

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Section 4 as follows:

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

7 (Text of Section from P.A. 101-40, 102-37, and 103-590)

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 (a-3) Any corporation, limited liability company, or
10 partnership engaged in activities requiring licensure by a
11 State agency, for which proof that it has insured its workers'
12 compensation liability is a requirement for licensure, that
13 fails to satisfy a requirement outlined in paragraph (1), (2),
14 (3), or (4) of subsection (a), shall be subject to civil
15 penalties under subsection (d) of Section unless it shows by
16 clear and convincing evidence that it was not operating during
17 the time its license was active.

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

23 Deposits under escrow agreements shall be cash, negotiable
24 United States government bonds or negotiable general
25 obligation bonds of the State of Illinois. Such cash or bonds
26 shall be deposited in escrow with any State or National Bank or

1 Trust Company having trust authority in the State of Illinois.

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

1 notice, be effective as of the effective date of such other
2 insurance or security.

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

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

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

21 All orders made by the Commission under this Section shall
22 be subject to review by the courts, said review to be taken in
23 the same manner and within the same time as provided by Section
24 19 of this Act for review of awards and decisions of the
25 Commission, upon the party seeking the review filing with the
26 clerk of the court to which said review is taken a bond in an

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

10 (d) Whenever a Commissioner, with due process and after a
11 hearing, determines an employer has knowingly failed to
12 provide coverage as required by paragraph (a) of this Section,
13 the failure shall be deemed an immediate serious danger to
14 public health, safety, and welfare sufficient to justify
15 service by the Commission of a work-stop order on such
16 employer, requiring the cessation of all business operations
17 of such employer at the place of employment or job site. If a
18 business is declared to be extra hazardous, as defined in
19 Section 3, a Commissioner may issue an emergency work-stop
20 order on such an employer ex parte, prior to holding a hearing,
21 requiring the cessation of all business operations of such
22 employer at the place of employment or job site while awaiting
23 the ruling of the Commission. Whenever a Commissioner issues
24 an emergency work-stop order, the Commission shall issue a
25 notice of emergency work-stop hearing to be posted at the
26 employer's places of employment and job sites. Any law

1 enforcement agency in the State shall, at the request of the
2 Commission, render any assistance necessary to carry out the
3 provisions of this Section, including, but not limited to,
4 preventing any employee of such employer from remaining at a
5 place of employment or job site after a work-stop order has
6 taken effect. Any work-stop order shall be lifted upon proof
7 of insurance as required by this Act. Any orders under this
8 Section are appealable under Section 19(f) to the Circuit
9 Court.

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

23 Any individual employer, corporate officer or director of
24 a corporate employer, partner of an employer partnership, or
25 member of an employer limited liability company who
26 negligently fails to provide coverage as required by paragraph

1 (a) of this Section is guilty of a Class A misdemeanor. This
2 provision shall not apply to any corporate officer or director
3 of any publicly-owned corporation. Each day's violation
4 constitutes a separate offense. The State's Attorney of the
5 county in which the violation occurred, or the Attorney
6 General, shall bring such actions in the name of the People of
7 the State of Illinois.

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

14 All investigative actions must be acted upon within 90
15 days of the issuance of the complaint. Employers who are
16 subject to and who knowingly fail to comply with this Section
17 shall not be entitled to the benefits of this Act during the
18 period of noncompliance, but shall be liable in an action
19 under any other applicable law of this State. In the action,
20 such employer shall not avail himself or herself of the
21 defenses of assumption of risk or negligence or that the
22 injury was due to a co-employee. In the action, proof of the
23 injury shall constitute prima facie evidence of negligence on
24 the part of such employer and the burden shall be on such
25 employer to show freedom of negligence resulting in the
26 injury. The employer shall not join any other defendant in any

1 such civil action. Nothing in this amendatory Act of the 94th
2 General Assembly shall affect the employee's rights under
3 subdivision (a)3 of Section 1 of this Act. Any employer or
4 carrier who makes payments under subdivision (a)3 of Section 1
5 of this Act shall have a right of reimbursement from the
6 proceeds of any recovery under this Section.

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

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

18 An investigator with the Department of Insurance may issue
19 a citation to any employer that is not in compliance with its
20 obligation to have workers' compensation insurance under this
21 Act. The amount of the fine shall be based on the period of
22 time the employer was in non-compliance, but shall be no less
23 than \$500, and shall not exceed \$10,000. An employer that has
24 been issued a citation shall pay the fine to the Department of
25 Insurance and provide to the Department of Insurance proof
26 that it obtained the required workers' compensation insurance

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

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

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

15 If an employer is found to be in non-compliance with any
16 provisions of paragraph (a) of this Section more than once,
17 all minimum penalties will double. Therefore, upon the failure
18 or refusal of an employer, service or adjustment company, or
19 insurance carrier to comply with any order of the Commission
20 pursuant to paragraph (c) of this Section disqualifying him or
21 her to operate as a self-insurer and requiring him or her to
22 insure his or her liability, or the knowing and willful
23 failure of an employer to comply with a citation issued by an
24 investigator with the Department of Insurance, the Commission
25 may assess a civil penalty of up to \$1,000 per day for each day
26 of such failure or refusal after the effective date of this

1 amendatory Act of the 101st General Assembly. The minimum
2 penalty under this Section shall be the sum of \$20,000. In
3 addition, employers with 2 or more violations of any
4 provisions of paragraph (a) of this Section may not
5 self-insure for one year or until all penalties are paid.

6 A Commission decision imposing penalties under this
7 Section may be judicially reviewed only as described in
8 Section 19(f). After expiration of the period for seeking
9 judicial review, the Commission's final decision imposing
10 penalties may be enforced in the same manner as a judgment
11 entered by a court of competent jurisdiction. The Commission's
12 final decision imposing penalties is a debt due and owing to
13 the State and can be enforced to the same extent as a judgment
14 entered by a circuit court. The Attorney General shall
15 represent the Commission and the Department of Insurance in
16 any action challenging the final decision in circuit court. If
17 the court affirms the Commission's decision, the court shall
18 enter judgment against the employer in the amount of the fines
19 assessed by the Commission. The Attorney General shall make
20 reasonable efforts to collect the amounts due under the
21 Commission's decision.

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, with the
25 intent to avoid payment of compensation under this Act to an
26 injured employee or the employee's dependents, knowingly

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

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

1 reimburse the Injured Workers' Benefit Fund for any amounts
2 paid to an employee on account of the compensation awarded by
3 the Commission. The Attorney General shall make reasonable
4 efforts to obtain reimbursement for the Injured Workers'
5 Benefit Fund.

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

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

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

1 of additional accident or sick benefits.

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

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

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

26 (h) It shall be unlawful for any employer, insurance

1 company or service or adjustment company to interfere with,
2 restrain or coerce an employee in any manner whatsoever in the
3 exercise of the rights or remedies granted to him or her by
4 this Act or to discriminate, attempt to discriminate, or
5 threaten to discriminate against an employee in any way
6 because of his or her exercise of the rights or remedies
7 granted to him or her by this Act.

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

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

19 (j) Within 45 days of receipt of an initial application or
20 application to renew self-insurance privileges the
21 Self-Insurers Advisory Board shall review and submit for
22 approval by the Chairman of the Commission recommendations of
23 disposition of all initial applications to self-insure and all
24 applications to renew self-insurance privileges filed by
25 private self-insurers pursuant to the provisions of this
26 Section and Section 4a-9 of this Act. Each private

1 self-insurer shall submit with its initial and renewal
2 applications the application fee required by Section 4a-4 of
3 this Act.

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

13 If an employer is denied a renewal of self-insurance
14 privileges pursuant to application it shall retain said
15 privilege for 120 days after receipt of a notice of
16 cancellation of the privilege from the Chairman of the
17 Commission.

18 All orders made by the Chairman under this Section shall
19 be subject to review by the courts, such review to be taken in
20 the same manner and within the same time as provided by
21 subsection (f) of Section 19 of this Act for review of awards
22 and decisions of the Commission, upon the party seeking the
23 review filing with the clerk of the court to which such review
24 is taken a bond in an amount to be fixed and approved by the
25 court to which the review is taken, conditioned upon the
26 payment of all compensation awarded against the person taking

1 such review pending a decision thereof and further conditioned
2 upon such other obligations as the court may impose. Upon the
3 review the Circuit Court shall have power to review all
4 questions of fact as well as of law.

5 (Source: P.A. 101-40, eff. 1-1-20; 102-37, eff. 7-1-21;
6 103-590, eff. 6-5-24..)

7 (Text of Section from P.A. 101-384, 102-37, and 103-590)

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
24 self-insurance must be submitted at least 60 days prior to
25 the requested effective date of self-insurance. An

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The penalty shall not exceed \$1,000 for each day of work
26 for which the employer failed to make payments upon the

1 premium rates of the situs where the work or project is located
2 in Illinois, but the total penalty shall not exceed \$50,000
3 for each project or each contract under which the work was
4 performed.

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

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

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

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

26 (3) Any certificate of insurance coverage document

1 issued to a client company specifying its rights and
2 obligations under the master policy that establishes both
3 the identity and status of the client, as well as the dates
4 of inception and termination of coverage, if applicable.

5 (a-3) Any corporation, limited liability company, or
6 partnership engaged in activities requiring licensure by a
7 State agency, for which proof that it has insured its workers'
8 compensation liability is a requirement for licensure, that
9 fails to satisfy a requirement outlined in paragraph (1), (2),
10 (3), or (4) of subsection (a), shall be subject to civil
11 penalties under subsection (d) of Section unless it shows by
12 clear and convincing evidence that it was not operating during
13 the time its license was active.

14 (b) The sworn application and financial statement, or
15 security, indemnity or bond, or amount of insurance, or other
16 provisions, filed, furnished, carried, or made by the
17 employer, as the case may be, shall be subject to the approval
18 of the Commission.

19 Deposits under escrow agreements shall be cash, negotiable
20 United States government bonds or negotiable general
21 obligation bonds of the State of Illinois. Such cash or bonds
22 shall be deposited in escrow with any State or National Bank or
23 Trust Company having trust authority in the State of Illinois.

24 Upon the approval of the sworn application and financial
25 statement, security, indemnity or bond or amount of insurance,
26 filed, furnished or carried, as the case may be, the

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

25 (c) Whenever the Commission shall find that any
26 corporation, company, association, aggregation of individuals,

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

1 employees, the Commission may after reasonable notice and
2 hearing order and direct that such service or adjustment
3 company shall from and after a date fixed in such order be
4 prohibited from processing, adjusting, investigating,
5 compromising or otherwise handling claims under this Act.

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

17 All orders made by the Commission under this Section shall
18 be subject to review by the courts, said review to be taken in
19 the same manner and within the same time as provided by Section
20 19 of this Act for review of awards and decisions of the
21 Commission, upon the party seeking the review filing with the
22 clerk of the court to which said review is taken a bond in an
23 amount to be fixed and approved by the court to which the
24 review is taken, conditioned upon the payment of all
25 compensation awarded against the person taking said review
26 pending a decision thereof and further conditioned upon such

1 other obligations as the court may impose. Upon the review the
2 Circuit Court shall have power to review all questions of fact
3 as well as of law. The penalty hereinafter provided for in this
4 paragraph shall not attach and shall not begin to run until the
5 final determination of the order of the Commission.

6 (d) Whenever a panel of 3 Commissioners comprised of one
7 member of the employing class, one representative of a labor
8 organization recognized under the National Labor Relations Act
9 or an attorney who has represented labor organizations or has
10 represented employees in workers' compensation cases, and one
11 member not identified with either the employing class or a
12 labor organization, with due process and after a hearing,
13 determines an employer has knowingly failed to provide
14 coverage as required by paragraph (a) of this Section, the
15 failure shall be deemed an immediate serious danger to public
16 health, safety, and welfare sufficient to justify service by
17 the Commission of a work-stop order on such employer,
18 requiring the cessation of all business operations of such
19 employer at the place of employment or job site. Any law
20 enforcement agency in the State shall, at the request of the
21 Commission, render any assistance necessary to carry out the
22 provisions of this Section, including, but not limited to,
23 preventing any employee of such employer from remaining at a
24 place of employment or job site after a work-stop order has
25 taken effect. Any work-stop order shall be lifted upon proof
26 of insurance as required by this Act. Any orders under this

1 Section are appealable under Section 19(f) to the Circuit
2 Court.

3 Any individual employer, corporate officer or director of
4 a corporate employer, partner of an employer partnership, or
5 member of an employer limited liability company who knowingly
6 fails to provide coverage as required by paragraph (a) of this
7 Section is guilty of a Class 4 felony. This provision shall not
8 apply to any corporate officer or director of any
9 publicly-owned corporation. Each day's violation constitutes a
10 separate offense. The State's Attorney of the county in which
11 the violation occurred, or the Attorney General, shall bring
12 such actions in the name of the People of the State of
13 Illinois, or may, in addition to other remedies provided in
14 this Section, bring an action for an injunction to restrain
15 the violation or to enjoin the operation of any such employer.

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

1 The criminal penalties in this subsection (d) shall not
2 apply where there exists a good faith dispute as to the
3 existence of an employment relationship. Evidence of good
4 faith shall include, but not be limited to, compliance with
5 the definition of employee as used by the Internal Revenue
6 Service.

7 Employers who are subject to and who knowingly fail to
8 comply with this Section shall not be entitled to the benefits
9 of this Act during the period of noncompliance, but shall be
10 liable in an action under any other applicable law of this
11 State. In the action, such employer shall not avail himself or
12 herself of the defenses of assumption of risk or negligence or
13 that the injury was due to a co-employee. In the action, proof
14 of the injury shall constitute prima facie evidence of
15 negligence on the part of such employer and the burden shall be
16 on such employer to show freedom of negligence resulting in
17 the injury. The employer shall not join any other defendant in
18 any such civil action. Nothing in this amendatory Act of the
19 94th 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 \$2,500. 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 wilful failure or refusal of an
23 employer to comply with any of the provisions of paragraph (a)
24 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 A Commission decision imposing penalties under this
7 Section may be judicially reviewed only as described in
8 Section 19(f). After expiration of the period for seeking
9 judicial review, the Commission's final decision imposing
10 penalties may be enforced in the same manner as a judgment
11 entered by a court of competent jurisdiction. The Commission's
12 final decision imposing penalties is a debt due and owing to
13 the State and can be enforced to the same extent as a judgment
14 entered by a circuit court. The Attorney General shall
15 represent the Commission and the Department of Insurance in
16 any action challenging the final decision in circuit court. If
17 the court affirms the Commission's decision, the court shall
18 enter judgment against the employer in the amount of the fines
19 assessed by the Commission. The Attorney General shall make
20 reasonable efforts to collect the amounts due under the
21 Commission's decision.

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, with the
25 intent to avoid payment of compensation under this Act to an
26 injured employee or the employee's dependents, knowingly

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

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

1 reimburse the Injured Workers' Benefit Fund for any amounts
2 paid to an employee on account of the compensation awarded by
3 the Commission. The Attorney General shall make reasonable
4 efforts to obtain reimbursement for the Injured Workers'
5 Benefit Fund.

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

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

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

1 of additional accident or sick benefits.

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

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

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

26 (h) It shall be unlawful for any employer, insurance

1 company or service or adjustment company to interfere with,
2 restrain or coerce an employee in any manner whatsoever in the
3 exercise of the rights or remedies granted to him or her by
4 this Act or to discriminate, attempt to discriminate, or
5 threaten to discriminate against an employee in any way
6 because of his or her exercise of the rights or remedies
7 granted to him or her by this Act.

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

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

19 (j) Within 45 days of receipt of an initial application or
20 application to renew self-insurance privileges the
21 Self-Insurers Advisory Board shall review and submit for
22 approval by the Chairman of the Commission recommendations of
23 disposition of all initial applications to self-insure and all
24 applications to renew self-insurance privileges filed by
25 private self-insurers pursuant to the provisions of this
26 Section and Section 4a-9 of this Act. Each private

1 self-insurer shall submit with its initial and renewal
2 applications the application fee required by Section 4a-4 of
3 this Act.

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

13 If an employer is denied a renewal of self-insurance
14 privileges pursuant to application it shall retain said
15 privilege for 120 days after receipt of a notice of
16 cancellation of the privilege from the Chairman of the
17 Commission.

18 All orders made by the Chairman under this Section shall
19 be subject to review by the courts, such review to be taken in
20 the same manner and within the same time as provided by
21 subsection (f) of Section 19 of this Act for review of awards
22 and decisions of the Commission, upon the party seeking the
23 review filing with the clerk of the court to which such review
24 is taken a bond in an amount to be fixed and approved by the
25 court to which the review is taken, conditioned upon the
26 payment of all compensation awarded against the person taking

1 such review pending a decision thereof and further conditioned
2 upon such other obligations as the court may impose. Upon the
3 review the Circuit Court shall have power to review all
4 questions of fact as well as of law.

5 (Source: P.A. 101-384, eff. 1-1-20; 102-37, eff. 7-1-21;
6 103-590, eff. 6-5-24.)