



Sen. Bill Cunningham

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10400HB5228sam002

LRB104 20014 SPS 38524 a

1 AMENDMENT TO HOUSE BILL 5228

2 AMENDMENT NO. _____. Amend House Bill 5228 by replacing
3 everything after the enacting clause with the following:

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

1 deposited into the Illinois Workers' Compensation Commission
2 Operations Fund as established in the Workers' Compensation
3 Act. If a company survives or was formed by a merger,
4 consolidation, reorganization, or reincorporation, the direct
5 written premiums of all companies party to the merger,
6 consolidation, reorganization, or reincorporation shall, for
7 purposes of determining the amount of the fee imposed by this
8 Section, be regarded as those of the surviving or new company.

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

1 required by Section 136. The Illinois Workers' Compensation
2 Commission Operations Fund Surcharge shall be collected by
3 companies subject to subsection (a) of this Section as a
4 separately stated surcharge on insured employers at the rate
5 of 1.092% of direct written premium for the surcharge due in
6 2024 and each year thereafter, plus an additional amount
7 determined under subsection (b-5) beginning in 2026. The
8 Illinois Workers' Compensation Commission Operations Fund
9 Surcharge shall not be collected by companies subject to
10 subsection (a) of this Section from any employer that
11 self-insures its liabilities arising under the Workers'
12 Compensation Act or Workers' Occupational Diseases Act,
13 provided that the employer has paid the Illinois Workers'
14 Compensation Commission Operations Fund Fee pursuant to
15 Section 4d of the Workers' Compensation Act. All sums
16 collected by the Department of Insurance under the provisions
17 of this Section shall be paid promptly after the receipt of the
18 same, accompanied by a detailed statement thereof, into the
19 Illinois Workers' Compensation Commission Operations Fund in
20 the State treasury.

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

22 "Annual funding target for the year" means \$7,000,000 for
23 2026 and, for each year thereafter, the previous year's annual
24 funding target increased by 3.5%.

25 "Statewide underwriting gain for the previous year" means
26 the sum of the underwriting gains for all companies that had an

1 underwriting gain for their workers' compensation and excess
2 workers' compensation lines in this State, as reported in the
3 companies' annual statements filed for the previous year under
4 Section 136.

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

8 (A) direct losses incurred;

9 (B) direct defense and cost containment expense
10 incurred;

11 (C) commission and brokerage expenses; and

12 (D) taxes, licenses, and fees.

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

1 Compensation Commission Operations Fund Surcharge described in
2 subsection (b) shall apply to the additional amount described
3 in this subsection.

4 The additional amount included in each company's surcharge
5 for a given year shall be a percentage of the company's
6 underwriting gain for its workers' compensation and excess
7 workers' compensation lines in this State, as reported in the
8 company's annual statement filed for the previous year under
9 Section 136. Each year's percentage shall be calculated as the
10 annual funding target for the year divided by the statewide
11 underwriting gain for the previous year multiplied by 100.

12 Before collecting the additional amount each year, the
13 Department shall publish a company bulletin demonstrating the
14 calculation of the percentage in accordance with this
15 subsection. The bulletin shall include or contain a hyperlink
16 to download the underlying data from the companies' annual
17 statements that the Department used to perform the
18 calculation.

19 The additional amount included in the surcharge shall be
20 deposited into the Illinois Workers' Compensation Commission
21 Operations Fund in accordance with the Workers' Compensation
22 Act. If a company survives or was formed by a merger,
23 consolidation, reorganization, or reincorporation, the
24 underwriting gain in this State for all companies that are
25 parties to the merger, consolidation, reorganization, or
26 reincorporation shall, for purposes of determining the

1 additional amount imposed by this subsection, be regarded as
2 those of the surviving or new company.

3 (c) In addition to the authority specifically granted
4 under Article XXV of this Code, the Director shall have such
5 authority to adopt rules or establish forms as may be
6 reasonably necessary for purposes of enforcing this Section.
7 The Director shall also have authority to defer, waive, or
8 abate the surcharge or any penalties imposed by this Section
9 if in the Director's opinion the company's solvency and
10 ability to meet its insured obligations would be immediately
11 threatened by payment of the surcharge due.

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

18 (e) The Department of Insurance may enforce the collection
19 of any delinquent payment, penalty, or portion thereof by
20 legal action or in any other manner by which the collection of
21 debts due the State of Illinois may be enforced under the laws
22 of this State.

23 (f) Whenever it appears to the satisfaction of the
24 Director that a company has paid pursuant to this Act an
25 Illinois Workers' Compensation Commission Operations Fund
26 Surcharge in an amount in excess of the amount legally

1 collectable from the company, the Director shall issue a
2 credit memorandum for an amount equal to the amount of such
3 overpayment. A credit memorandum may be applied for the 2-year
4 period from the date of issuance, against the payment of any
5 amount due during that period under the surcharge imposed by
6 this Section or, subject to reasonable rule of the Department
7 of Insurance including requirement of notification, may be
8 assigned to any other company subject to regulation under this
9 Act. Any application of credit memoranda after the period
10 provided for in this Section is void.

11 (g) Annually, the Governor may direct a transfer of up to
12 2% of all moneys collected under this Section to the Insurance
13 Financial Regulation Fund.

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

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

17 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

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

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

24 (1) File with the Commission annually an application

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

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

23 (2) Furnish security, indemnity or a bond guaranteeing
24 the payment by the employer of the compensation provided
25 for in this Act, provided that any such employer whose
26 application and financial statement shall not have

1 satisfied the commission of his or her financial ability
2 and who shall have secured his liability in part by excess
3 liability insurance shall be required to furnish to the
4 Commission security, indemnity or bond guaranteeing his or
5 her payment up to the effective limits of the excess
6 coverage, or

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

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

23 Secondly, the employer shall submit evidence
24 satisfactorily to the Commission that his or her
25 entire liability for the compensation provided for in
26 this Act will be secured. Any provisions in any

1 policy, or in any endorsement attached thereto,
2 attempting to limit or modify in any way, the
3 liability of the insurance carriers issuing the same
4 except as otherwise provided herein shall be wholly
5 void.

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

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

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

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

21 (A) the employer is engaged primarily in the building
22 and construction industry; and

23 (B) subdivision (a)(3) of this Section applies to the
24 employer or the employer is a member of a group
25 self-insurance plan as defined in subsection (1) of
26 Section 4a.

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

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

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

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

17 Any penalty under this subsection (a-1) must be imposed
18 not later than one year after the expiration of the applicable
19 limitation period specified in subsection (d) of Section 6 of
20 this Act. Penalties imposed under this subsection (a-1) shall
21 be deposited into the Illinois Workers' Compensation
22 Commission Operations Fund, a special fund that is created in
23 the State treasury. Subject to appropriation, moneys in the
24 Fund shall be used solely for the operations of the Illinois
25 Workers' Compensation Commission, the salaries and benefits of
26 the Self-Insurers Advisory Board employees, the operating

1 costs of the Self-Insurers Advisory Board, and by the
2 Department of Insurance for the purposes authorized in
3 subsection (c) of Section 25.5 of this Act.

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

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

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

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

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

1 its license was active.

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

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

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

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

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

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

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

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

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

20 (d) Whenever a Commissioner, with due process and after a
21 hearing, determines an employer has knowingly failed to
22 provide coverage as required by paragraph (a) of this Section,
23 the failure shall be deemed an immediate serious danger to
24 public health, safety, and welfare sufficient to justify
25 service by the Commission of a work-stop order on such
26 employer, requiring the cessation of all business operations

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

20 Any individual employer, corporate officer or director of
21 a corporate employer, partner of an employer partnership, or
22 member of an employer limited liability company who knowingly
23 fails to provide coverage as required by paragraph (a) of this
24 Section is guilty of a Class 4 felony. This provision shall not
25 apply to any corporate officer or director of any
26 publicly-owned corporation. Each day's violation constitutes a

1 separate offense. The State's Attorney of the county in which
2 the violation occurred, or the Attorney General, shall bring
3 such actions in the name of the People of the State of
4 Illinois, or may, in addition to other remedies provided in
5 this Section, bring an action for an injunction to restrain
6 the violation or to enjoin the operation of any such employer.

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

18 The criminal penalties in this subsection (d) shall not
19 apply where there exists a good faith dispute as to the
20 existence of an employment relationship. Evidence of good
21 faith shall include, but not be limited to, compliance with
22 the definition of employee as used by the Internal Revenue
23 Service.

24 All investigative actions must be acted upon within 90
25 days of the issuance of the complaint. Employers who are
26 subject to and who knowingly fail to comply with this Section

1 shall not be entitled to the benefits of this Act during the
2 period of noncompliance, but shall be liable in an action
3 under any other applicable law of this State. In the action,
4 such employer shall not avail himself or herself of the
5 defenses of assumption of risk or negligence or that the
6 injury was due to a co-employee. In the action, proof of the
7 injury shall constitute prima facie evidence of negligence on
8 the part of such employer and the burden shall be on such
9 employer to show freedom of negligence resulting in the
10 injury. The employer shall not join any other defendant in any
11 such civil action. Nothing in this amendatory Act of the 94th
12 General Assembly shall affect the employee's rights under
13 subdivision (a)3 of Section 1 of this Act. Any employer or
14 carrier who makes payments under subdivision (a)3 of Section 1
15 of this Act shall have a right of reimbursement from the
16 proceeds of any recovery under this Section.

17 An employee of an uninsured employer, or the employee's
18 dependents in case death ensued, may, instead of proceeding
19 against the employer in a civil action in court, file an
20 application for adjustment of claim with the Commission in
21 accordance with the provisions of this Act and the Commission
22 shall hear and determine the application for adjustment of
23 claim in the manner in which other claims are heard and
24 determined before the Commission.

25 All proceedings under this subsection (d) shall be
26 reported on an annual basis to the Workers' Compensation

1 Advisory Board.

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

14 Upon a finding by the Commission, after reasonable notice
15 and hearing, of the knowing and willful failure or refusal of
16 an employer to comply with any of the provisions of paragraph
17 (a) of this Section, the failure or refusal of an employer,
18 service or adjustment company, or an insurance carrier to
19 comply with any order of the Illinois Workers' Compensation
20 Commission pursuant to paragraph (c) of this Section
21 disqualifying him or her to operate as a self insurer and
22 requiring him or her to insure his or her liability, or the
23 knowing and willful failure of an employer to comply with a
24 citation issued by an investigator with the Department of
25 Insurance, the Commission may assess a civil penalty of up to
26 \$500 per day for each day of such failure or refusal after the

1 effective date of this amendatory Act of 1989. The minimum
2 penalty under this Section shall be the sum of \$10,000. Each
3 day of such failure or refusal shall constitute a separate
4 offense. The Commission may assess the civil penalty
5 personally and individually against the corporate officers and
6 directors of a corporate employer, the partners of an employer
7 partnership, and the members of an employer limited liability
8 company, after a finding of a knowing and willful refusal or
9 failure of each such named corporate officer, director,
10 partner, or member to comply with this Section. The liability
11 for the assessed penalty shall be against the named employer
12 first, and if the named employer fails or refuses to pay the
13 penalty to the Commission within 30 days after the final order
14 of the Commission, then the named corporate officers,
15 directors, partners, or members who have been found to have
16 knowingly and willfully refused or failed to comply with this
17 Section shall be liable for the unpaid penalty or any unpaid
18 portion of the penalty. Upon investigation by the Department
19 of Insurance, the Attorney General shall have the authority to
20 prosecute all proceedings to enforce the civil and
21 administrative provisions of this Section before the
22 Commission. The Commission and the Department of Insurance
23 shall promulgate procedural rules for enforcing this Section
24 relating to their respective duties prescribed herein.

25 If an employer is found to be in non-compliance with any
26 provisions of paragraph (a) of this Section more than once,

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

16 A Commission decision imposing penalties under this
17 Section may be judicially reviewed only as described in
18 Section 19(f). After expiration of the period for seeking
19 judicial review, the Commission's final decision imposing
20 penalties may be enforced in the same manner as a judgment
21 entered by a court of competent jurisdiction. The Commission's
22 final decision imposing penalties is a debt due and owing to
23 the State and can be enforced to the same extent as a judgment
24 entered by a circuit court. The Attorney General shall
25 represent the Commission and the Department of Insurance in
26 any action challenging the final decision in circuit court. If

1 the court affirms the Commission's decision, the court shall
2 enter judgment against the employer in the amount of the fines
3 assessed by the Commission. The Attorney General shall make
4 reasonable efforts to collect the amounts due under the
5 Commission's decision.

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, with the
9 intent to avoid payment of compensation under this Act to an
10 injured employee or the employee's dependents, knowingly
11 transfers, sells, encumbers, assigns, or in any manner
12 disposes of, conceals, secretes, or destroys any property
13 belonging to the employer, officer, director, partner, or
14 member is guilty of a Class 4 felony.

15 Penalties and fines collected pursuant to this paragraph
16 (d) shall be deposited upon receipt into a special fund which
17 shall be designated the Injured Workers' Benefit Fund, of
18 which the State Treasurer is ex-officio custodian, such
19 special fund to be held and disbursed in accordance with this
20 paragraph (d) for the purposes hereinafter stated in this
21 paragraph (d), upon the final order of the Commission. The
22 Injured Workers' Benefit Fund shall be deposited the same as
23 are State funds and any interest accruing thereon shall be
24 added thereto every 6 months. The Injured Workers' Benefit
25 Fund is subject to audit the same as State funds and accounts
26 and is protected by the general bond given by the State

1 Treasurer. The Injured Workers' Benefit Fund is considered
2 always appropriated for the purposes of disbursements as
3 provided in this paragraph, and shall be paid out and
4 disbursed as herein provided and shall not at any time be
5 appropriated or diverted to any other use or purpose. Moneys
6 in the Injured Workers' Benefit Fund shall be used only for
7 payment of workers' compensation benefits for injured
8 employees when the employer has failed to provide coverage as
9 determined under this paragraph (d) and has failed to pay the
10 benefits due to the injured employee. The employer shall
11 reimburse the Injured Workers' Benefit Fund for any amounts
12 paid to an employee on account of the compensation awarded by
13 the Commission. The Attorney General shall make reasonable
14 efforts to obtain reimbursement for the Injured Workers'
15 Benefit Fund.

16 Any such amounts obtained shall be deposited by the
17 Commission into the Injured Workers' Benefit Fund. If an
18 injured employee or his or her personal representative
19 receives payment from the Injured Workers' Benefit Fund, the
20 State of Illinois has the same rights under paragraph (b) of
21 Section 5 that the employer who failed to pay the benefits due
22 to the injured employee would have had if the employer had paid
23 those benefits, and any moneys recovered by the State as a
24 result of the State's exercise of its rights under paragraph
25 (b) of Section 5 shall be deposited into the Injured Workers'
26 Benefit Fund. The custodian of the Injured Workers' Benefit

1 Fund shall be joined with the employer as a party respondent in
2 the application for adjustment of claim. After July 1, 2006,
3 the Commission shall make disbursements from the Fund once
4 each year to each eligible claimant. An eligible claimant is
5 an injured worker who has within the previous fiscal year
6 obtained a final award for benefits from the Commission
7 against the employer and the Injured Workers' Benefit Fund and
8 has notified the Commission within 90 days of receipt of such
9 award. Within a reasonable time after the end of each fiscal
10 year, the Commission shall make a disbursement to each
11 eligible claimant. At the time of disbursement, if there are
12 insufficient moneys in the Fund to pay all claims, each
13 eligible claimant shall receive a pro-rata share, as
14 determined by the Commission, of the available moneys in the
15 Fund for that year. Payment from the Injured Workers' Benefit
16 Fund to an eligible claimant pursuant to this provision shall
17 discharge the obligations of the Injured Workers' Benefit Fund
18 regarding the award entered by the Commission.

19 (e) This Act shall not affect or disturb the continuance
20 of any existing insurance, mutual aid, benefit, or relief
21 association or department, whether maintained in whole or in
22 part by the employer or whether maintained by the employees,
23 the payment of benefits of such association or department
24 being guaranteed by the employer or by some person, firm or
25 corporation for him or her: Provided, the employer contributes
26 to such association or department an amount not less than the

1 full compensation herein provided, exclusive of the cost of
2 the maintenance of such association or department and without
3 any expense to the employee. This Act shall not prevent the
4 organization and maintaining under the insurance laws of this
5 State of any benefit or insurance company for the purpose of
6 insuring against the compensation provided for in this Act,
7 the expense of which is maintained by the employer. This Act
8 shall not prevent the organization or maintaining under the
9 insurance laws of this State of any voluntary mutual aid,
10 benefit or relief association among employees for the payment
11 of additional accident or sick benefits.

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

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

26 In the event the employer does not pay the compensation

1 for which he or she is liable, then an insurance company,
2 association or insurer which may have insured such employer
3 against such liability shall become primarily liable to pay to
4 the employee, his or her personal representative or
5 beneficiary the compensation required by the provisions of
6 this Act to be paid by such employer. The insurance carrier may
7 be made a party to the proceedings in which the employer is a
8 party and an award may be entered jointly against the employer
9 and the insurance carrier.

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

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

24 (i) If an employer elects to obtain a life insurance
25 policy on his employees, he may also elect to apply such
26 benefits in satisfaction of all or a portion of the death

1 benefits payable under this Act, in which case, the employer's
2 compensation premium shall be reduced accordingly.

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

14 The Chairman of the Commission shall promptly act upon all
15 initial applications and applications for renewal in full
16 accordance with the recommendations of the Board or, should
17 the Chairman disagree with any recommendation of disposition
18 of the Self-Insurer's Advisory Board, he shall within 30 days
19 of receipt of such recommendation provide to the Board in
20 writing the reasons supporting his decision. The Chairman
21 shall also promptly notify the employer of his decision within
22 15 days of receipt of the recommendation of the Board.

23 If an employer is denied a renewal of self-insurance
24 privileges pursuant to application it shall retain said
25 privilege for 120 days after receipt of a notice of
26 cancellation of the privilege from the Chairman of the

1 Commission.

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

15 (Source: P.A. 101-40, eff. 1-1-20; 102-37, eff. 7-1-21;
16 103-590, eff. 6-5-24..)

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

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

23 (1) File with the Commission annually an application
24 for approval as a self-insurer which shall include a
25 current financial statement, and annually, thereafter, an

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

17 If the sworn application and financial statement of
18 any such employer does not satisfy the Commission of the
19 financial ability of the employer who has filed it, the
20 Commission shall require such employer to,

21 (2) Furnish security, indemnity or a bond guaranteeing
22 the payment by the employer of the compensation provided
23 for in this Act, provided that any such employer whose
24 application and financial statement shall not have
25 satisfied the commission of his or her financial ability
26 and who shall have secured his liability in part by excess

1 liability insurance shall be required to furnish to the
2 Commission security, indemnity or bond guaranteeing his or
3 her payment up to the effective limits of the excess
4 coverage, or

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

17 Firstly, the entire compensation liability of the
18 employer to employees working at or from one location
19 shall be insured in one such insurance carrier or
20 shall be self-insured, and

21 Secondly, the employer shall submit evidence
22 satisfactorily to the Commission that his or her
23 entire liability for the compensation provided for in
24 this Act will be secured. Any provisions in any
25 policy, or in any endorsement attached thereto,
26 attempting to limit or modify in any way, the

1 liability of the insurance carriers issuing the same
2 except as otherwise provided herein shall be wholly
3 void.

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

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

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

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

19 (A) the employer is engaged primarily in the building
20 and construction industry; and

21 (B) subdivision (a)(3) of this Section applies to the
22 employer or the employer is a member of a group
23 self-insurance plan as defined in subsection (1) of
24 Section 4a.

25 The Illinois Workers' Compensation Commission shall impose
26 a penalty upon an employer for violation of this subsection

1 (a-1) if:

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

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

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

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

26 (a-2) Every Employee Leasing Company (ELC), as defined in

1 Section 15 of the Employee Leasing Company Act, shall at a
2 minimum provide the following information to the Commission or
3 any entity designated by the Commission regarding each
4 workers' compensation insurance policy issued to the ELC:

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

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

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

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

24 (b) The sworn application and financial statement, or
25 security, indemnity or bond, or amount of insurance, or other
26 provisions, filed, furnished, carried, or made by the

1 employer, as the case may be, shall be subject to the approval
2 of the Commission.

3 Deposits under escrow agreements shall be cash, negotiable
4 United States government bonds or negotiable general
5 obligation bonds of the State of Illinois. Such cash or bonds
6 shall be deposited in escrow with any State or National Bank or
7 Trust Company having trust authority in the State of Illinois.

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

1 however, that if the employer has secured insurance from
2 another insurance carrier, or has otherwise secured the
3 payment of compensation in accordance with this Section, and
4 such insurance or other security becomes effective prior to
5 the expiration of the 10 days, cancellation or termination
6 may, at the option of the insurance carrier indicated in such
7 notice, be effective as of the effective date of such other
8 insurance or security.

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

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

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

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

16 (d) Whenever a panel of 3 Commissioners comprised of one
17 member of the employing class, one representative of a labor
18 organization recognized under the National Labor Relations Act
19 or an attorney who has represented labor organizations or has
20 represented employees in workers' compensation cases, and one
21 member not identified with either the employing class or a
22 labor organization, with due process and after a hearing,
23 determines an employer has knowingly failed to provide
24 coverage as required by paragraph (a) of this Section, the
25 failure shall be deemed an immediate serious danger to public
26 health, safety, and welfare sufficient to justify service by

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

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

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

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

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

1 that it obtained the required workers' compensation insurance
2 within 10 days after the citation was issued. This Section
3 does not affect any other obligations this Act imposes on
4 employers.

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

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

16 A Commission decision imposing penalties under this
17 Section may be judicially reviewed only as described in
18 Section 19(f). After expiration of the period for seeking
19 judicial review, the Commission's final decision imposing
20 penalties may be enforced in the same manner as a judgment
21 entered by a court of competent jurisdiction. The Commission's
22 final decision imposing penalties is a debt due and owing to
23 the State and can be enforced to the same extent as a judgment
24 entered by a circuit court. The Attorney General shall
25 represent the Commission and the Department of Insurance in
26 any action challenging the final decision in circuit court. If

1 the court affirms the Commission's decision, the court shall
2 enter judgment against the employer in the amount of the fines
3 assessed by the Commission. The Attorney General shall make
4 reasonable efforts to collect the amounts due under the
5 Commission's decision.

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, with the
9 intent to avoid payment of compensation under this Act to an
10 injured employee or the employee's dependents, knowingly
11 transfers, sells, encumbers, assigns, or in any manner
12 disposes of, conceals, secretes, or destroys any property
13 belonging to the employer, officer, director, partner, or
14 member is guilty of a Class 4 felony.

15 Penalties and fines collected pursuant to this paragraph
16 (d) shall be deposited upon receipt into a special fund which
17 shall be designated the Injured Workers' Benefit Fund, of
18 which the State Treasurer is ex-officio custodian, such
19 special fund to be held and disbursed in accordance with this
20 paragraph (d) for the purposes hereinafter stated in this
21 paragraph (d), upon the final order of the Commission. The
22 Injured Workers' Benefit Fund shall be deposited the same as
23 are State funds and any interest accruing thereon shall be
24 added thereto every 6 months. The Injured Workers' Benefit
25 Fund is subject to audit the same as State funds and accounts
26 and is protected by the general bond given by the State

1 Treasurer. The Injured Workers' Benefit Fund is considered
2 always appropriated for the purposes of disbursements as
3 provided in this paragraph, and shall be paid out and
4 disbursed as herein provided and shall not at any time be
5 appropriated or diverted to any other use or purpose. Moneys
6 in the Injured Workers' Benefit Fund shall be used only for
7 payment of workers' compensation benefits for injured
8 employees when the employer has failed to provide coverage as
9 determined under this paragraph (d) and has failed to pay the
10 benefits due to the injured employee. The employer shall
11 reimburse the Injured Workers' Benefit Fund for any amounts
12 paid to an employee on account of the compensation awarded by
13 the Commission. The Attorney General shall make reasonable
14 efforts to obtain reimbursement for the Injured Workers'
15 Benefit Fund.

16 Any such amounts obtained shall be deposited by the
17 Commission into the Injured Workers' Benefit Fund. If an
18 injured employee or his or her personal representative
19 receives payment from the Injured Workers' Benefit Fund, the
20 State of Illinois has the same rights under paragraph (b) of
21 Section 5 that the employer who failed to pay the benefits due
22 to the injured employee would have had if the employer had paid
23 those benefits, and any moneys recovered by the State as a
24 result of the State's exercise of its rights under paragraph
25 (b) of Section 5 shall be deposited into the Injured Workers'
26 Benefit Fund. The custodian of the Injured Workers' Benefit

1 Fund shall be joined with the employer as a party respondent in
2 the application for adjustment of claim. After July 1, 2006,
3 the Commission shall make disbursements from the Fund once
4 each year to each eligible claimant. An eligible claimant is
5 an injured worker who has within the previous fiscal year
6 obtained a final award for benefits from the Commission
7 against the employer and the Injured Workers' Benefit Fund and
8 has notified the Commission within 90 days of receipt of such
9 award. Within a reasonable time after the end of each fiscal
10 year, the Commission shall make a disbursement to each
11 eligible claimant. At the time of disbursement, if there are
12 insufficient moneys in the Fund to pay all claims, each
13 eligible claimant shall receive a pro-rata share, as
14 determined by the Commission, of the available moneys in the
15 Fund for that year. Payment from the Injured Workers' Benefit
16 Fund to an eligible claimant pursuant to this provision shall
17 discharge the obligations of the Injured Workers' Benefit Fund
18 regarding the award entered by the Commission.

19 (e) This Act shall not affect or disturb the continuance
20 of any existing insurance, mutual aid, benefit, or relief
21 association or department, whether maintained in whole or in
22 part by the employer or whether maintained by the employees,
23 the payment of benefits of such association or department
24 being guaranteed by the employer or by some person, firm or
25 corporation for him or her: Provided, the employer contributes
26 to such association or department an amount not less than the

1 full compensation herein provided, exclusive of the cost of
2 the maintenance of such association or department and without
3 any expense to the employee. This Act shall not prevent the
4 organization and maintaining under the insurance laws of this
5 State of any benefit or insurance company for the purpose of
6 insuring against the compensation provided for in this Act,
7 the expense of which is maintained by the employer. This Act
8 shall not prevent the organization or maintaining under the
9 insurance laws of this State of any voluntary mutual aid,
10 benefit or relief association among employees for the payment
11 of additional accident or sick benefits.

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

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

26 In the event the employer does not pay the compensation

1 for which he or she is liable, then an insurance company,
2 association or insurer which may have insured such employer
3 against such liability shall become primarily liable to pay to
4 the employee, his or her personal representative or
5 beneficiary the compensation required by the provisions of
6 this Act to be paid by such employer. The insurance carrier may
7 be made a party to the proceedings in which the employer is a
8 party and an award may be entered jointly against the employer
9 and the insurance carrier.

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

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

24 (i) If an employer elects to obtain a life insurance
25 policy on his employees, he may also elect to apply such
26 benefits in satisfaction of all or a portion of the death

1 benefits payable under this Act, in which case, the employer's
2 compensation premium shall be reduced accordingly.

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

14 The Chairman of the Commission shall promptly act upon all
15 initial applications and applications for renewal in full
16 accordance with the recommendations of the Board or, should
17 the Chairman disagree with any recommendation of disposition
18 of the Self-Insurer's Advisory Board, he shall within 30 days
19 of receipt of such recommendation provide to the Board in
20 writing the reasons supporting his decision. The Chairman
21 shall also promptly notify the employer of his decision within
22 15 days of receipt of the recommendation of the Board.

23 If an employer is denied a renewal of self-insurance
24 privileges pursuant to application it shall retain said
25 privilege for 120 days after receipt of a notice of
26 cancellation of the privilege from the Chairman of the

1 Commission.

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

15 (Source: P.A. 101-384, eff. 1-1-20; 102-37, eff. 7-1-21;
16 103-590, eff. 6-5-24.)

17 (820 ILCS 305/7)

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

20 (a) If the employee leaves surviving a widow, widower,
21 child or children, the applicable weekly compensation rate
22 computed in accordance with subparagraph 2 of paragraph (b) of
23 Section 8, shall be payable during the life of the widow or
24 widower and if any surviving child or children shall not be
25 physically or mentally incapacitated then until the death of

1 the widow or widower or until the youngest child shall reach
2 the age of 18, whichever shall come later; provided that if
3 such child or children shall be enrolled as a full-time
4 student in any accredited educational institution, the
5 payments shall continue until such child has attained the age
6 of 25. In the event any surviving child or children shall be
7 physically or mentally incapacitated, the payments shall
8 continue for the duration of such incapacity.

9 The term "child" means a child whom the deceased employee
10 left surviving, including a posthumous child, a child legally
11 adopted, a child whom the deceased employee was legally
12 obligated to support or a child to whom the deceased employee
13 stood in loco parentis. The term "children" means the plural
14 of "child".

15 The term "physically or mentally incapacitated child or
16 children" means a child or children incapable of engaging in
17 regular and substantial gainful employment.

18 In the event of the remarriage of a widow or widower, where
19 the decedent did not leave surviving any child or children
20 who, at the time of such remarriage, are entitled to
21 compensation benefits under this Act, the surviving spouse
22 shall be paid a lump sum equal to 2 years compensation benefits
23 and all further rights of such widow or widower shall be
24 extinguished.

25 If the employee leaves surviving any child or children
26 under 18 years of age who at the time of death shall be

1 entitled to compensation under this paragraph (a) of this
2 Section, the weekly compensation payments herein provided for
3 such child or children shall in any event continue for a period
4 of not less than 6 years.

5 Any beneficiary entitled to compensation under this
6 paragraph (a) of this Section shall receive from the special
7 fund provided in paragraph (f) of this Section, in addition to
8 the compensation herein provided, supplemental benefits in
9 accordance with paragraph (g) of Section 8.

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

18 (c) If no compensation is payable under paragraph (a) or
19 (b) of this Section and the employee leaves surviving any
20 child or children who are not entitled to compensation under
21 the foregoing paragraph (a) but who at the time of the accident
22 were nevertheless in any manner dependent upon the earnings of
23 the employee, or leaves surviving a parent or parents who at
24 the time of the accident were partially dependent upon the
25 earnings of the employee, then there shall be paid to such
26 dependent or dependents for a period of 8 years weekly

1 compensation payments at such proportion of the applicable
2 rate if the employee had left surviving a widow or widower as
3 such dependency bears to total dependency. In the event of the
4 death of any such beneficiary the share of such beneficiary
5 shall be divided equally among the surviving beneficiaries and
6 in the event of the death of the last such beneficiary all the
7 rights under this paragraph shall be extinguished.

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

21 (e) The compensation to be paid for accidental injury
22 which results in death, as provided in this Section, shall be
23 paid to the persons who form the basis for determining the
24 amount of compensation to be paid by the employer, the
25 respective shares to be in the proportion of their respective
26 dependency at the time of the accident on the earnings of the

1 deceased. The Commission or an Arbitrator thereof may, in its
2 or his discretion, order or award the payment to the parent or
3 grandparent of a child for the latter's support the amount of
4 compensation which but for such order or award would have been
5 paid to such child as its share of the compensation payable,
6 which order or award may be modified from time to time by the
7 Commission in its discretion with respect to the person to
8 whom shall be paid the amount of the order or award remaining
9 unpaid at the time of the modification.

10 The payments of compensation by the employer in accordance
11 with the order or award of the Commission discharges such
12 employer from all further obligation as to such compensation.

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

17 In the event the employer failed to provide necessary
18 first aid, medical, surgical or hospital service, he shall pay
19 the cost thereof to the person or persons entitled to
20 compensation under paragraphs (a), (b), (c), or (d) of this
21 Section, or to the person or persons incurring the obligation
22 therefore, or providing the same.

23 On January 15 and July 15, 1981, and on January 15 and July
24 15 of each year thereafter the employer shall within 60 days
25 pay a sum equal to 1/8 of 1% of all compensation payments made
26 by him after July 1, 1980, either under this Act or the

1 Workers' Occupational Diseases Act, whether by lump sum
2 settlement or weekly compensation payments, but not including
3 hospital, surgical or rehabilitation payments, made during the
4 first 6 months and during the second 6 months respectively of
5 the fiscal year next preceding the date of the payments, into a
6 special fund which shall be designated the "Second Injury
7 Fund", of which the State Treasurer is ex officio custodian,
8 such special fund to be held and disbursed for the purposes
9 hereinafter stated in paragraphs (f) and (g) of Section 8,
10 either upon the order of the Commission or of a competent
11 court. Said special fund shall be deposited the same as are
12 State funds and any interest accruing thereon shall be added
13 thereto every 6 months. It is subject to audit the same as
14 State funds and accounts and is protected by the General bond
15 given by the State Treasurer. It is considered always
16 appropriated for the purposes of disbursements as provided in
17 paragraph (f) of Section 8 of this Act, and shall be paid out
18 and disbursed as therein provided and shall not at any time be
19 appropriated or diverted to any other use or purpose.

20 On January 15, 1991, the employer shall further pay a sum
21 equal to one half of 1% of all compensation payments made by
22 him from January 1, 1990 through June 30, 1990 either under
23 this Act or under the Workers' Occupational Diseases Act,
24 whether by lump sum settlement or weekly compensation
25 payments, but not including hospital, surgical or
26 rehabilitation payments, into an additional Special Fund which

1 shall be designated as the "Rate Adjustment Fund". On March
2 15, 1991, the employer shall pay into the Rate Adjustment Fund
3 a sum equal to one half of 1% of all such compensation payments
4 made from July 1, 1990 through December 31, 1990. Within 60
5 days after July 15, 1991, the employer shall pay into the Rate
6 Adjustment Fund a sum equal to one half of 1% of all such
7 compensation payments made from January 1, 1991 through June
8 30, 1991. Within 60 days after January 15 of 1992 and each
9 subsequent year through 1996, the employer shall pay into the
10 Rate Adjustment Fund a sum equal to one half of 1% of all such
11 compensation payments made in the last 6 months of the
12 preceding calendar year. Within 60 days after July 15 of 1992
13 and each subsequent year through 1995, the employer shall pay
14 into the Rate Adjustment Fund a sum equal to one half of 1% of
15 all such compensation payments made in the first 6 months of
16 the same calendar year. Within 60 days after January 15 of 1997
17 and each subsequent year through 2005, the employer shall pay
18 into the Rate Adjustment Fund a sum equal to three-fourths of
19 1% of all such compensation payments made in the last 6 months
20 of the preceding calendar year. Within 60 days after July 15 of
21 1996 and each subsequent year through 2004, the employer shall
22 pay into the Rate Adjustment Fund a sum equal to three-fourths
23 of 1% of all such compensation payments made in the first 6
24 months of the same calendar year. Within 60 days after July 15
25 of 2005, the employer shall pay into the Rate Adjustment Fund a
26 sum equal to 1% of such compensation payments made in the first

1 6 months of the same calendar year. Within 60 days after
2 January 15 of 2006 and each subsequent year through 2024, the
3 employer shall pay into the Rate Adjustment Fund a sum equal to
4 1.25% of such compensation payments made in the last 6 months
5 of the preceding calendar year. Within 60 days after July 15 of
6 2006 and each subsequent year through 2023, the employer shall
7 pay into the Rate Adjustment Fund a sum equal to 1.25% of such
8 compensation payments made in the first 6 months of the same
9 calendar year. Within 60 days after July 15 of 2024 and each
10 subsequent year thereafter, the employer shall pay into the
11 Rate Adjustment Fund a sum equal to 1.375% of such
12 compensation payments made in the first 6 months of the same
13 calendar year. Within 60 days after January 15 of 2025 and each
14 subsequent year thereafter, the employer shall pay into the
15 Rate Adjustment Fund a sum equal to 1.375% of such
16 compensation payments made in the last 6 months of the
17 preceding calendar year. The administrative costs of
18 collecting assessments from employers for the Rate Adjustment
19 Fund shall be paid from the Rate Adjustment Fund. The cost of
20 an actuarial audit of the Fund shall be paid from the Rate
21 Adjustment Fund. The State Treasurer is ex officio custodian
22 of such Special Fund and the same shall be held and disbursed
23 for the purposes hereinafter stated in paragraphs (f) and (g)
24 of Section 8 upon the order of the Commission or of a competent
25 court. The Rate Adjustment Fund shall be deposited the same as
26 are State funds and any interest accruing thereon shall be

1 added thereto every 6 months. It shall be subject to audit the
2 same as State funds and accounts and shall be protected by the
3 general bond given by the State Treasurer. It is considered
4 always appropriated for the purposes of disbursements as
5 provided in paragraphs (f) and (g) of Section 8 of this Act and
6 shall be paid out and disbursed as therein provided and shall
7 not at any time be appropriated or diverted to any other use or
8 purpose. Within 5 days after December 7, 1990 (the effective
9 date of Public Act 86-1448), the Comptroller and the State
10 Treasurer shall transfer \$1,000,000 from the General Revenue
11 Fund to the Rate Adjustment Fund. By February 15, 1991, the
12 Comptroller and the State Treasurer shall transfer \$1,000,000
13 from the Rate Adjustment Fund to the General Revenue Fund. The
14 Comptroller and Treasurer are authorized to make transfers at
15 the request of the Chairman up to a total of \$19,000,000 from
16 the Second Injury Fund, the General Revenue Fund, and the
17 Workers' Compensation Benefit Trust Fund to the Rate
18 Adjustment Fund to the extent that there is insufficient money
19 in the Rate Adjustment Fund to pay claims and obligations.
20 Amounts may be transferred from the General Revenue Fund only
21 if the funds in the Second Injury Fund or the Workers'
22 Compensation Benefit Trust Fund are insufficient to pay claims
23 and obligations of the Rate Adjustment Fund. All amounts
24 transferred from the Second Injury Fund, the General Revenue
25 Fund, and the Workers' Compensation Benefit Trust Fund shall
26 be repaid from the Rate Adjustment Fund within 270 days of a

1 transfer, together with interest at the rate earned by moneys
2 on deposit in the Fund or Funds from which the moneys were
3 transferred.

4 Upon a finding by the Commission, after reasonable notice
5 and hearing, that any employer has willfully and knowingly
6 failed to pay the proper amounts into the Second Injury Fund or
7 the Rate Adjustment Fund required by this Section or if such
8 payments are not made within the time periods prescribed by
9 this Section, the employer shall, in addition to such
10 payments, pay a penalty of 20% of the amount required to be
11 paid or \$2,500, whichever is greater, for each year or part
12 thereof of such failure to pay. This penalty shall only apply
13 to obligations of an employer to the Second Injury Fund or the
14 Rate Adjustment Fund accruing after December 18, 1989 (the
15 effective date of Public Act 86-998). All or part of such a
16 penalty may be waived by the Commission for good cause shown.

17 Any obligations of an employer to the Second Injury Fund
18 and Rate Adjustment Fund accruing prior to December 18, 1989
19 (the effective date of Public Act 86-998) shall be paid in full
20 by such employer within 5 years of December 18, 1989 (the
21 effective date of Public Act 86-998), with at least one-fifth
22 of such obligation to be paid during each year following
23 December 18, 1989 (the effective date of Public Act 86-998).
24 If the Commission finds, following reasonable notice and
25 hearing, that an employer has failed to make timely payment of
26 any obligation accruing under the preceding sentence, the

1 employer shall, in addition to all other payments required by
2 this Section, be liable for a penalty equal to 20% of the
3 overdue obligation or \$2,500, whichever is greater, for each
4 year or part thereof that obligation is overdue. All or part of
5 such a penalty may be waived by the Commission for good cause
6 shown.

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

26 The State Treasurer, or his duly authorized

1 representative, shall be named as a party to all proceedings
2 in all cases involving claim for the loss of, or the permanent
3 and complete loss of the use of one eye, one foot, one leg, one
4 arm or one hand.

5 The State Treasurer or his duly authorized agent shall
6 have the same rights as any other party to the proceeding,
7 including the right to petition for review of any award. The
8 reasonable expenses of litigation, such as medical
9 examinations, testimony, and transcript of evidence, incurred
10 by the State Treasurer or his duly authorized representative,
11 shall be borne by the Second Injury Fund.

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

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

21 For the purpose of administration, receipts and
22 disbursements, the Special Fund provided for in paragraph (f)
23 of this Section shall be administered jointly with the Special
24 Fund provided for in paragraph (f) of Section 7 of the Workers'
25 Occupational Diseases Act.

26 (g) All compensation, except for burial expenses provided

1 in this Section to be paid in case accident results in death,
2 shall be paid in installments equal to the percentage of the
3 average earnings as provided for in paragraph (b) of Section 8
4 of this Act, at the same intervals at which the wages or
5 earnings of the employees were paid. If this is not feasible,
6 then the installments shall be paid weekly. Such compensation
7 may be paid in a lump sum upon petition as provided in Section
8 9 of this Act. However, in addition to the benefits provided by
9 Section 9 of this Act where compensation for death is payable
10 to the deceased's widow, widower or to the deceased's widow,
11 widower and one or more children, and where a partial lump sum
12 is applied for by such beneficiary or beneficiaries within 18
13 months after the deceased's death, the Commission may, in its
14 discretion, grant a partial lump sum of not to exceed 100 weeks
15 of the compensation capitalized at their present value upon
16 the basis of interest calculated at 3% per annum with annual
17 rests, upon a showing that such partial lump sum is for the
18 best interest of such beneficiary or beneficiaries.

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

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

26 However, where an employer has on file an employment

1 certificate issued pursuant to the Child Labor Law of 2024 or
2 work permit issued pursuant to the Federal Fair Labor
3 Standards Act, as amended, or a birth certificate properly and
4 duly issued, such certificate, permit or birth certificate is
5 conclusive evidence as to the age of the injured minor
6 employee for the purposes of this Section only.

7 (i) Whenever the dependents of a deceased employee are
8 noncitizens not residing in the United States, Mexico or
9 Canada, the amount of compensation payable is limited to the
10 beneficiaries described in paragraphs (a), (b), and (c) of
11 this Section and is 50% of the compensation provided in
12 paragraphs (a), (b), and (c) of this Section, except as
13 otherwise provided by treaty.

14 In a case where any of the persons who would be entitled to
15 compensation is living at any place outside of the United
16 States, then payment shall be made to the personal
17 representative of the deceased employee. The distribution by
18 such personal representative to the persons entitled shall be
19 made to such persons and in such manner as the Commission
20 orders.

21 (Source: P.A. 103-590, eff. 6-5-24; 103-721, eff. 1-1-25;
22 104-417, eff. 8-15-25.)

23 (820 ILCS 305/8.7)

24 Sec. 8.7. Utilization review programs.

25 (a) As used in this Section:

1 "Utilization review" means the evaluation of proposed or
2 provided health care services to determine the appropriateness
3 of both the level of health care services medically necessary
4 and the quality of health care services provided to a patient,
5 including evaluation of their efficiency, efficacy, and
6 appropriateness of treatment, hospitalization, or office
7 visits based on medically accepted standards. The evaluation
8 must be accomplished by means of a system that identifies the
9 utilization of health care services based on standards of care
10 of nationally recognized peer review guidelines as well as
11 nationally recognized treatment guidelines and evidence-based
12 medicine based upon standards as provided in this Act.
13 Utilization techniques may include prospective review, second
14 opinions, concurrent review, discharge planning, peer review,
15 independent medical examinations, and retrospective review
16 (for purposes of this sentence, retrospective review shall be
17 applicable to services rendered on or after July 20, 2005).
18 Nothing in this Section applies to prospective review of
19 necessary first aid or emergency treatment.

20 (b) No person may conduct a utilization review program for
21 workers' compensation services in this State unless once every
22 2 years the person registers the utilization review program
23 with the Department of Insurance and certifies compliance with
24 the Workers' Compensation Utilization Management standards or
25 Health Utilization Management Standards of URAC sufficient to
26 achieve URAC accreditation or submits evidence of

1 accreditation by URAC for its Workers' Compensation
2 Utilization Management Standards or Health Utilization
3 Management Standards. Nothing in this Act shall be construed
4 to require an employer or insurer or its subcontractors to
5 become URAC accredited.

6 (c) In addition, the Director of Insurance may certify
7 alternative utilization review standards of national
8 accreditation organizations or entities in order for plans to
9 comply with this Section. Any alternative utilization review
10 standards shall meet or exceed those standards required under
11 subsection (b).

12 (d) This registration shall include submission of all of
13 the following information regarding utilization review program
14 activities:

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

17 (2) The organization and governing structure of the
18 utilization review programs.

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

21 (4) Hours of operation of each utilization review
22 program.

23 (5) Description of the grievance process for each
24 utilization review program.

25 (6) Number of covered lives for which utilization
26 review was conducted for the previous calendar year for

1 each utilization review program.

2 (7) Written policies and procedures for protecting
3 confidential information according to applicable State and
4 federal laws for each utilization review program.

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

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

10 (2) shared only with the employee, the employee's
11 designee, and the employee's health care provider, and
12 those who are authorized by law to receive the
13 information. Summary data shall not be considered
14 confidential if it does not provide information to allow
15 identification of individual patients or health care
16 providers.

17 Only a health care professional may make determinations
18 regarding the medical necessity of health care services during
19 the course of utilization review. Any adverse determination
20 shall be made by a physician if the health care services are to
21 be delivered or recommended by a physician. The reviewing
22 physician shall have:

23 (1) a current and valid nonrestricted license in any
24 United States jurisdiction and a current certification by
25 a recognized American medical specialty board in the area
26 or areas appropriate to the subject of the review; and

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

4 Notwithstanding the provisions of this subsection, a
5 licensed health care professional who satisfies the
6 requirements of this subsection may make an adverse
7 determination of a service request submitted by a health care
8 professional licensed in the same profession.

9 When making retrospective reviews, utilization review
10 programs shall base reviews solely on the medical information
11 available to the attending physician or ordering provider at
12 the time the health care services were provided.

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

1 Administrative Procedure Act.

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

5 (h) The Department of Insurance may by rule establish a
6 registration fee for each person conducting a utilization
7 review program.

8 (i) Upon receipt of written notice that the employer or
9 the employer's agent or insurer wishes to invoke the
10 utilization review process, the provider of medical, surgical,
11 or hospital services shall submit to the utilization review,
12 following accredited procedural guidelines.

13 (1) The provider shall make reasonable efforts to
14 provide timely and complete reports of clinical
15 information needed to support a request for treatment. If
16 the provider fails to make such reasonable efforts, the
17 charges for the treatment or service may not be
18 compensable nor collectible by the provider or claimant
19 from the employer, the employer's agent, or the employee.
20 The reporting obligations of providers shall not be
21 unreasonable or unduly burdensome.

22 (2) Written notice of utilization review decisions,
23 including the clinical rationale for certification or
24 non-certification and references to applicable standards
25 of care or evidence-based medical guidelines, shall be
26 furnished to the provider and employee. The certification

1 shall be valid for the 3 months immediately after the date
2 on which the employee and health care provider receive the
3 certification or for the length of treatment as determined
4 by the employee's health care provider. If the
5 certification is for a proposed surgery, it shall be
6 inclusive of 3 months of postoperative health care
7 services as clinically indicated by the treating health
8 care professional or for the length of treatment as
9 determined by the petitioner's treating health care
10 professional, completed by a licensed health care
11 professional.

12 (2-5) A non-certification may be appealed. All appeals
13 shall be reviewed by a physician if the health care
14 services are to be delivered or recommended by a
15 physician. The reviewing physician shall have:

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

22 (B) experience treating and managing patients with
23 the medical condition or disease for which the health
24 care service is being requested.

25 Notwithstanding the provisions of this paragraph, a
26 licensed health care professional who satisfies the

1 requirements of this subsection may make an adverse
2 determination of a service request submitted by a health
3 care professional licensed in the same profession.

4 (3) An employer may only deny payment of or refuse to
5 authorize payment of medical services rendered or proposed
6 to be rendered on the grounds that the extent and scope of
7 medical treatment is excessive and unnecessary in
8 compliance with an accredited utilization review program
9 under this Section.

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

19 (5) The medical professional responsible for review in
20 the final stage of utilization review or appeal must be
21 available in this State for interview or deposition; or
22 must be available for deposition by telephone, video
23 conference, or other remote electronic means. A medical
24 professional who works or resides in this State or outside
25 of this State may comply with this requirement by making
26 himself or herself available for an interview or

1 deposition in person or by making himself or herself
2 available by telephone, video conference, or other remote
3 electronic means. The remote interview or deposition shall
4 be conducted in a fair, open, and cost-effective manner.
5 The expense of interview and the deposition method shall
6 be paid by the employer. The deponent shall be in the
7 presence of the officer administering the oath and
8 recording the deposition, unless otherwise agreed by the
9 parties. Any exhibits or other demonstrative evidence to
10 be presented to the deponent by any party at the
11 deposition shall be provided to the officer administering
12 the oath and all other parties within a reasonable period
13 of time prior to the deposition. Nothing shall prohibit
14 any party from being with the deponent during the
15 deposition, at that party's expense; provided, however,
16 that a party attending a deposition shall give written
17 notice of that party's intention to appear at the
18 deposition to all other parties within a reasonable time
19 prior to the deposition.

20 An admissible utilization review shall be considered by
21 the Commission, along with all other evidence and in the same
22 manner as all other evidence, and must be addressed along with
23 all other evidence in the determination of the reasonableness
24 and necessity of the medical bills or treatment. Nothing in
25 this Section shall be construed to diminish the rights of
26 employees to reasonable and necessary medical treatment or

1 employee choice of health care provider under Section 8(a) or
2 the rights of employers to medical examinations under Section
3 12.

4 (j) When an employer denies payment of or refuses to
5 authorize payment of first aid, medical, surgical, or hospital
6 services under Section 8(a) of this Act, if that denial or
7 refusal to authorize complies with a utilization review
8 program registered under this Section and complies with all
9 other requirements of this Section, then there shall be a
10 rebuttable presumption that the employer shall not be
11 responsible for payment of additional compensation pursuant to
12 Section 19(k) of this Act and if that denial or refusal to
13 authorize does not comply with a utilization review program
14 registered under this Section and does not comply with all
15 other requirements of this Section, then that will be
16 considered by the Commission, along with all other evidence
17 and in the same manner as all other evidence, in the
18 determination of whether the employer may be responsible for
19 the payment of additional compensation pursuant to Section
20 19(k) of this Act.

21 The changes to this Section made by this amendatory Act of
22 the 97th General Assembly apply only to health care services
23 provided or proposed to be provided on or after September 1,
24 2011.

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

1 (820 ILCS 305/12) (from Ch. 48, par. 138.12)

2 Sec. 12. An employee entitled to receive disability
3 payments shall be required, if requested by the employer, to
4 submit himself, at the expense of the employer, for
5 examination to a duly qualified medical practitioner or
6 surgeon selected by the employer, at any time and place
7 reasonably convenient for the employee, either within or
8 without the State of Illinois, for the purpose of determining
9 the nature, extent and probable duration of the injury
10 received by the employee, and for the purpose of ascertaining
11 the amount of compensation which may be due the employee from
12 time to time for disability according to the provisions of
13 this Act. An employee may also be required to submit himself
14 for examination by medical experts under subsection (c) of
15 Section 19.

16 If an employer asks a medical practitioner for an
17 examination of the reasonableness and necessity of the medical
18 services proposed or provided under subsection (a) of Section
19 8, instead of a utilization review under Section 8.7, the
20 examination required under this Section and the report of the
21 examination shall be provided by the medical practitioner to
22 the employee or the employee's representative and the
23 employee's treating health care professional within 90 days
24 after receipt of the request for the examination of the
25 reasonableness and necessity of treatment. The 90-day period
26 begins when the employer receives the medical records from the

1 treating health care professional requesting the medical
2 service. The employer or the employer's representative shall
3 exercise due diligence in requesting and collecting the
4 employee's medical records in accordance with all applicable
5 laws. The medical practitioner who performs the examination to
6 determine the reasonableness and necessity of treatment shall
7 be board certified in the same specialty as the treating
8 health care professional. If the employer fails to comply with
9 this paragraph after receiving the medical records from the
10 treating health care professional requesting the medical
11 service, there is a rebuttable presumption that the employer
12 shall be responsible for the payment of additional
13 compensation under Section 16 and subsection (1) of Section
14 19. This paragraph applies to the failure to authorize or
15 approve treatment as well as the failure to pay for treatment.

16 An employer requesting such an examination, of an employee
17 residing within the State of Illinois, shall deliver to the
18 employee with the notice of the time and place of examination
19 sufficient money to defray the necessary expense of travel by
20 the most convenient means to and from the place of
21 examination, and the cost of meals necessary during the trip,
22 and if the examination or travel to and from the place of
23 examination causes any loss of working time on the part of the
24 employee, the employer shall reimburse him for such loss of
25 wages upon the basis of his average daily wage. Such
26 examination shall be made in the presence of a duly qualified

1 medical practitioner or surgeon provided and paid for by the
2 employee, if such employee so desires.

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

21 If the employee refuses so to submit himself to
22 examination or unnecessarily obstructs the same, his right to
23 compensation payments shall be temporarily suspended until
24 such examination shall have taken place, and no compensation
25 shall be payable under this Act for such period.

26 It shall be the duty of surgeons treating an injured

1 employee who is likely to die, and treating him at the instance
2 of the employer, to have called in another surgeon to be
3 designated and paid for by either the injured employee or by
4 the person or persons who would become his beneficiary or
5 beneficiaries, to make an examination before the death of such
6 injured employee.

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

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".