment from the Injured Workers' Benefit
11 Fund to an eligible claimant pursuant to this provision shall
12 discharge the obligations of the Injured Workers' Benefit Fund
13 regarding the award entered by the Commission.

14 (e) This Act shall not affect or disturb the continuance
15 of any existing insurance, mutual aid, benefit, or relief
16 association or department, whether maintained in whole or in
17 part by the employer or whether maintained by the employees,
18 the payment of benefits of such association or department
19 being guaranteed by the employer or by some person, firm or
20 corporation for him or her: Provided, the employer contributes
21 to such association or department an amount not less than the
22 full compensation herein provided, exclusive of the cost of
23 the maintenance of such association or department and without
24 any expense to the employee. This Act shall not prevent the
25 organization and maintaining under the insurance laws of this
26 State of any benefit or insurance company for the purpose of

1 insuring against the compensation provided for in this Act,
2 the expense of which is maintained by the employer. This Act
3 shall not prevent the organization or maintaining under the
4 insurance laws of this State of any voluntary mutual aid,
5 benefit or relief association among employees for the payment
6 of additional accident or sick benefits.

7 (f) No existing insurance, mutual aid, benefit or relief
8 association or department shall, by reason of anything herein
9 contained, be authorized to discontinue its operation without
10 first discharging its obligations to any and all persons
11 carrying insurance in the same or entitled to relief or
12 benefits therein.

13 (g) Any contract, oral, written or implied, of employment
14 providing for relief benefit, or insurance or any other device
15 whereby the employee is required to pay any premium or
16 premiums for insurance against the compensation provided for
17 in this Act shall be null and void. Any employer withholding
18 from the wages of any employee any amount for the purpose of
19 paying any such premium shall be guilty of a Class B
20 misdemeanor.

21 In the event the employer does not pay the compensation
22 for which he or she is liable, then an insurance company,
23 association or insurer which may have insured such employer
24 against such liability shall become primarily liable to pay to
25 the employee, his or her personal representative or
26 beneficiary the compensation required by the provisions of

1 this Act to be paid by such employer. The insurance carrier may
2 be made a party to the proceedings in which the employer is a
3 party and an award may be entered jointly against the employer
4 and the insurance carrier.

5 (h) It shall be unlawful for any employer, insurance
6 company or service or adjustment company to interfere with,
7 restrain or coerce an employee in any manner whatsoever in the
8 exercise of the rights or remedies granted to him or her by
9 this Act or to discriminate, attempt to discriminate, or
10 threaten to discriminate against an employee in any way
11 because of his or her exercise of the rights or remedies
12 granted to him or her by this Act.

13 It shall be unlawful for any employer, individually or
14 through any insurance company or service or adjustment
15 company, to discharge or to threaten to discharge, or to
16 refuse to rehire or recall to active service in a suitable
17 capacity an employee because of the exercise of his or her
18 rights or remedies granted to him or her by this Act.

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

24 (j) Within 45 days of receipt of an initial application or
25 application to renew self-insurance privileges the
26 Self-Insurers Advisory Board shall review and submit for

1 approval by the Chairman of the Commission recommendations of
2 disposition of all initial applications to self-insure and all
3 applications to renew self-insurance privileges filed by
4 private self-insurers pursuant to the provisions of this
5 Section and Section 4a-9 of this Act. Each private
6 self-insurer shall submit with its initial and renewal
7 applications the application fee required by Section 4a-4 of
8 this Act.

9 The Chairman of the Commission shall promptly act upon all
10 initial applications and applications for renewal in full
11 accordance with the recommendations of the Board or, should
12 the Chairman disagree with any recommendation of disposition
13 of the Self-Insurer's Advisory Board, he shall within 30 days
14 of receipt of such recommendation provide to the Board in
15 writing the reasons supporting his decision. The Chairman
16 shall also promptly notify the employer of his decision within
17 15 days of receipt of the recommendation of the Board.

18 If an employer is denied a renewal of self-insurance
19 privileges pursuant to application it shall retain said
20 privilege for 120 days after receipt of a notice of
21 cancellation of the privilege from the Chairman of the
22 Commission.

23 All orders made by the Chairman under this Section shall
24 be subject to review by the courts, such review to be taken in
25 the same manner and within the same time as provided by
26 subsection (f) of Section 19 of this Act for review of awards

1 and decisions of the Commission, upon the party seeking the
2 review filing with the clerk of the court to which such review
3 is taken a bond in an amount to be fixed and approved by the
4 court to which the review is taken, conditioned upon the
5 payment of all compensation awarded against the person taking
6 such review pending a decision thereof and further conditioned
7 upon such other obligations as the court may impose. Upon the
8 review the Circuit Court shall have power to review all
9 questions of fact as well as of law.

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

11 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

1 apply.

2 2. Whenever any claimant misconceives his remedy and
3 files an application for adjustment of claim under the
4 Workers' Occupational Diseases Act and it is subsequently
5 discovered, at any time before final disposition of such
6 cause that the claim for injury or death which was the
7 basis for such application should properly have been made
8 under this Act, then the application so filed under the
9 Workers' Occupational Diseases Act may be amended in form,
10 substance or both to assert claim for such disability or
11 death under this Act and it shall be deemed to have been so
12 filed as amended on the date of the original filing
13 thereof, and such compensation may be awarded as is
14 warranted by the whole evidence pursuant to this Act. When
15 such amendment is submitted, further or additional
16 evidence may be heard by the Arbitrator or Commission when
17 deemed necessary. Nothing in this Section contained shall
18 be construed to be or permit a waiver of any provisions of
19 this Act with reference to notice but notice if given
20 shall be deemed to be a notice under the provisions of this
21 Act if given within the time required herein.

22 (b) The Arbitrator shall make such inquiries and
23 investigations as he or they shall deem necessary and may
24 examine and inspect all books, papers, records, places, or
25 premises relating to the questions in dispute and hear such
26 proper evidence as the parties may submit.

1 The hearings before the Arbitrator shall be held in the
2 vicinity where the injury occurred after 10 days' notice of
3 the time and place of such hearing shall have been given to
4 each of the parties or their attorneys of record.

5 The Arbitrator may find that the disabling condition is
6 temporary and has not yet reached a permanent condition and
7 may order the payment of compensation up to the date of the
8 hearing, which award shall be reviewable and enforceable in
9 the same manner as other awards, and in no instance be a bar to
10 a further hearing and determination of a further amount of
11 temporary total compensation or of compensation for permanent
12 disability, but shall be conclusive as to all other questions
13 except the nature and extent of said disability.

14 The decision of the Arbitrator shall be filed with the
15 Commission which Commission shall immediately send to each
16 party or his attorney a copy of such decision, together with a
17 notification of the time when it was filed. As of the effective
18 date of this amendatory Act of the 94th General Assembly, all
19 decisions of the Arbitrator shall set forth in writing
20 findings of fact and conclusions of law, separately stated, if
21 requested by either party. Unless a petition for review is
22 filed by either party within 30 days after the receipt by such
23 party of the copy of the decision and notification of time when
24 filed, and unless such party petitioning for a review shall
25 within 35 days after the receipt by him of the copy of the
26 decision, file with the Commission either an agreed statement

1 of the facts appearing upon the hearing before the Arbitrator,
2 or if such party shall so elect a correct transcript of
3 evidence of the proceedings at such hearings, then the
4 decision shall become the decision of the Commission and in
5 the absence of fraud shall be conclusive. The Petition for
6 Review shall contain a statement of the petitioning party's
7 specific exceptions to the decision of the arbitrator. The
8 jurisdiction of the Commission to review the decision of the
9 arbitrator shall not be limited to the exceptions stated in
10 the Petition for Review. The Commission, or any member
11 thereof, may grant further time not exceeding 30 days, in
12 which to file such agreed statement or transcript of evidence.
13 Such agreed statement of facts or correct transcript of
14 evidence, as the case may be, shall be authenticated by the
15 signatures of the parties or their attorneys, and in the event
16 they do not agree as to the correctness of the transcript of
17 evidence it shall be authenticated by the signature of the
18 Arbitrator designated by the Commission.

19 Whether the employee is working or not, if the employee is
20 not receiving or has not received medical, surgical, or
21 hospital services or other services or compensation as
22 provided in paragraph (a) of Section 8, or compensation as
23 provided in paragraph (b) of Section 8, the employee may at any
24 time petition for an expedited hearing by an Arbitrator on the
25 issue of whether or not he or she is entitled to receive
26 payment of the services or compensation. Provided the employer

1 continues to pay compensation pursuant to paragraph (b) of
2 Section 8, the employer may at any time petition for an
3 expedited hearing on the issue of whether or not the employee
4 is entitled to receive medical, surgical, or hospital services
5 or other services or compensation as provided in paragraph (a)
6 of Section 8, or compensation as provided in paragraph (b) of
7 Section 8. When an employer has petitioned for an expedited
8 hearing, the employer shall continue to pay compensation as
9 provided in paragraph (b) of Section 8 unless the arbitrator
10 renders a decision that the employee is not entitled to the
11 benefits that are the subject of the expedited hearing or
12 unless the employee's treating physician has released the
13 employee to return to work at his or her regular job with the
14 employer or the employee actually returns to work at any other
15 job. If the arbitrator renders a decision that the employee is
16 not entitled to the benefits that are the subject of the
17 expedited hearing, a petition for review filed by the employee
18 shall receive the same priority as if the employee had filed a
19 petition for an expedited hearing by an Arbitrator. Neither
20 party shall be entitled to an expedited hearing when the
21 employee has returned to work and the sole issue in dispute
22 amounts to less than 12 weeks of unpaid compensation pursuant
23 to paragraph (b) of Section 8.

24 Expedited hearings shall have priority over all other
25 petitions and shall be heard by the Arbitrator and Commission
26 with all convenient speed. Any party requesting an expedited

1 hearing shall give notice of a request for an expedited
2 hearing under this paragraph. A copy of the Application for
3 Adjustment of Claim shall be attached to the notice. The
4 Commission shall adopt rules and procedures under which the
5 final decision of the Commission under this paragraph is filed
6 not later than 180 days from the date that the Petition for
7 Review is filed with the Commission.

8 Where 2 or more insurance carriers, private self-insureds,
9 or a group workers' compensation pool under Article V 3/4 of
10 the Illinois Insurance Code dispute coverage for the same
11 injury, any such insurance carrier, private self-insured, or
12 group workers' compensation pool may request an expedited
13 hearing pursuant to this paragraph to determine the issue of
14 coverage, provided coverage is the only issue in dispute and
15 all other issues are stipulated and agreed to and further
16 provided that all compensation benefits including medical
17 benefits pursuant to Section 8(a) continue to be paid to or on
18 behalf of petitioner. Any insurance carrier, private
19 self-insured, or group workers' compensation pool that is
20 determined to be liable for coverage for the injury in issue
21 shall reimburse any insurance carrier, private self-insured,
22 or group workers' compensation pool that has paid benefits to
23 or on behalf of petitioner for the injury.

24 (b-1) If the employee is not receiving medical, surgical
25 or hospital services as provided in paragraph (a) of Section 8
26 or compensation as provided in paragraph (b) of Section 8, the

1 employee, in accordance with Commission Rules, may file a
2 petition for an emergency hearing by an Arbitrator on the
3 issue of whether or not he is entitled to receive payment of
4 such compensation or services as provided therein. Such
5 petition shall have priority over all other petitions and
6 shall be heard by the Arbitrator and Commission with all
7 convenient speed.

8 Such petition shall contain the following information and
9 shall be served on the employer at least 15 days before it is
10 filed:

11 (i) the date and approximate time of accident;

12 (ii) the approximate location of the accident;

13 (iii) a description of the accident;

14 (iv) the nature of the injury incurred by the
15 employee;

16 (v) the identity of the person, if known, to whom the
17 accident was reported and the date on which it was
18 reported;

19 (vi) the name and title of the person, if known,
20 representing the employer with whom the employee conferred
21 in any effort to obtain compensation pursuant to paragraph
22 (b) of Section 8 of this Act or medical, surgical or
23 hospital services pursuant to paragraph (a) of Section 8
24 of this Act and the date of such conference;

25 (vii) a statement that the employer has refused to pay
26 compensation pursuant to paragraph (b) of Section 8 of

1 this Act or for medical, surgical or hospital services
2 pursuant to paragraph (a) of Section 8 of this Act;

3 (viii) the name and address, if known, of each witness
4 to the accident and of each other person upon whom the
5 employee will rely to support his allegations;

6 (ix) the dates of treatment related to the accident by
7 medical practitioners, and the names and addresses of such
8 practitioners, including the dates of treatment related to
9 the accident at any hospitals and the names and addresses
10 of such hospitals, and a signed authorization permitting
11 the employer to examine all medical records of all
12 practitioners and hospitals named pursuant to this
13 paragraph;

14 (x) a copy of a signed report by a medical
15 practitioner, relating to the employee's current inability
16 to return to work because of the injuries incurred as a
17 result of the accident or such other documents or
18 affidavits which show that the employee is entitled to
19 receive compensation pursuant to paragraph (b) of Section
20 8 of this Act or medical, surgical or hospital services
21 pursuant to paragraph (a) of Section 8 of this Act. Such
22 reports, documents or affidavits shall state, if possible,
23 the history of the accident given by the employee, and
24 describe the injury and medical diagnosis, the medical
25 services for such injury which the employee has received
26 and is receiving, the physical activities which the

1 employee cannot currently perform as a result of any
2 impairment or disability due to such injury, and the
3 prognosis for recovery;

4 (xi) complete copies of any reports, records,
5 documents and affidavits in the possession of the employee
6 on which the employee will rely to support his
7 allegations, provided that the employer shall pay the
8 reasonable cost of reproduction thereof;

9 (xii) a list of any reports, records, documents and
10 affidavits which the employee has demanded by subpoena and
11 on which he intends to rely to support his allegations;

12 (xiii) a certification signed by the employee or his
13 representative that the employer has received the petition
14 with the required information 15 days before filing.

15 Fifteen days after receipt by the employer of the petition
16 with the required information the employee may file said
17 petition and required information and shall serve notice of
18 the filing upon the employer. The employer may file a motion
19 addressed to the sufficiency of the petition. If an objection
20 has been filed to the sufficiency of the petition, the
21 arbitrator shall rule on the objection within 2 working days.
22 If such an objection is filed, the time for filing the final
23 decision of the Commission as provided in this paragraph shall
24 be tolled until the arbitrator has determined that the
25 petition is sufficient.

26 The employer shall, within 15 days after receipt of the

1 notice that such petition is filed, file with the Commission
2 and serve on the employee or his representative a written
3 response to each claim set forth in the petition, including
4 the legal and factual basis for each disputed allegation and
5 the following information: (i) complete copies of any reports,
6 records, documents and affidavits in the possession of the
7 employer on which the employer intends to rely in support of
8 his response, (ii) a list of any reports, records, documents
9 and affidavits which the employer has demanded by subpoena and
10 on which the employer intends to rely in support of his
11 response, (iii) the name and address of each witness on whom
12 the employer will rely to support his response, and (iv) the
13 names and addresses of any medical practitioners selected by
14 the employer pursuant to Section 12 of this Act and the time
15 and place of any examination scheduled to be made pursuant to
16 such Section.

17 Any employer who does not timely file and serve a written
18 response without good cause may not introduce any evidence to
19 dispute any claim of the employee but may cross examine the
20 employee or any witness brought by the employee and otherwise
21 be heard.

22 No document or other evidence not previously identified by
23 either party with the petition or written response, or by any
24 other means before the hearing, may be introduced into
25 evidence without good cause. If, at the hearing, material
26 information is discovered which was not previously disclosed,

1 the Arbitrator may extend the time for closing proof on the
2 motion of a party for a reasonable period of time which may be
3 more than 30 days. No evidence may be introduced pursuant to
4 this paragraph as to permanent disability. No award may be
5 entered for permanent disability pursuant to this paragraph.
6 Either party may introduce into evidence the testimony taken
7 by deposition of any medical practitioner.

8 The Commission shall adopt rules, regulations and
9 procedures whereby the final decision of the Commission is
10 filed not later than 90 days from the date the petition for
11 review is filed but in no event later than 180 days from the
12 date the petition for an emergency hearing is filed with the
13 Illinois Workers' Compensation Commission.

14 All service required pursuant to this paragraph (b-1) must
15 be by personal service or by certified mail and with evidence
16 of receipt. In addition for the purposes of this paragraph,
17 all service on the employer must be at the premises where the
18 accident occurred if the premises are owned or operated by the
19 employer. Otherwise service must be at the employee's
20 principal place of employment by the employer. If service on
21 the employer is not possible at either of the above, then
22 service shall be at the employer's principal place of
23 business. After initial service in each case, service shall be
24 made on the employer's attorney or designated representative.

25 (c)(1) At a reasonable time in advance of and in
26 connection with the hearing under Section 19(e) or 19(h), the

1 Commission may on its own motion order an impartial physical
2 or mental examination of a petitioner whose mental or physical
3 condition is in issue, when in the Commission's discretion it
4 appears that such an examination will materially aid in the
5 just determination of the case. The examination shall be made
6 by a member or members of a panel of physicians chosen for
7 their special qualifications by the Illinois State Medical
8 Society. The Commission shall establish procedures by which a
9 physician shall be selected from such list.

10 (2) Should the Commission at any time during the hearing
11 find that compelling considerations make it advisable to have
12 an examination and report at that time, the commission may in
13 its discretion so order.

14 (3) A copy of the report of examination shall be given to
15 the Commission and to the attorneys for the parties.

16 (4) Either party or the Commission may call the examining
17 physician or physicians to testify. Any physician so called
18 shall be subject to cross-examination.

19 (5) The examination shall be made, and the physician or
20 physicians, if called, shall testify, without cost to the
21 parties. The Commission shall determine the compensation and
22 the pay of the physician or physicians. The compensation for
23 this service shall not exceed the usual and customary amount
24 for such service.

25 (6) The fees and payment thereof of all attorneys and
26 physicians for services authorized by the Commission under

1 this Act shall, upon request of either the employer or the
2 employee or the beneficiary affected, be subject to the review
3 and decision of the Commission.

4 (d) If any employee shall persist in insanitary or
5 injurious practices which tend to either imperil or retard his
6 recovery or shall refuse to submit to such medical, surgical,
7 or hospital treatment as is reasonably essential to promote
8 his recovery, the Commission may, in its discretion, reduce or
9 suspend the compensation of any such injured employee.
10 However, when an employer and employee so agree in writing,
11 the foregoing provision shall not be construed to authorize
12 the reduction or suspension of compensation of an employee who
13 is relying in good faith, on treatment by prayer or spiritual
14 means alone, in accordance with the tenets and practice of a
15 recognized church or religious denomination, by a duly
16 accredited practitioner thereof.

17 (e) This paragraph shall apply to all hearings before the
18 Commission. Such hearings may be held in its office or
19 elsewhere as the Commission may deem advisable. The taking of
20 testimony on such hearings may be had before any member of the
21 Commission. If a petition for review and agreed statement of
22 facts or transcript of evidence is filed, as provided herein,
23 the Commission shall promptly review the decision of the
24 Arbitrator and all questions of law or fact which appear from
25 the statement of facts or transcript of evidence.

26 In all cases in which the hearing before the arbitrator is

1 held after December 18, 1989, no additional evidence shall be
2 introduced by the parties before the Commission on review of
3 the decision of the Arbitrator. In reviewing decisions of an
4 arbitrator the Commission shall award such temporary
5 compensation, permanent compensation and other payments as are
6 due under this Act. The Commission shall file in its office its
7 decision thereon, and shall immediately send to each party or
8 his attorney a copy of such decision and a notification of the
9 time when it was filed. Decisions shall be filed within 60 days
10 after the Statement of Exceptions and Supporting Brief and
11 Response thereto are required to be filed or oral argument
12 whichever is later.

13 In the event either party requests oral argument, such
14 argument shall be had before a panel of 3 members of the
15 Commission (or before all available members pursuant to the
16 determination of 7 members of the Commission that such
17 argument be held before all available members of the
18 Commission) pursuant to the rules and regulations of the
19 Commission. A panel of 3 members, which shall be comprised of
20 not more than one representative citizen of the employing
21 class and not more than one representative from a labor
22 organization recognized under the National Labor Relations Act
23 or an attorney who has represented labor organizations or has
24 represented employees in workers' compensation cases, shall
25 hear the argument; provided that if all the issues in dispute
26 are solely the nature and extent of the permanent partial

1 disability, if any, a majority of the panel may deny the
2 request for such argument and such argument shall not be held;
3 and provided further that 7 members of the Commission may
4 determine that the argument be held before all available
5 members of the Commission. A decision of the Commission shall
6 be approved by a majority of Commissioners present at such
7 hearing if any; provided, if no such hearing is held, a
8 decision of the Commission shall be approved by a majority of a
9 panel of 3 members of the Commission as described in this
10 Section. The Commission shall give 10 days' notice to the
11 parties or their attorneys of the time and place of such taking
12 of testimony and of such argument.

13 In any case the Commission in its decision may find
14 specially upon any question or questions of law or fact which
15 shall be submitted in writing by either party whether ultimate
16 or otherwise; provided that on issues other than nature and
17 extent of the disability, if any, the Commission in its
18 decision shall find specially upon any question or questions
19 of law or fact, whether ultimate or otherwise, which are
20 submitted in writing by either party; provided further that
21 not more than 5 such questions may be submitted by either
22 party. Any party may, within 20 days after receipt of notice of
23 the Commission's decision, or within such further time, not
24 exceeding 30 days, as the Commission may grant, file with the
25 Commission either an agreed statement of the facts appearing
26 upon the hearing, or, if such party shall so elect, a correct

1 transcript of evidence of the additional proceedings presented
2 before the Commission, in which report the party may embody a
3 correct statement of such other proceedings in the case as
4 such party may desire to have reviewed, such statement of
5 facts or transcript of evidence to be authenticated by the
6 signature of the parties or their attorneys, and in the event
7 that they do not agree, then the authentication of such
8 transcript of evidence shall be by the signature of any member
9 of the Commission.

10 If a reporter does not for any reason furnish a transcript
11 of the proceedings before the Arbitrator in any case for use on
12 a hearing for review before the Commission, within the
13 limitations of time as fixed in this Section, the Commission
14 may, in its discretion, order a trial de novo before the
15 Commission in such case upon application of either party. The
16 applications for adjustment of claim and other documents in
17 the nature of pleadings filed by either party, together with
18 the decisions of the Arbitrator and of the Commission and the
19 statement of facts or transcript of evidence hereinbefore
20 provided for in paragraphs (b) and (c) shall be the record of
21 the proceedings of the Commission, and shall be subject to
22 review as hereinafter provided.

23 At the request of either party or on its own motion, the
24 Commission shall set forth in writing the reasons for the
25 decision, including findings of fact and conclusions of law
26 separately stated. The Commission shall by rule adopt a format

1 for written decisions for the Commission and arbitrators. The
2 written decisions shall be concise and shall succinctly state
3 the facts and reasons for the decision. The Commission may
4 adopt in whole or in part, the decision of the arbitrator as
5 the decision of the Commission. When the Commission does so
6 adopt the decision of the arbitrator, it shall do so by order.
7 Whenever the Commission adopts part of the arbitrator's
8 decision, but not all, it shall include in the order the
9 reasons for not adopting all of the arbitrator's decision.
10 When a majority of a panel, after deliberation, has arrived at
11 its decision, the decision shall be filed as provided in this
12 Section without unnecessary delay, and without regard to the
13 fact that a member of the panel has expressed an intention to
14 dissent. Any member of the panel may file a dissent. Any
15 dissent shall be filed no later than 10 days after the decision
16 of the majority has been filed.

17 Decisions rendered by the Commission and dissents, if any,
18 shall be published together by the Commission. The conclusions
19 of law set out in such decisions shall be regarded as
20 precedents by arbitrators for the purpose of achieving a more
21 uniform administration of this Act.

22 (f) The decision of the Commission acting within its
23 powers, according to the provisions of paragraph (e) of this
24 Section shall, in the absence of fraud, be conclusive unless
25 reviewed as in this paragraph hereinafter provided. However,
26 the Arbitrator or the Commission may on his or its own motion,

1 or on the motion of either party, correct any clerical error or
2 errors in computation within 15 days after the date of receipt
3 of any award by such Arbitrator or any decision on review of
4 the Commission and shall have the power to recall the original
5 award on arbitration or decision on review, and issue in lieu
6 thereof such corrected award or decision. Where such
7 correction is made the time for review herein specified shall
8 begin to run from the date of the receipt of the corrected
9 award or decision.

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

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

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

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

1 filing of notice of intent to file for review in the
2 Circuit Court to prepare a true and correct copy of such
3 testimony and a true and correct copy of all other matters
4 contained in such record and certified to by the Secretary
5 or Assistant Secretary thereof. The changes made to this
6 subdivision (f)(1) by this amendatory Act of the 98th
7 General Assembly apply to any Commission decision entered
8 after the effective date of this amendatory Act of the
9 98th General Assembly.

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

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

1 surety or sureties of the bond shall be approved by the
2 clerk of the court. The acceptance of the bond by the clerk
3 of the court shall constitute evidence of his approval of
4 the bond.

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

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

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

17 The court may confirm or set aside the decision of the
18 Commission. If the decision is set aside and the facts
19 found in the proceedings before the Commission are
20 sufficient, the court may enter such decision as is
21 justified by law, or may remand the cause to the
22 Commission for further proceedings and may state the
23 questions requiring further hearing, and give such other
24 instructions as may be proper. Appeals shall be taken to
25 the Appellate Court in accordance with Supreme Court Rules
26 22(g) and 303. Appeals shall be taken from the Appellate

1 Court to the Supreme Court in accordance with Supreme
2 Court Rule 315.

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

7 The decision of a majority of the members of the panel
8 of the Commission, shall be considered the decision of the
9 Commission.

10 (g) Except in the case of a claim against the State of
11 Illinois, an order of the Commission assessing a civil penalty
12 under subsection (d) of Section 4, or an order of the
13 Commission requiring reimbursement by the employer for amounts
14 paid by the Injured Workers' Benefit Fund under subsection (d)
15 of Section 4, either party may present a certified copy of the
16 award of the Arbitrator, or a certified copy of the decision of
17 the Commission when the same has become final, when no
18 proceedings for review are pending, providing for the payment
19 of compensation according to this Act, to the Circuit Court of
20 the county in which such accident occurred or either of the
21 parties are residents, whereupon the court shall enter a
22 judgment in accordance therewith. In a case where the employer
23 refuses to pay compensation according to such final award or
24 such final decision upon which such judgment is entered the
25 court shall in entering judgment thereon, tax as costs against
26 him the reasonable costs and attorney fees in the arbitration

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

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

19 Any order of the Commission assessing a civil penalty or
20 requiring reimbursement for amounts paid by the Injured
21 Workers' Benefit Fund under subsection (d) of Section 4, that
22 has not been fully paid, and after the exhaustion or waiver of
23 the judicial review procedures under subsection (f), is a debt
24 due and owing the State. The debts may be collected using all
25 remedies available under the law. After exhaustion of the
26 judicial review procedures or expiration of the period in

1 which judicial review under subsection (f) may be sought for a
2 final decision of the Commission, and unless stayed by a court
3 of competent jurisdiction, the order of the Commission may be
4 enforced in the same manner as a judgment entered by a court of
5 competent jurisdiction.

6 Upon being recorded in the manner required by Article XII
7 of the Code of Civil Procedure or by the Uniform Commercial
8 Code, a lien shall be imposed on the real estate or personal
9 estate, or both, of the individual or entity in the amount of
10 any debt due and owing the State under this Section. The lien
11 may be enforced in the same manner as a judgment of a court of
12 competent jurisdiction. A lien shall attach to all property
13 and assets of the person, firm, corporation, association,
14 agency, institution, or other legal entity until the judgment
15 is satisfied.

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

22 However, as to accidents occurring subsequent to July 1,
23 1955, which are covered by any agreement or award under this
24 Act providing for compensation in installments made as a
25 result of such accident, such agreement or award may at any
26 time within 30 months, or 60 months in the case of an award

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

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

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

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

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

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

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

1 delay.

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

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

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

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

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

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

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

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

26 (p) After filing an application for adjustment of claim

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

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

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

14 (820 ILCS 305/25.5)

15 Sec. 25.5. Unlawful acts; penalties.

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

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

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

25 (3) Intentionally make or cause to be made any false

1 or fraudulent statements with regard to entitlement to
2 workers' compensation benefits with the intent to prevent
3 an injured worker from making a legitimate claim for any
4 workers' compensation benefits.

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

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

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

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

25 (8) Intentionally assist, abet, solicit, or conspire
26 with any person, company, or other entity to commit any of

1 the acts in paragraph (1), (2), (3), ~~(4)~~, (5), (6), or (7)
2 of this subsection (a).

3 (8.5) Intentionally assist, abet, solicit, or conspire
4 with any person, company, or other entity to commit any of
5 the acts in paragraph (4) of this subsection (a).

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

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

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

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

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

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

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

26 (5) A person convicted under this subsection ~~Section~~

1 shall be ordered to pay monetary restitution to the
2 injured worker, insurance company, or self-insured entity
3 or any other person for any financial loss sustained as a
4 result of a violation of this Section, including any court
5 costs and attorney fees. An order of restitution also
6 includes expenses incurred and paid by the State of
7 Illinois or an insurance company or self-insured entity in
8 connection with any medical evaluation or treatment
9 services.

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

22 (b-5) Sentences for violations of paragraphs (4) and (8.5)
23 of subsection (a) are as follows:

24 (1) A violation in which the value of the property
25 obtained or attempted to be obtained is \$10,000 or less,
26 is a Class 3 felony and a civil penalty of at least \$10,000

1 per violation, payable to the Injured Workers' Benefit
2 Fund, shall be assessed.

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

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

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

22 For the purposes of this subsection, the value of the
23 property obtained or attempted to be obtained shall be the
24 amount of premiums saved by use of the invalid, false, or
25 counterfeit certificate of insurance, the value of any
26 payments under any contract obtained by reliance on the

1 invalid, false, or counterfeit certificate of insurance, or
2 both. Notwithstanding the foregoing, an injured worker,
3 insurance company, self-insured entity, or any other person
4 suffering financial loss sustained as a result of violation of
5 this subsection may seek restitution, including court costs
6 and attorney's fees in a civil action in a court of competent
7 jurisdiction.

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

24 With respect to the subject of any investigation being
25 conducted, the fraud and insurance non-compliance unit shall
26 have the general power of subpoena of the Department of

1 Insurance, including the authority to issue a subpoena to a
2 medical provider, pursuant to Section 8-802 of the Code of
3 Civil Procedure.

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

23 (e) In order for the fraud and insurance non-compliance
24 unit to investigate a report of fraud related to an employee's
25 claim, (i) the employee must have filed with the Commission an
26 Application for Adjustment of Claim and the employee must have

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

19 (e-5) (Blank).

20 (f) Any person convicted of fraud related to workers'
21 compensation pursuant to this Section shall be subject to the
22 penalties prescribed in the Criminal Code of 2012 and shall be
23 ineligible to receive or retain any compensation, disability,
24 or medical benefits as defined in this Act if the
25 compensation, disability, or medical benefits were owed or
26 received as a result of fraud for which the recipient of the

1 compensation, disability, or medical benefit was convicted.
2 This subsection applies to accidental injuries or diseases
3 that occur on or after the effective date of this amendatory
4 Act of the 94th General Assembly.

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

20 (h) The fraud and insurance non-compliance unit shall
21 submit a written report on an annual basis to the Chairman of
22 the Commission, the Workers' Compensation Advisory Board, the
23 General Assembly, the Governor, and the Attorney General by
24 January 1 and July 1 of each year. This report shall include,
25 at the minimum, the following information:

26 (1) The number of allegations of insurance

1 non-compliance and fraud reported to the fraud and
2 insurance non-compliance unit.

3 (2) The source of the reported allegations
4 (individual, employer, or other).

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

7 (4) The number of criminal referrals made in
8 accordance with this Section and the entity to which the
9 referral was made.

10 (5) All proceedings under this Section.

11 (6) Recommendations regarding opportunities for
12 additional fraud detection.

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