

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 4 and 4a-5 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, the salaries and benefits of  
13 the Self-Insurers Advisory Board employees, the operating  
14 costs of the Self-Insurers Advisory Board, and by the  
15 Department of Insurance for the purposes authorized in  
16 subsection (c) of Section 25.5 of this Act.

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

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

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

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

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

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

16          Upon the approval of the sworn application and financial  
17          statement, security, indemnity or bond or amount of insurance,  
18          filed, furnished or carried, as the case may be, the Commission  
19          shall send to the employer written notice of its approval  
20          thereof. The certificate of compliance by the employer with the  
21          provisions of subparagraphs (2) and (3) of paragraph (a) of  
22          this Section shall be delivered by the insurance carrier to the  
23          Illinois Workers' Compensation Commission within five days  
24          after the effective date of the policy so certified. The  
25          insurance so certified shall cover all compensation liability  
26          occurring during the time that the insurance is in effect and

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

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

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

23 Whenever the Commission finds that any self-insured  
24 employer has practiced or is practicing delay or unfairness  
25 toward employees in the adjustment, settlement or payment of  
26 benefits due such employees, the Commission may, after



1 reasonable notice and hearing, order and direct that after a  
2 date fixed in the order such self-insured employer shall be  
3 disqualified to operate as a self-insurer and shall be required  
4 to insure his entire liability to pay compensation in some  
5 insurance carrier authorized, licensed and permitted to do such  
6 insurance business in this State, as provided in subparagraph 3  
7 of paragraph (a) of this Section.

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

23 (d) Whenever a Commissioner, with due process and after a  
24 hearing, determines an employer has knowingly failed to provide  
25 coverage as required by paragraph (a) of this Section, the  
26 failure shall be deemed an immediate serious danger to public

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

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

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

20 Any individual employer, corporate officer or director of a  
21 corporate employer, partner of an employer partnership, or  
22 member of an employer limited liability company who negligently  
23 fails to provide coverage as required by paragraph (a) of this  
24 Section is guilty of a Class A misdemeanor. This provision  
25 shall not 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.

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

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

1 have a right of reimbursement from the proceeds of any recovery  
2 under this Section.

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

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

13 An investigator with the Illinois Workers' Compensation  
14 Commission Insurance Compliance Division may issue a citation  
15 to any employer that is not in compliance with its obligation  
16 to have workers' compensation insurance under this Act. The  
17 amount of the fine shall be based on the period of time the  
18 employer was in non-compliance, but shall be no less than \$500,  
19 and shall not exceed \$10,000 ~~\$2,500~~. An employer that has been  
20 issued a citation shall pay the fine to the Commission and  
21 provide to the Commission proof that it obtained the required  
22 workers' compensation insurance within 10 days after the  
23 citation was issued. This Section does not affect any other  
24 obligations this Act imposes on employers.

25 Upon a finding by the Commission, after reasonable notice  
26 and hearing, of the knowing and willful ~~wilful~~ failure or

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

1 partners, or members who have been found to have knowingly and  
2 willfully refused or failed to comply with this Section shall  
3 be liable for the unpaid penalty or any unpaid portion of the  
4 penalty. Upon investigation by the insurance non-compliance  
5 unit of the Commission, the Attorney General shall have the  
6 authority to prosecute all proceedings to enforce the civil and  
7 administrative provisions of this Section before the  
8 Commission. The Commission shall promulgate procedural rules  
9 for enforcing this Section.

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

1 year or until all penalties are paid.

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.)

19 (820 ILCS 305/4a-5) (from Ch. 48, par. 138.4a-5)

20 Sec. 4a-5. There is hereby created a Self-Insurers Security  
21 Fund. The State Treasurer shall be the ex-officio custodian of  
22 the Self-Insurers Security Fund. Moneys ~~Monies~~ in the Fund  
23 shall be deposited in a separate account in the same manner as  
24 are State Funds and any interest accruing thereon shall be  
25 added thereto every 6 months. It shall be subject to audit the

1 same as State funds and accounts and shall be protected by the  
2 general bond given by the State Treasurer. The funds in the  
3 Self-Insurers Security Fund shall not be subject to  
4 appropriation and shall be made available for the purposes of  
5 compensating employees who are eligible to receive benefits  
6 from their employers pursuant to the provisions of the Workers'  
7 Compensation Act or Workers' Occupational Diseases Act, when,  
8 pursuant to this Section, the Board has determined that a  
9 private self-insurer has become an insolvent self-insurer and  
10 is unable to pay compensation benefits due to financial  
11 insolvency. ~~Moneys~~ ~~Monies~~ in the Fund may be used to compensate  
12 any type of injury or occupational disease which is compensable  
13 under either Act, and all claims for related administrative  
14 fees, operating costs of the Board, attorney's ~~attorneys~~ fees,  
15 and other costs reasonably incurred by the Board. At the  
16 discretion of the Chairman, moneys in the Self-Insurers  
17 Security Fund may also be used for paying the salaries and  
18 benefits of the Self-Insurers Advisory Board employees and the  
19 operating costs of the Board. Payment from the Self-Insurers  
20 Security Fund shall be made by the Comptroller only upon the  
21 authorization of the Chairman as evidenced by properly  
22 certified vouchers of the Commission, upon the direction of the  
23 Board.

24 (Source: P.A. 85-1385.)