



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0269

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

820 ILCS 305/4

from Ch. 48, par. 138.4

Amends the Workers' Compensation Act. Permits a single commissioner to approve of enforcement actions under provisions of the Act concerning insuring an employer's ability to pay compensation, replacing the current requirement of a panel of 3 commissioners. Permits the Illinois Workers' Compensation Commission to, if an employer's business is declared to be extra hazardous, issue a work-stop order while awaiting a ruling from the Commission or while awaiting proof of insurance by the employer. Provides that investigative actions must be acted upon within 90 days of the issuance of a complaint. Raises the maximum allowable penalty for noncompliance with certain insurance requirements from \$2,000 to \$10,000. Doubles the maximum allowable penalties, to \$1,000 per day, with a minimum penalty of \$20,000, for employers found to be in noncompliance more than once. Provides that an employer with 2 or more violations may no longer self-insure or purchase an insurance policy from a private broker for one year or until all penalties are paid, during which time the employer must purchase insurance from the Assigned Risk Pool through the National Council on Compensation Insurance.

LRB101 04059 TAE 49067 b

1 AN ACT concerning employment.

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

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

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

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

12 (1) File with the Commission annually an application
13 for approval as a self-insurer which shall include a
14 current financial statement, and annually, thereafter, an
15 application for renewal of self-insurance, which shall
16 include a current financial statement. Said application
17 and financial statement shall be signed and sworn to by the
18 president or vice president and secretary or assistant
19 secretary of the employer if it be a corporation, or by all
20 of the partners, if it be a copartnership, or by the owner
21 if it be neither a copartnership nor a corporation. All
22 initial applications and all applications for renewal of
23 self-insurance must be submitted at least 60 days prior to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 The penalty shall not exceed \$1,000 for each day of work
25 for which the employer failed to make payments upon the premium
26 rates of the situs where the work or project is located in

1 Illinois, but the total penalty shall not exceed \$50,000 for
2 each project or each contract under which the work was
3 performed.

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

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

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

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

25 (3) Any certificate of insurance coverage document
26 issued to a client company specifying its rights and

1 obligations under the master policy that establishes both
2 the identity and status of the client, as well as the dates
3 of inception and termination of coverage, if applicable.

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

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

14 Upon the approval of the sworn application and financial
15 statement, security, indemnity or bond or amount of insurance,
16 filed, furnished or carried, as the case may be, the Commission
17 shall send to the employer written notice of its approval
18 thereof. The certificate of compliance by the employer with the
19 provisions of subparagraphs (2) and (3) of paragraph (a) of
20 this Section shall be delivered by the insurance carrier to the
21 Illinois Workers' Compensation Commission within five days
22 after the effective date of the policy so certified. The
23 insurance so certified shall cover all compensation liability
24 occurring during the time that the insurance is in effect and
25 no further certificate need be filed in case such insurance is
26 renewed, extended or otherwise continued by such carrier. The

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

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

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

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

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

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

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

1 the cessation of all business operations of such employer at
2 the place of employment or job site. If a business is declared
3 to be extra hazardous, the Commission may issue a work-stop
4 order on such an employer, requiring the cessation of all
5 business operations of such employer at the place of employment
6 or job site while awaiting the ruling of the Commission.

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

26 Any individual employer, corporate officer or director of a

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

13 Any individual employer, corporate officer or director of a
14 corporate employer, partner of an employer partnership, or
15 member of an employer limited liability company who negligently
16 fails to provide coverage as required by paragraph (a) of this
17 Section is guilty of a Class A misdemeanor. This provision
18 shall not 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.

24 The criminal penalties in this subsection (d) shall not
25 apply where there exists a good faith dispute as to the
26 existence of an employment relationship. Evidence of good faith

1 shall include, but not be limited to, compliance with the
2 definition of employee as used by the Internal Revenue Service.

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

22 An employee of an uninsured employer, or the employee's
23 dependents in case death ensued, may, instead of proceeding
24 against the employer in a civil action in court, file an
25 application for adjustment of claim with the Commission in
26 accordance with the provisions of this Act and the Commission

1 shall hear and determine the application for adjustment of
2 claim in the manner in which other claims are heard and
3 determined before the Commission.

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

6 An investigator with the Illinois Workers' Compensation
7 Commission Insurance Compliance Division may issue a citation
8 to any employer that is not in compliance with its obligation
9 to have workers' compensation insurance under this Act. The
10 amount of the fine shall be based on the period of time the
11 employer was in non-compliance, but shall be no less than \$500,
12 and shall not exceed \$10,000 ~~\$2,500~~. An employer that has been
13 issued a citation shall pay the fine to the Commission and
14 provide to the Commission proof that it obtained the required
15 workers' compensation insurance within 10 days after the
16 citation was issued. This Section does not affect any other
17 obligations this Act imposes on employers. If a business is
18 declared to be extra hazardous, the investigator may issue a
19 work-stop order on such an employer, requiring the cessation of
20 all business operations of such employer at the place of
21 employment or job site while awaiting proof of insurance.

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

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

1 penalty. Upon investigation by the insurance non-compliance
2 unit of the Commission, the Attorney General shall have the
3 authority to prosecute all proceedings to enforce the civil and
4 administrative provisions of this Section before the
5 Commission. The Commission shall promulgate procedural rules
6 for enforcing this Section.

7 If an employer is found to be in non-compliance with any
8 provisions of paragraph (a) of this Section more than once, all
9 minimum penalties will double. Therefore, upon the failure or
10 refusal of an employer, service or adjustment company, or
11 insurance carrier to comply with any order of the Commission
12 pursuant to paragraph (c) of this Section disqualifying him or
13 her to operate as a self-insurer and requiring him or her to
14 insure his or her liability, or the knowing and willful failure
15 of an employer to comply with a citation issued by an
16 investigator with the Illinois Workers' Compensation
17 Commission Insurance Compliance Division, the Commission may
18 assess a civil penalty of up to \$1,000 per day for each day of
19 such failure or refusal after the effective date of this
20 amendatory Act of the 101st General Assembly. The minimum
21 penalty under this Section shall be the sum of \$20,000. In
22 addition, employers with 2 or more violations of any provisions
23 of paragraph (a) of this Section may no longer purchase a
24 policy from a private broker or self-insure for one year or
25 until all penalties are paid and must purchase their insurance
26 from the Assigned Risk Pool through the National Council on

1 Compensation Insurance.

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

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

24 Penalties and fines collected pursuant to this paragraph
25 (d) shall be deposited upon receipt into a special fund which
26 shall be designated the Injured Workers' Benefit Fund, of which

1 the State Treasurer is ex-officio custodian, such special fund
2 to be held and disbursed in accordance with this paragraph (d)
3 for the purposes hereinafter stated in this paragraph (d), upon
4 the final order of the Commission. The Injured Workers' Benefit
5 Fund shall be deposited the same as are State funds and any
6 interest accruing thereon shall be added thereto every 6
7 months. The Injured Workers' Benefit Fund is subject to audit
8 the same as State funds and accounts and is protected by the
9 general bond given by the State Treasurer. The Injured Workers'
10 Benefit Fund is considered always appropriated for the purposes
11 of disbursements as provided in this paragraph, and shall be
12 paid out and disbursed as herein provided and shall not at any
13 time be appropriated or diverted to any other use or purpose.
14 Moneys in the Injured Workers' Benefit Fund shall be used only
15 for payment of workers' compensation benefits for injured
16 employees when the employer has failed to provide coverage as
17 determined under this paragraph (d) and has failed to pay the
18 benefits due to the injured employee. The Commission shall have
19 the right to obtain reimbursement from the employer for
20 compensation obligations paid by the Injured Workers' Benefit
21 Fund. Any such amounts obtained shall be deposited by the
22 Commission into the Injured Workers' Benefit Fund. If an
23 injured employee or his or her personal representative receives
24 payment from the Injured Workers' Benefit Fund, the State of
25 Illinois has the same rights under paragraph (b) of Section 5
26 that the employer who failed to pay the benefits due to the

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

24 (e) This Act shall not affect or disturb the continuance of
25 any existing insurance, mutual aid, benefit, or relief
26 association or department, whether maintained in whole or in

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

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

23 (g) Any contract, oral, written or implied, of employment
24 providing for relief benefit, or insurance or any other device
25 whereby the employee is required to pay any premium or premiums
26 for insurance against the compensation provided for in this Act

1 shall be null and void. Any employer withholding from the wages
2 of any employee any amount for the purpose of paying any such
3 premium shall be guilty of a Class B misdemeanor.

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

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

22 It shall be unlawful for any employer, individually or
23 through any insurance company or service or adjustment company,
24 to discharge or to threaten to discharge, or to refuse to
25 rehire or recall to active service in a suitable capacity an
26 employee because of the exercise of his or her rights or

1 remedies granted to him or her by this Act.

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

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

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

26 If an employer is denied a renewal of self-insurance

1 privileges pursuant to application it shall retain said
2 privilege for 120 days after receipt of a notice of
3 cancellation of the privilege from the Chairman of the
4 Commission.

5 All orders made by the Chairman under this Section shall be
6 subject to review by the courts, such review to be taken in the
7 same manner and within the same time as provided by subsection
8 (f) of Section 19 of this Act for review of awards and
9 decisions of the Commission, upon the party seeking the review
10 filing with the clerk of the court to which such review is
11 taken a bond in an amount to be fixed and approved by the court
12 to which the review is taken, conditioned upon the payment of
13 all compensation awarded against the person taking such 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.

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