

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

6 (215 ILCS 5/416)

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

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

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

2 (b) Beginning on July 30, 2004 (the effective date of  
3 Public Act 93-840) and on July 1 of each year thereafter  
4 through 2023, the Director shall charge an annual Illinois  
5 Workers' Compensation Commission Operations Fund Surcharge  
6 from every company subject to subsection (a) of this Section  
7 equal to 1.01% of its direct written premium for insuring  
8 employers' liabilities arising under the Workers' Compensation  
9 Act or Workers' Occupational Diseases Act as reported in each  
10 company's annual statement filed for the previous year as  
11 required by Section 136. Within 15 days after June 5, 2024 (the  
12 effective date of Public Act 103-590) and on July 1 of each  
13 year thereafter, the Director shall charge an annual Illinois  
14 Workers' Compensation Commission Operations Fund Surcharge  
15 from every company subject to subsection (a) of this Section  
16 equal to 1.092% of its direct written premium for insuring  
17 employers' liabilities arising under the Workers' Compensation  
18 Act or Workers' Occupational Diseases Act as reported in each  
19 company's annual statement filed for the previous year as  
20 required by Section 136. The Illinois Workers' Compensation  
21 Commission Operations Fund Surcharge shall be collected by  
22 companies subject to subsection (a) of this Section as a  
23 separately stated surcharge on insured employers at the rate  
24 of 1.092% of direct written premium for the surcharge due in  
25 2024 and each year thereafter, plus an additional amount  
26 determined under subsection (b-5) beginning in 2026. The

1 Illinois Workers' Compensation Commission Operations Fund  
2 Surcharge shall not be collected by companies subject to  
3 subsection (a) of this Section from any employer that  
4 self-insures its liabilities arising under the Workers'  
5 Compensation Act or Workers' Occupational Diseases Act,  
6 provided that the employer has paid the Illinois Workers'  
7 Compensation Commission Operations Fund Fee pursuant to  
8 Section 4d of the Workers' Compensation Act. All sums  
9 collected by the Department of Insurance under the provisions  
10 of this Section shall be paid promptly after the receipt of the  
11 same, accompanied by a detailed statement thereof, into the  
12 Illinois Workers' Compensation Commission Operations Fund in  
13 the State treasury.

14 (b-5) As used in this subsection:

15 "Annual funding target for the year" means \$7,000,000 for  
16 2026 and, for each year thereafter, the previous year's annual  
17 funding target increased by 3.5%.

18 "Statewide underwriting gain for the previous year" means  
19 the sum of the underwriting gains for all companies that had an  
20 underwriting gain for their workers' compensation and excess  
21 workers' compensation lines in this State, as reported in the  
22 companies' annual statements filed for the previous year under  
23 Section 136.

24 "Underwriting gain" means, if the difference is a positive  
25 dollar amount, the difference between direct earned premiums  
26 and the sum of the following expenses and fees:

- 1           (A) direct losses incurred;  
2           (B) direct defense and cost containment expense  
3           incurred;  
4           (C) commission and brokerage expenses; and  
5           (D) taxes, licenses, and fees.

6           On or before July 1, 2026 or 15 days after the effective  
7           date of this amendatory Act of the 104th General Assembly,  
8           whichever is later, and on or before July 1 of each year  
9           thereafter, in addition to the amount required by subsections  
10           (a) and (b), the Director shall charge an amount to be included  
11           in a company's obligation to pay the annual Illinois Workers'  
12           Compensation Commission Operations Fund Surcharge under this  
13           Section. The additional amount shall be collected from every  
14           company subject to subsection (a) that had an underwriting  
15           gain for its workers' compensation and excess workers'  
16           compensation lines in this State, as reported in the company's  
17           annual statement filed for the previous year under Section  
18           136. All provisions of this Section for the administration and  
19           enforcement of the portion of the annual Illinois Workers'  
20           Compensation Commission Operations Fund Surcharge described in  
21           subsection (b) shall apply to the additional amount described  
22           in this subsection.

23           The additional amount included in each company's surcharge  
24           for a given year shall be a percentage of the company's  
25           underwriting gain for its workers' compensation and excess  
26           workers' compensation lines in this State, as reported in the

1 company's annual statement filed for the previous year under  
2 Section 136. Each year's percentage shall be calculated as the  
3 annual funding target for the year divided by the statewide  
4 underwriting gain for the previous year multiplied by 100.

5 Before collecting the additional amount each year, the  
6 Department shall publish a company bulletin demonstrating the  
7 calculation of the percentage in accordance with this  
8 subsection. The bulletin shall include or contain a hyperlink  
9 to download the underlying data from the companies' annual  
10 statements that the Department used to perform the  
11 calculation.

12 The additional amount included in the surcharge shall be  
13 deposited into the Illinois Workers' Compensation Commission  
14 Operations Fund in accordance with the Workers' Compensation  
15 Act. If a company survives or was formed by a merger,  
16 consolidation, reorganization, or reincorporation, the  
17 underwriting gain in this State for all companies that are  
18 parties to the merger, consolidation, reorganization, or  
19 reincorporation shall, for purposes of determining the  
20 additional amount imposed by this subsection, be regarded as  
21 those of the surviving or new company.

22 (c) In addition to the authority specifically granted  
23 under Article XXV of this Code, the Director shall have such  
24 authority to adopt rules or establish forms as may be  
25 reasonably necessary for purposes of enforcing this Section.  
26 The Director shall also have authority to defer, waive, or

1 abate the surcharge or any penalties imposed by this Section  
2 if in the Director's opinion the company's solvency and  
3 ability to meet its insured obligations would be immediately  
4 threatened by payment of the surcharge due.

5 (d) When a company fails to pay the full amount of any  
6 annual Illinois Workers' Compensation Commission Operations  
7 Fund Surcharge of \$100 or more due under this Section, there  
8 shall be added to the amount due as a penalty an amount equal  
9 to 10% of the deficiency for each month or part of a month that  
10 the deficiency remains unpaid.

11 (e) The Department of Insurance may enforce the collection  
12 of any delinquent payment, penalty, or portion thereof by  
13 legal action or in any other manner by which the collection of  
14 debts due the State of Illinois may be enforced under the laws  
15 of this State.

16 (f) Whenever it appears to the satisfaction of the  
17 Director that a company has paid pursuant to this Act an  
18 Illinois Workers' Compensation Commission Operations Fund  
19 Surcharge in an amount in excess of the amount legally  
20 collectable from the company, the Director shall issue a  
21 credit memorandum for an amount equal to the amount of such  
22 overpayment. A credit memorandum may be applied for the 2-year  
23 period from the date of issuance, against the payment of any  
24 amount due during that period under the surcharge imposed by  
25 this Section or, subject to reasonable rule of the Department  
26 of Insurance including requirement of notification, may be

1 assigned to any other company subject to regulation under this  
2 Act. Any application of credit memoranda after the period  
3 provided for in this Section is void.

4 (g) Annually, the Governor may direct a transfer of up to  
5 2% of all moneys collected under this Section to the Insurance  
6 Financial Regulation Fund.

7 (Source: P.A. 103-590, eff. 6-5-24; 104-417, eff. 8-15-25.)

8 Section 10. The Workers' Compensation Act is amended by  
9 changing Sections 4, 7, 8.7, and 12 as follows:

10 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

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

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

17 (1) File with the Commission annually an application  
18 for approval as a self-insurer which shall include a  
19 current financial statement, and annually, thereafter, an  
20 application for renewal of self-insurance, which shall  
21 include a current financial statement. Said application  
22 and financial statement shall be signed and sworn to by  
23 the president or vice president and secretary or assistant  
24 secretary of the employer if it be a corporation, or by all

1 of the partners, if it be a copartnership, or by the owner  
2 if it be neither a copartnership nor a corporation. All  
3 initial applications and all applications for renewal of  
4 self-insurance must be submitted at least 60 days prior to  
5 the requested effective date of self-insurance. An  
6 employer may elect to provide and pay compensation as  
7 provided for in this Act as a member of a group workers'  
8 compensation pool under Article V 3/4 of the Illinois  
9 Insurance Code. If an employer becomes a member of a group  
10 workers' compensation pool, the employer shall not be  
11 relieved of any obligations imposed by this Act.

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

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

26 (3) Insure his entire liability to pay such

1 compensation in some insurance carrier authorized,  
2 licensed, or permitted to do such insurance business in  
3 this State. Every policy of an insurance carrier, insuring  
4 the payment of compensation under this Act shall cover all  
5 the employees and the entire compensation liability of the  
6 insured: Provided, however, that any employer may insure  
7 his or her compensation liability with 2 or more insurance  
8 carriers or may insure a part and qualify under subsection  
9 1, 2, or 4 for the remainder of his or her liability to pay  
10 such compensation, subject to the following two  
11 provisions:

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

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

25 Nothing herein contained shall apply to policies of  
26 excess liability carriage secured by employers who have

1           been approved by the Commission as self-insurers, or

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

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

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

14           (A) the employer is engaged primarily in the building  
15           and construction industry; and

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

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

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

26           (ii) after the hearing, the Commission finds that the

1 employer failed to make payments upon the premium rates of  
2 the situs where the work or project is located in  
3 Illinois.

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

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

23 (a-2) Every Employee Leasing Company (ELC), as defined in  
24 Section 15 of the Employee Leasing Company Act, shall at a  
25 minimum provide the following information to the Commission or  
26 any entity designated by the Commission regarding each

1 workers' compensation insurance policy issued to the ELC:

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

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

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

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

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

26 Deposits under escrow agreements shall be cash, negotiable

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

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

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

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

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

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

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

1 19 of this Act for review of awards and decisions of the  
2 Commission, upon the party seeking the review filing with the  
3 clerk of the court to which said review is taken a bond in an  
4 amount to be fixed and approved by the court to which the  
5 review is taken, conditioned upon the payment of all  
6 compensation awarded against the person taking said review  
7 pending a decision thereof and further conditioned upon such  
8 other obligations as the court may impose. Upon the review the  
9 Circuit Court shall have power to review all questions of fact  
10 as well as of law. The penalty hereinafter provided for in this  
11 paragraph shall not attach and shall not begin to run until the  
12 final determination of the order of the Commission.

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

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

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

26 Any individual employer, corporate officer or director of

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

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

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

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

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

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

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

1 been issued a citation shall pay the fine to the Department of  
2 Insurance and provide to the Department of Insurance proof  
3 that it obtained the required workers' compensation insurance  
4 within 10 days after the citation was issued. This Section  
5 does not affect any other obligations this Act imposes on  
6 employers.

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

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

18 If an employer is found to be in non-compliance with any  
19 provisions of paragraph (a) of this Section more than once,  
20 all minimum penalties will double. Therefore, upon the failure  
21 or refusal of an employer, service or adjustment company, or  
22 insurance carrier to comply with any order of the Commission  
23 pursuant to paragraph (c) of this Section disqualifying him or  
24 her to operate as a self-insurer and requiring him or her to  
25 insure his or her liability, or the knowing and willful  
26 failure of an employer to comply with a citation issued by an

1 investigator with the Department of Insurance, the Commission  
2 may assess a civil penalty of up to \$1,000 per day for each day  
3 of such failure or refusal after the effective date of this  
4 amendatory Act of the 101st General Assembly. The minimum  
5 penalty under this Section shall be the sum of \$20,000. In  
6 addition, employers with 2 or more violations of any  
7 provisions of paragraph (a) of this Section may not  
8 self-insure for one year or until all penalties are paid.

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

25 Any individual employer, corporate officer or director of  
26 a corporate employer, partner of an employer partnership, or

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

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

1 employees when the employer has failed to provide coverage as  
2 determined under this paragraph (d) and has failed to pay the  
3 benefits due to the injured employee. The employer shall  
4 reimburse the Injured Workers' Benefit Fund for any amounts  
5 paid to an employee on account of the compensation awarded by  
6 the Commission. The Attorney General shall make reasonable  
7 efforts to obtain reimbursement for the Injured Workers'  
8 Benefit Fund.

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

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

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

1 shall not prevent the organization or maintaining under the  
2 insurance laws of this State of any voluntary mutual aid,  
3 benefit or relief association among employees for the payment  
4 of additional accident or sick benefits.

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

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

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

1 party and an award may be entered jointly against the employer  
2 and the insurance carrier.

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

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

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

22 (j) Within 45 days of receipt of an initial application or  
23 application to renew self-insurance privileges the  
24 Self-Insurers Advisory Board shall review and submit for  
25 approval by the Chairman of the Commission recommendations of  
26 disposition of all initial applications to self-insure and all

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

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

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

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

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

8 (Source: P.A. 101-40, eff. 1-1-20; 102-37, eff. 7-1-21;  
9 103-590, eff. 6-5-24..)

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

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

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

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

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

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

24 (3) Insure his entire liability to pay such  
25 compensation in some insurance carrier authorized,  
26 licensed, or permitted to do such insurance business in

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

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

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

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

26                        (4) Make some other provision, satisfactory to the

1 Commission, for the securing of the payment of  
2 compensation provided for in this Act, and

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

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

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

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

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

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

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

1 Illinois.

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

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

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

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

26 (2) Any informational schedule attached to the master

1 policy that identifies any individual client company's  
2 name, FEIN, and job location.

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

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

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

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

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

1 insurance or security.

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

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

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

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

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

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

1 place of employment or job site after a work-stop order has  
2 taken effect. Any work-stop order shall be lifted upon proof  
3 of insurance as required by this Act. Any orders under this  
4 Section are appealable under Section 19(f) to the Circuit  
5 Court.

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

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

1 county in which the violation occurred, or the Attorney  
2 General, shall bring such actions in the name of the People of  
3 the State of Illinois.

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

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

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

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

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

24           Upon a finding by the Commission, after reasonable notice  
25 and hearing, of the knowing and wilful failure or refusal of an  
26 employer to comply with any of the provisions of paragraph (a)

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

1 Section shall be liable for the unpaid penalty or any unpaid  
2 portion of the penalty. Upon investigation by the Department  
3 of Insurance, the Attorney General shall have the authority to  
4 prosecute all proceedings to enforce the civil and  
5 administrative provisions of this Section before the  
6 Commission. The Commission and the Department of Insurance  
7 shall promulgate procedural rules for enforcing this Section  
8 relating to their respective duties prescribed herein.

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

25 Any individual employer, corporate officer or director of  
26 a corporate employer, partner of an employer partnership, or

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

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

1 employees when the employer has failed to provide coverage as  
2 determined under this paragraph (d) and has failed to pay the  
3 benefits due to the injured employee. The employer shall  
4 reimburse the Injured Workers' Benefit Fund for any amounts  
5 paid to an employee on account of the compensation awarded by  
6 the Commission. The Attorney General shall make reasonable  
7 efforts to obtain reimbursement for the Injured Workers'  
8 Benefit Fund.

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

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

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

1 shall not prevent the organization or maintaining under the  
2 insurance laws of this State of any voluntary mutual aid,  
3 benefit or relief association among employees for the payment  
4 of additional accident or sick benefits.

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

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

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

1 party and an award may be entered jointly against the employer  
2 and the insurance carrier.

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

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

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

22 (j) Within 45 days of receipt of an initial application or  
23 application to renew self-insurance privileges the  
24 Self-Insurers Advisory Board shall review and submit for  
25 approval by the Chairman of the Commission recommendations of  
26 disposition of all initial applications to self-insure and all

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

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

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

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

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

8 (Source: P.A. 101-384, eff. 1-1-20; 102-37, eff. 7-1-21;  
9 103-590, eff. 6-5-24.)

10 (820 ILCS 305/7)

11 Sec. 7. The amount of compensation which shall be paid for  
12 an accidental injury to the employee resulting in death is:

13 (a) If the employee leaves surviving a widow, widower,  
14 child or children, the applicable weekly compensation rate  
15 computed in accordance with subparagraph 2 of paragraph (b) of  
16 Section 8, shall be payable during the life of the widow or  
17 widower and if any surviving child or children shall not be  
18 physically or mentally incapacitated then until the death of  
19 the widow or widower or until the youngest child shall reach  
20 the age of 18, whichever shall come later; provided that if  
21 such child or children shall be enrolled as a full-time  
22 student in any accredited educational institution, the  
23 payments shall continue until such child has attained the age  
24 of 25. In the event any surviving child or children shall be  
25 physically or mentally incapacitated, the payments shall

1 continue for the duration of such incapacity.

2 The term "child" means a child whom the deceased employee  
3 left surviving, including a posthumous child, a child legally  
4 adopted, a child whom the deceased employee was legally  
5 obligated to support or a child to whom the deceased employee  
6 stood in loco parentis. The term "children" means the plural  
7 of "child".

8 The term "physically or mentally incapacitated child or  
9 children" means a child or children incapable of engaging in  
10 regular and substantial gainful employment.

11 In the event of the remarriage of a widow or widower, where  
12 the decedent did not leave surviving any child or children  
13 who, at the time of such remarriage, are entitled to  
14 compensation benefits under this Act, the surviving spouse  
15 shall be paid a lump sum equal to 2 years compensation benefits  
16 and all further rights of such widow or widower shall be  
17 extinguished.

18 If the employee leaves surviving any child or children  
19 under 18 years of age who at the time of death shall be  
20 entitled to compensation under this paragraph (a) of this  
21 Section, the weekly compensation payments herein provided for  
22 such child or children shall in any event continue for a period  
23 of not less than 6 years.

24 Any beneficiary entitled to compensation under this  
25 paragraph (a) of this Section shall receive from the special  
26 fund provided in paragraph (f) of this Section, in addition to

1 the compensation herein provided, supplemental benefits in  
2 accordance with paragraph (g) of Section 8.

3 (b) If no compensation is payable under paragraph (a) of  
4 this Section and the employee leaves surviving a parent or  
5 parents who at the time of the accident were totally dependent  
6 upon the earnings of the employee then weekly payments equal  
7 to the compensation rate payable in the case where the  
8 employee leaves surviving a widow or widower, shall be paid to  
9 such parent or parents for the duration of their lives, and in  
10 the event of the death of either, for the life of the survivor.

11 (c) If no compensation is payable under paragraph (a) or  
12 (b) of this Section and the employee leaves surviving any  
13 child or children who are not entitled to compensation under  
14 the foregoing paragraph (a) but who at the time of the accident  
15 were nevertheless in any manner dependent upon the earnings of  
16 the employee, or leaves surviving a parent or parents who at  
17 the time of the accident were partially dependent upon the  
18 earnings of the employee, then there shall be paid to such  
19 dependent or dependents for a period of 8 years weekly  
20 compensation payments at such proportion of the applicable  
21 rate if the employee had left surviving a widow or widower as  
22 such dependency bears to total dependency. In the event of the  
23 death of any such beneficiary the share of such beneficiary  
24 shall be divided equally among the surviving beneficiaries and  
25 in the event of the death of the last such beneficiary all the  
26 rights under this paragraph shall be extinguished.

1           (d) If no compensation is payable under paragraph (a),  
2           (b), or (c) of this Section and the employee leaves surviving  
3           any grandparent, grandparents, grandchild or grandchildren or  
4           collateral heirs dependent upon the employee's earnings to the  
5           extent of 50% or more of total dependency, then there shall be  
6           paid to such dependent or dependents for a period of 5 years  
7           weekly compensation payments at such proportion of the  
8           applicable rate if the employee had left surviving a widow or  
9           widower as such dependency bears to total dependency. In the  
10          event of the death of any such beneficiary the share of such  
11          beneficiary shall be divided equally among the surviving  
12          beneficiaries and in the event of the death of the last such  
13          beneficiary all rights hereunder shall be extinguished.

14          (e) The compensation to be paid for accidental injury  
15          which results in death, as provided in this Section, shall be  
16          paid to the persons who form the basis for determining the  
17          amount of compensation to be paid by the employer, the  
18          respective shares to be in the proportion of their respective  
19          dependency at the time of the accident on the earnings of the  
20          deceased. The Commission or an Arbitrator thereof may, in its  
21          or his discretion, order or award the payment to the parent or  
22          grandparent of a child for the latter's support the amount of  
23          compensation which but for such order or award would have been  
24          paid to such child as its share of the compensation payable,  
25          which order or award may be modified from time to time by the  
26          Commission in its discretion with respect to the person to

1 whom shall be paid the amount of the order or award remaining  
2 unpaid at the time of the modification.

3 The payments of compensation by the employer in accordance  
4 with the order or award of the Commission discharges such  
5 employer from all further obligation as to such compensation.

6 (f) The sum of \$10,000 ~~\$8,000~~ for burial expenses shall be  
7 paid by the employer to the widow or widower, other dependent,  
8 next of kin or to the person or persons incurring the expense  
9 of burial.

10 In the event the employer failed to provide necessary  
11 first aid, medical, surgical or hospital service, he shall pay  
12 the cost thereof to the person or persons entitled to  
13 compensation under paragraphs (a), (b), (c), or (d) of this  
14 Section, or to the person or persons incurring the obligation  
15 therefore, or providing the same.

16 On January 15 and July 15, 1981, and on January 15 and July  
17 15 of each year thereafter the employer shall within 60 days  
18 pay a sum equal to 1/8 of 1% of all compensation payments made  
19 by him after July 1, 1980, either under this Act or the  
20 Workers' Occupational Diseases Act, whether by lump sum  
21 settlement or weekly compensation payments, but not including  
22 hospital, surgical or rehabilitation payments, made during the  
23 first 6 months and during the second 6 months respectively of  
24 the fiscal year next preceding the date of the payments, into a  
25 special fund which shall be designated the "Second Injury  
26 Fund", of which the State Treasurer is ex officio custodian,

1 such special fund to be held and disbursed for the purposes  
2 hereinafter stated in paragraphs (f) and (g) of Section 8,  
3 either upon the order of the Commission or of a competent  
4 court. Said special fund shall be deposited the same as are  
5 State funds and any interest accruing thereon shall be added  
6 thereto every 6 months. It is subject to audit the same as  
7 State funds and accounts and is protected by the General bond  
8 given by the State Treasurer. It is considered always  
9 appropriated for the purposes of disbursements as provided in  
10 paragraph (f) of Section 8 of this Act, and shall be paid out  
11 and disbursed as therein provided and shall not at any time be  
12 appropriated or diverted to any other use or purpose.

13 On January 15, 1991, the employer shall further pay a sum  
14 equal to one half of 1% of all compensation payments made by  
15 him from January 1, 1990 through June 30, 1990 either under  
16 this Act or under the Workers' Occupational Diseases Act,  
17 whether by lump sum settlement or weekly compensation  
18 payments, but not including hospital, surgical or  
19 rehabilitation payments, into an additional Special Fund which  
20 shall be designated as the "Rate Adjustment Fund". On March  
21 15, 1991, the employer shall pay into the Rate Adjustment Fund  
22 a sum equal to one half of 1% of all such compensation payments  
23 made from July 1, 1990 through December 31, 1990. Within 60  
24 days after July 15, 1991, the employer shall pay into the Rate  
25 Adjustment Fund a sum equal to one half of 1% of all such  
26 compensation payments made from January 1, 1991 through June

1 30, 1991. Within 60 days after January 15 of 1992 and each  
2 subsequent year through 1996, the employer shall pay into the  
3 Rate Adjustment Fund a sum equal to one half of 1% of all such  
4 compensation payments made in the last 6 months of the  
5 preceding calendar year. Within 60 days after July 15 of 1992  
6 and each subsequent year through 1995, the employer shall pay  
7 into the Rate Adjustment Fund a sum equal to one half of 1% of  
8 all such compensation payments made in the first 6 months of  
9 the same calendar year. Within 60 days after January 15 of 1997  
10 and each subsequent year through 2005, the employer shall pay  
11 into the Rate Adjustment Fund a sum equal to three-fourths of  
12 1% of all such compensation payments made in the last 6 months  
13 of the preceding calendar year. Within 60 days after July 15 of  
14 1996 and each subsequent year through 2004, the employer shall  
15 pay into the Rate Adjustment Fund a sum equal to three-fourths  
16 of 1% of all such compensation payments made in the first 6  
17 months of the same calendar year. Within 60 days after July 15  
18 of 2005, the employer shall pay into the Rate Adjustment Fund a  
19 sum equal to 1% of such compensation payments made in the first  
20 6 months of the same calendar year. Within 60 days after  
21 January 15 of 2006 and each subsequent year through 2024, the  
22 employer shall pay into the Rate Adjustment Fund a sum equal to  
23 1.25% of such compensation payments made in the last 6 months  
24 of the preceding calendar year. Within 60 days after July 15 of  
25 2006 and each subsequent year through 2023, the employer shall  
26 pay into the Rate Adjustment Fund a sum equal to 1.25% of such

1 compensation payments made in the first 6 months of the same  
2 calendar year. Within 60 days after July 15 of 2024 and each  
3 subsequent year thereafter, the employer shall pay into the  
4 Rate Adjustment Fund a sum equal to 1.375% of such  
5 compensation payments made in the first 6 months of the same  
6 calendar year. Within 60 days after January 15 of 2025 and each  
7 subsequent year thereafter, the employer shall pay into the  
8 Rate Adjustment Fund a sum equal to 1.375% of such  
9 compensation payments made in the last 6 months of the  
10 preceding calendar year. The administrative costs of  
11 collecting assessments from employers for the Rate Adjustment  
12 Fund shall be paid from the Rate Adjustment Fund. The cost of  
13 an actuarial audit of the Fund shall be paid from the Rate  
14 Adjustment Fund. The State Treasurer is ex officio custodian  
15 of such Special Fund and the same shall be held and disbursed  
16 for the purposes hereinafter stated in paragraphs (f) and (g)  
17 of Section 8 upon the order of the Commission or of a competent  
18 court. The Rate Adjustment Fund shall be deposited the same as  
19 are State funds and any interest accruing thereon shall be  
20 added thereto every 6 months. It shall be subject to audit the  
21 same as State funds and accounts and shall be protected by the  
22 general bond given by the State Treasurer. It is considered  
23 always appropriated for the purposes of disbursements as  
24 provided in paragraphs (f) and (g) of Section 8 of this Act and  
25 shall be paid out and disbursed as therein provided and shall  
26 not at any time be appropriated or diverted to any other use or

1 purpose. Within 5 days after December 7, 1990 (the effective  
2 date of Public Act 86-1448), the Comptroller and the State  
3 Treasurer shall transfer \$1,000,000 from the General Revenue  
4 Fund to the Rate Adjustment Fund. By February 15, 1991, the  
5 Comptroller and the State Treasurer shall transfer \$1,000,000  
6 from the Rate Adjustment Fund to the General Revenue Fund. The  
7 Comptroller and Treasurer are authorized to make transfers at  
8 the request of the Chairman up to a total of \$19,000,000 from  
9 the Second Injury Fund, the General Revenue Fund, and the  
10 Workers' Compensation Benefit Trust Fund to the Rate  
11 Adjustment Fund to the extent that there is insufficient money  
12 in the Rate Adjustment Fund to pay claims and obligations.  
13 Amounts may be transferred from the General Revenue Fund only  
14 if the funds in the Second Injury Fund or the Workers'  
15 Compensation Benefit Trust Fund are insufficient to pay claims  
16 and obligations of the Rate Adjustment Fund. All amounts  
17 transferred from the Second Injury Fund, the General Revenue  
18 Fund, and the Workers' Compensation Benefit Trust Fund shall  
19 be repaid from the Rate Adjustment Fund within 270 days of a  
20 transfer, together with interest at the rate earned by moneys  
21 on deposit in the Fund or Funds from which the moneys were  
22 transferred.

23       Upon a finding by the Commission, after reasonable notice  
24 and hearing, that any employer has willfully and knowingly  
25 failed to pay the proper amounts into the Second Injury Fund or  
26 the Rate Adjustment Fund required by this Section or if such

1 payments are not made within the time periods prescribed by  
2 this Section, the employer shall, in addition to such  
3 payments, pay a penalty of 20% of the amount required to be  
4 paid or \$2,500, whichever is greater, for each year or part  
5 thereof of such failure to pay. This penalty shall only apply  
6 to obligations of an employer to the Second Injury Fund or the  
7 Rate Adjustment Fund accruing after December 18, 1989 (the  
8 effective date of Public Act 86-998). All or part of such a  
9 penalty may be waived by the Commission for good cause shown.

10 Any obligations of an employer to the Second Injury Fund  
11 and Rate Adjustment Fund accruing prior to December 18, 1989  
12 (the effective date of Public Act 86-998) shall be paid in full  
13 by such employer within 5 years of December 18, 1989 (the  
14 effective date of Public Act 86-998), with at least one-fifth  
15 of such obligation to be paid during each year following  
16 December 18, 1989 (the effective date of Public Act 86-998).  
17 If the Commission finds, following reasonable notice and  
18 hearing, that an employer has failed to make timely payment of  
19 any obligation accruing under the preceding sentence, the  
20 employer shall, in addition to all other payments required by  
21 this Section, be liable for a penalty equal to 20% of the  
22 overdue obligation or \$2,500, whichever is greater, for each  
23 year or part thereof that obligation is overdue. All or part of  
24 such a penalty may be waived by the Commission for good cause  
25 shown.

26 The Chairman of the Illinois Workers' Compensation

1 Commission shall, annually, furnish to the Director of the  
2 Department of Insurance a list of the amounts paid into the  
3 Second Injury Fund and the Rate Adjustment Fund by each  
4 insurance company on behalf of their insured employers. The  
5 Director shall verify to the Chairman that the amounts paid by  
6 each insurance company are accurate as best as the Director  
7 can determine from the records available to the Director. The  
8 Chairman shall verify that the amounts paid by each  
9 self-insurer are accurate as best as the Chairman can  
10 determine from records available to the Chairman. The Chairman  
11 may require each self-insurer to provide information  
12 concerning the total compensation payments made upon which  
13 contributions to the Second Injury Fund and the Rate  
14 Adjustment Fund are predicated and any additional information  
15 establishing that such payments have been made into these  
16 funds. Any deficiencies in payments noted by the Director or  
17 Chairman shall be subject to the penalty provisions of this  
18 Act.

19 The State Treasurer, or his duly authorized  
20 representative, shall be named as a party to all proceedings  
21 in all cases involving claim for the loss of, or the permanent  
22 and complete loss of the use of one eye, one foot, one leg, one  
23 arm or one hand.

24 The State Treasurer or his duly authorized agent shall  
25 have the same rights as any other party to the proceeding,  
26 including the right to petition for review of any award. The

1 reasonable expenses of litigation, such as medical  
2 examinations, testimony, and transcript of evidence, incurred  
3 by the State Treasurer or his duly authorized representative,  
4 shall be borne by the Second Injury Fund.

5 If the award is not paid within 30 days after the date the  
6 award has become final, the Commission shall proceed to take  
7 judgment thereon in its own name as is provided for other  
8 awards by paragraph (g) of Section 19 of this Act and take the  
9 necessary steps to collect the award.

10 Any person, corporation or organization who has paid or  
11 become liable for the payment of burial expenses of the  
12 deceased employee may in his or its own name institute  
13 proceedings before the Commission for the collection thereof.

14 For the purpose of administration, receipts and  
15 disbursements, the Special Fund provided for in paragraph (f)  
16 of this Section shall be administered jointly with the Special  
17 Fund provided for in paragraph (f) of Section 7 of the Workers'  
18 Occupational Diseases Act.

19 (g) All compensation, except for burial expenses provided  
20 in this Section to be paid in case accident results in death,  
21 shall be paid in installments equal to the percentage of the  
22 average earnings as provided for in paragraph (b) of Section 8  
23 of this Act, at the same intervals at which the wages or  
24 earnings of the employees were paid. If this is not feasible,  
25 then the installments shall be paid weekly. Such compensation  
26 may be paid in a lump sum upon petition as provided in Section

1 9 of this Act. However, in addition to the benefits provided by  
2 Section 9 of this Act where compensation for death is payable  
3 to the deceased's widow, widower or to the deceased's widow,  
4 widower and one or more children, and where a partial lump sum  
5 is applied for by such beneficiary or beneficiaries within 18  
6 months after the deceased's death, the Commission may, in its  
7 discretion, grant a partial lump sum of not to exceed 100 weeks  
8 of the compensation capitalized at their present value upon  
9 the basis of interest calculated at 3% per annum with annual  
10 rests, upon a showing that such partial lump sum is for the  
11 best interest of such beneficiary or beneficiaries.

12 (h) In case the injured employee is under 16 years of age  
13 at the time of the accident and is illegally employed, the  
14 amount of compensation payable under paragraphs (a), (b), (c),  
15 (d), and (f) of this Section shall be increased 50%.

16 Nothing herein contained repeals or amends the provisions  
17 of the Child Labor Law of 2024 relating to the employment of  
18 minors under the age of 16 years.

19 However, where an employer has on file an employment  
20 certificate issued pursuant to the Child Labor Law of 2024 or  
21 work permit issued pursuant to the Federal Fair Labor  
22 Standards Act, as amended, or a birth certificate properly and  
23 duly issued, such certificate, permit or birth certificate is  
24 conclusive evidence as to the age of the injured minor  
25 employee for the purposes of this Section only.

26 (i) Whenever the dependents of a deceased employee are

1 noncitizens not residing in the United States, Mexico or  
2 Canada, the amount of compensation payable is limited to the  
3 beneficiaries described in paragraphs (a), (b), and (c) of  
4 this Section and is 50% of the compensation provided in  
5 paragraphs (a), (b), and (c) of this Section, except as  
6 otherwise provided by treaty.

7 In a case where any of the persons who would be entitled to  
8 compensation is living at any place outside of the United  
9 States, then payment shall be made to the personal  
10 representative of the deceased employee. The distribution by  
11 such personal representative to the persons entitled shall be  
12 made to such persons and in such manner as the Commission  
13 orders.

14 (Source: P.A. 103-590, eff. 6-5-24; 103-721, eff. 1-1-25;  
15 104-417, eff. 8-15-25.)

16 (820 ILCS 305/8.7)

17 Sec. 8.7. Utilization review programs.

18 (a) As used in this Section:

19 "Utilization review" means the evaluation of proposed or  
20 provided health care services to determine the appropriateness  
21 of both the level of health care services medically necessary  
22 and the quality of health care services provided to a patient,  
23 including evaluation of their efficiency, efficacy, and  
24 appropriateness of treatment, hospitalization, or office  
25 visits based on medically accepted standards. The evaluation

1 must be accomplished by means of a system that identifies the  
2 utilization of health care services based on standards of care  
3 of nationally recognized peer review guidelines as well as  
4 nationally recognized treatment guidelines and evidence-based  
5 medicine based upon standards as provided in this Act.  
6 Utilization techniques may include prospective review, second  
7 opinions, concurrent review, discharge planning, peer review,  
8 independent medical examinations, and retrospective review  
9 (for purposes of this sentence, retrospective review shall be  
10 applicable to services rendered on or after July 20, 2005).  
11 Nothing in this Section applies to prospective review of  
12 necessary first aid or emergency treatment.

13 (b) No person may conduct a utilization review program for  
14 workers' compensation services in this State unless once every  
15 2 years the person registers the utilization review program  
16 with the Department of Insurance and certifies compliance with  
17 the Workers' Compensation Utilization Management standards or  
18 Health Utilization Management Standards of URAC sufficient to  
19 achieve URAC accreditation or submits evidence of  
20 accreditation by URAC for its Workers' Compensation  
21 Utilization Management Standards or Health Utilization  
22 Management Standards. Nothing in this Act shall be construed  
23 to require an employer or insurer or its subcontractors to  
24 become URAC accredited.

25 (c) In addition, the Director of Insurance may certify  
26 alternative utilization review standards of national

1 accreditation organizations or entities in order for plans to  
2 comply with this Section. Any alternative utilization review  
3 standards shall meet or exceed those standards required under  
4 subsection (b).

5 (d) This registration shall include submission of all of  
6 the following information regarding utilization review program  
7 activities:

8 (1) The name, address, and telephone number of the  
9 utilization review programs.

10 (2) The organization and governing structure of the  
11 utilization review programs.

12 (3) The number of lives for which utilization review  
13 is conducted by each utilization review program.

14 (4) Hours of operation of each utilization review  
15 program.

16 (5) Description of the grievance process for each  
17 utilization review program.

18 (6) Number of covered lives for which utilization  
19 review was conducted for the previous calendar year for  
20 each utilization review program.

21 (7) Written policies and procedures for protecting  
22 confidential information according to applicable State and  
23 federal laws for each utilization review program.

24 (e) A utilization review program shall have written  
25 procedures to ensure that patient-specific information  
26 obtained during the process of utilization review will be:

1 (1) kept confidential in accordance with applicable  
2 State and federal laws; and

3 (2) shared only with the employee, the employee's  
4 designee, and the employee's health care provider, and  
5 those who are authorized by law to receive the  
6 information. Summary data shall not be considered  
7 confidential if it does not provide information to allow  
8 identification of individual patients or health care  
9 providers.

10 Only a health care professional may make determinations  
11 regarding the medical necessity of health care services during  
12 the course of utilization review. Any adverse determination  
13 shall be made by a physician if the health care services are to  
14 be delivered or recommended by a physician. The reviewing  
15 physician shall have:

16 (1) a current and valid nonrestricted license in any  
17 United States jurisdiction and a current certification by  
18 a recognized American medical specialty board in the area  
19 or areas appropriate to the subject of the review; and

20 (2) experience treating and managing patients with the  
21 medical condition or disease for which the health care  
22 service is being requested.

23 Notwithstanding the provisions of this subsection, a  
24 licensed health care professional who satisfies the  
25 requirements of this subsection may make an adverse  
26 determination of a service request submitted by a health care

1 professional licensed in the same profession.

2 When making retrospective reviews, utilization review  
3 programs shall base reviews solely on the medical information  
4 available to the attending physician or ordering provider at  
5 the time the health care services were provided.

6 (f) If the Department of Insurance finds that a  
7 utilization review program is not in compliance with this  
8 Section, the Department shall issue a corrective action plan  
9 and allow a reasonable amount of time for compliance with the  
10 plan. If the utilization review program does not come into  
11 compliance, the Department may issue a cease and desist order.  
12 Before issuing a cease and desist order under this Section,  
13 the Department shall provide the utilization review program  
14 with a written notice of the reasons for the order and allow a  
15 reasonable amount of time to supply additional information  
16 demonstrating compliance with the requirements of this Section  
17 and to request a hearing. The hearing notice shall be sent by  
18 certified mail, return receipt requested, and the hearing  
19 shall be conducted in accordance with the Illinois  
20 Administrative Procedure Act.

21 (g) A utilization review program subject to a corrective  
22 action may continue to conduct business until a final decision  
23 has been issued by the Department.

24 (h) The Department of Insurance may by rule establish a  
25 registration fee for each person conducting a utilization  
26 review program.

1 (i) Upon receipt of written notice that the employer or  
2 the employer's agent or insurer wishes to invoke the  
3 utilization review process, the provider of medical, surgical,  
4 or hospital services shall submit to the utilization review,  
5 following accredited procedural guidelines.

6 (1) The provider shall make reasonable efforts to  
7 provide timely and complete reports of clinical  
8 information needed to support a request for treatment. If  
9 the provider fails to make such reasonable efforts, the  
10 charges for the treatment or service may not be  
11 compensable nor collectible by the provider or claimant  
12 from the employer, the employer's agent, or the employee.  
13 The reporting obligations of providers shall not be  
14 unreasonable or unduly burdensome.

15 (2) Written notice of utilization review decisions,  
16 including the clinical rationale for certification or  
17 non-certification and references to applicable standards  
18 of care or evidence-based medical guidelines, shall be  
19 furnished to the provider and employee. The certification  
20 shall be valid for the 3 months immediately after the date  
21 on which the employee and health care provider receive the  
22 certification or for the length of treatment as determined  
23 by the employee's health care provider. If the  
24 certification is for a proposed surgery, it shall be  
25 inclusive of 3 months of postoperative health care  
26 services as clinically indicated by the treating health

1 care professional or for the length of treatment as  
2 determined by the petitioner's treating health care  
3 professional, completed by a licensed health care  
4 professional.

5 (2-5) A non-certification may be appealed. All appeals  
6 shall be reviewed by a physician if the health care  
7 services are to be delivered or recommended by a  
8 physician. The reviewing physician shall have:

9 (A) a current and valid nonrestricted license in  
10 any United States jurisdiction and a current  
11 certification by a recognized American medical  
12 specialty board and, where applicable, subspecialty  
13 board in the area or areas appropriate to the subject  
14 of the review; and

15 (B) experience treating and managing patients with  
16 the medical condition or disease for which the health  
17 care service is being requested.

18 Notwithstanding the provisions of this paragraph, a  
19 licensed health care professional who satisfies the  
20 requirements of this subsection may make an adverse  
21 determination of a service request submitted by a health  
22 care professional licensed in the same profession.

23 (3) An employer may only deny payment of or refuse to  
24 authorize payment of medical services rendered or proposed  
25 to be rendered on the grounds that the extent and scope of  
26 medical treatment is excessive and unnecessary in

1 compliance with an accredited utilization review program  
2 under this Section.

3 (4) When a payment for medical services has been  
4 denied or not authorized by an employer or when  
5 authorization for medical services is denied pursuant to  
6 utilization review, the employee has the burden of proof  
7 to show by a preponderance of the evidence that a variance  
8 from the standards of care used by the person or entity  
9 performing the utilization review pursuant to subsection  
10 (a) is reasonably required to cure or relieve the effects  
11 of his or her injury.

12 (5) The medical professional responsible for review in  
13 the final stage of utilization review or appeal must be  
14 available in this State for interview or deposition; or  
15 must be available for deposition by telephone, video  
16 conference, or other remote electronic means. A medical  
17 professional who works or resides in this State or outside  
18 of this State may comply with this requirement by making  
19 himself or herself available for an interview or  
20 deposition in person or by making himself or herself  
21 available by telephone, video conference, or other remote  
22 electronic means. The remote interview or deposition shall  
23 be conducted in a fair, open, and cost-effective manner.  
24 The expense of interview and the deposition method shall  
25 be paid by the employer. The deponent shall be in the  
26 presence of the officer administering the oath and

1 recording the deposition, unless otherwise agreed by the  
2 parties. Any exhibits or other demonstrative evidence to  
3 be presented to the deponent by any party at the  
4 deposition shall be provided to the officer administering  
5 the oath and all other parties within a reasonable period  
6 of time prior to the deposition. Nothing shall prohibit  
7 any party from being with the deponent during the  
8 deposition, at that party's expense; provided, however,  
9 that a party attending a deposition shall give written  
10 notice of that party's intention to appear at the  
11 deposition to all other parties within a reasonable time  
12 prior to the deposition.

13 An admissible utilization review shall be considered by  
14 the Commission, along with all other evidence and in the same  
15 manner as all other evidence, and must be addressed along with  
16 all other evidence in the determination of the reasonableness  
17 and necessity of the medical bills or treatment. Nothing in  
18 this Section shall be construed to diminish the rights of  
19 employees to reasonable and necessary medical treatment or  
20 employee choice of health care provider under Section 8(a) or  
21 the rights of employers to medical examinations under Section  
22 12.

23 (j) When an employer denies payment of or refuses to  
24 authorize payment of first aid, medical, surgical, or hospital  
25 services under Section 8(a) of this Act, if that denial or  
26 refusal to authorize complies with a utilization review

1 program registered under this Section and complies with all  
2 other requirements of this Section, then there shall be a  
3 rebuttable presumption that the employer shall not be  
4 responsible for payment of additional compensation pursuant to  
5 Section 19(k) of this Act and if that denial or refusal to  
6 authorize does not comply with a utilization review program  
7 registered under this Section and does not comply with all  
8 other requirements of this Section, then that will be  
9 considered by the Commission, along with all other evidence  
10 and in the same manner as all other evidence, in the  
11 determination of whether the employer may be responsible for  
12 the payment of additional compensation pursuant to Section  
13 19(k) of this Act.

14 The changes to this Section made by this amendatory Act of  
15 the 97th General Assembly apply only to health care services  
16 provided or proposed to be provided on or after September 1,  
17 2011.

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

19 (820 ILCS 305/12) (from Ch. 48, par. 138.12)

20 Sec. 12. An employee entitled to receive disability  
21 payments shall be required, if requested by the employer, to  
22 submit himself, at the expense of the employer, for  
23 examination to a duly qualified medical practitioner or  
24 surgeon selected by the employer, at any time and place  
25 reasonably convenient for the employee, either within or

1 without the State of Illinois, for the purpose of determining  
2 the nature, extent and probable duration of the injury  
3 received by the employee, and for the purpose of ascertaining  
4 the amount of compensation which may be due the employee from  
5 time to time for disability according to the provisions of  
6 this Act. An employee may also be required to submit himself  
7 for examination by medical experts under subsection (c) of  
8 Section 19.

9 If an employer asks a medical practitioner for an  
10 examination of the reasonableness and necessity of the medical  
11 services proposed or provided under subsection (a) of Section  
12 8, instead of a utilization review under Section 8.7, the  
13 examination required under this Section and the report of the  
14 examination shall be provided by the medical practitioner to  
15 the employee or the employee's representative and the  
16 employee's treating health care professional within 90 days  
17 after receipt of the request for the examination of the  
18 reasonableness and necessity of treatment. The 90-day period  
19 begins when the employer receives the medical records from the  
20 treating health care professional requesting the medical  
21 service. The employer or the employer's representative shall  
22 exercise due diligence in requesting and collecting the  
23 employee's medical records in accordance with all applicable  
24 laws. The medical practitioner who performs the examination to  
25 determine the reasonableness and necessity of treatment shall  
26 be board certified in the same specialty as the treating

1 health care professional. If the employer fails to comply with  
2 this paragraph after receiving the medical records from the  
3 treating health care professional requesting the medical  
4 service, there is a rebuttable presumption that the employer  
5 shall be responsible for the payment of additional  
6 compensation under Section 16 and subsection (1) of Section  
7 19. This paragraph applies to the failure to authorize or  
8 approve treatment as well as the failure to pay for treatment.

9 An employer requesting such an examination, of an employee  
10 residing within the State of Illinois, shall deliver to the  
11 employee with the notice of the time and place of examination  
12 sufficient money to defray the necessary expense of travel by  
13 the most convenient means to and from the place of  
14 examination, and the cost of meals necessary during the trip,  
15 and if the examination or travel to and from the place of  
16 examination causes any loss of working time on the part of the  
17 employee, the employer shall reimburse him for such loss of  
18 wages upon the basis of his average daily wage. Such  
19 examination shall be made in the presence of a duly qualified  
20 medical practitioner or surgeon provided and paid for by the  
21 employee, if such employee so desires.

22 In all cases where the examination is made by a surgeon  
23 engaged by the employer, and the injured employee has no  
24 surgeon present at such examination, it shall be the duty of  
25 the surgeon making the examination at the instance of the  
26 employer to deliver to the injured employee, or his

1 representative, a statement in writing of the condition and  
2 extent of the injury to the same extent that said surgeon  
3 reports to the employer and the same shall be an exact copy of  
4 that furnished to the employer, said copy to be furnished the  
5 employee, or his representative as soon as practicable but not  
6 later than 48 hours before the time the case is set for  
7 hearing. Such delivery shall be made in person either to the  
8 employee or his representative, or by registered mail to  
9 either, and the receipt of either shall be proof of such  
10 delivery. If such surgeon refuses to furnish the employee with  
11 such statement to the same extent as that furnished the  
12 employer said surgeon shall not be permitted to testify at the  
13 hearing next following said examination.

14 If the employee refuses so to submit himself to  
15 examination or unnecessarily obstructs the same, his right to  
16 compensation payments shall be temporarily suspended until  
17 such examination shall have taken place, and no compensation  
18 shall be payable under this Act for such period.

19 It shall be the duty of surgeons treating an injured  
20 employee who is likely to die, and treating him at the instance  
21 of the employer, to have called in another surgeon to be  
22 designated and paid for by either the injured employee or by  
23 the person or persons who would become his beneficiary or  
24 beneficiaries, to make an examination before the death of such  
25 injured employee.

26 In all cases where the examination is made by a surgeon

1 engaged by the injured employee, and the employer has no  
2 surgeon present at such examination, it shall be the duty of  
3 the surgeon making the examination at the instance of the  
4 employee, to deliver to the employer, or his representative, a  
5 statement in writing of the condition and extent of the injury  
6 to the same extent that said surgeon reports to the employee  
7 and the same shall be an exact copy of that furnished to the  
8 employee, said copy to be furnished the employer, or his  
9 representative, as soon as practicable but not later than 48  
10 hours before the time the case is set for hearing. Such  
11 delivery shall be made in person either to the employer, or his  
12 representative, or by registered mail to either, and the  
13 receipt of either shall be proof of such delivery. If such  
14 surgeon refuses to furnish the employer with such statement to  
15 the same extent as that furnished the employee, said surgeon  
16 shall not be permitted to testify at the hearing next  
17 following said examination.

18 (Source: P.A. 94-277, eff. 7-20-05.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.