

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

1 If the sworn application and financial statement of
2 any such employer does not satisfy the Commission of the
3 financial ability of the employer who has filed it, the
4 Commission shall require such employer to,

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

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

27 Firstly, the entire compensation liability of
28 the employer to employees working at or from one
29 location shall be insured in one such insurance
30 carrier or shall be self-insured, and

31 Secondly, the employer shall submit evidence
32 satisfactorily to the Commission that his or her
33 entire liability for the compensation provided for
34 in 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
13 thereafter as often as the Commission may in writing
14 demand, file with the Commission in form prescribed by it
15 evidence of his or her compliance with the provision of
16 this Section.

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

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

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

28 The Industrial Commission shall impose a penalty upon an
29 employer for violation of this subsection (a-1) if:

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

33 (ii) after the hearing, the Commission finds that
34 the employer failed to make payments upon the premium

1 rates of the situs where the work or project is located
2 in Illinois.

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

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

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

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

29 Upon the approval of the sworn application and financial
30 statement, security, indemnity or bond or amount of
31 insurance, filed, furnished or carried, as the case may be,
32 the Commission shall send to the employer written notice of
33 its approval thereof. The certificate of compliance by the
34 employer with the provisions of subparagraphs (2) and (3) of

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

21 (c) Whenever the Commission shall find that any
22 corporation, company, association, aggregation of
23 individuals, reciprocal or interinsurers exchange, or other
24 insurer effecting workers' compensation insurance in this
25 State shall be insolvent, financially unsound, or unable to
26 fully meet all payments and liabilities assumed or to be
27 assumed for compensation insurance in this State, or has been
28 shown by clear and convincing evidence to have engaged in a
29 pattern and shall practice a policy of fraudulent delay or
30 unfairness toward employees in the adjustment, settlement, or
31 payment of benefits due such employees, the Commission may
32 after reasonable notice and hearing order and direct that
33 such corporation, company, association, aggregation of
34 individuals, reciprocal or interinsurers exchange, or

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

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

33 All orders made by the Commission under this Section
34 shall be subject to review by the courts, said review to be

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

15 (d) Upon a finding by the Commission, after reasonable
16 notice and hearing, of the knowing and wilful failure or
17 refusal of an employer to comply with any of the provisions
18 of paragraph (a) of this Section or the failure or refusal of
19 an employer, service or adjustment company, or an insurance
20 carrier to comply with any order of the Industrial Commission
21 pursuant to paragraph (c) of this Section disqualifying him
22 or her to operate as a self insurer and requiring him or her
23 to insure his or her liability, the Commission may assess a
24 civil penalty of up to \$500 per day for each day of such
25 failure or refusal after the effective date of this
26 amendatory Act of 1989. The minimum penalty under this
27 Section shall be the sum of \$10,000. Each day of such failure
28 or refusal shall constitute a separate offense. The
29 Commission may assess the civil penalty personally and
30 individually against the corporate officers and directors of
31 a corporate employer, the partners of an employer
32 partnership, and the members of an employer limited liability
33 company, after a finding of a knowing and willful refusal or
34 failure of each such named corporate officer, director,

1 partner, or member to comply with this Section. The
2 liability for the assessed penalty shall be against the named
3 employer first, and if the named employer fails or refuses to
4 pay the penalty to the Commission within 30 days after the
5 final order of the Commission, then the named corporate
6 officers, directors, partners, or members who have been found
7 to have knowingly and willfully refused or failed to comply
8 with this Section shall be liable for the unpaid penalty or
9 any unpaid portion of the penalty. All penalties collected
10 under this Section shall be deposited in the Industrial
11 Commission Operations Fund.

12 Upon the failure or refusal of any employer, service or
13 adjustment company or insurance carrier to comply with the
14 provisions of this Section and with the orders of the
15 Commission under this Section, or the order of the court on
16 review after final adjudication, the Commission may bring a
17 civil action to recover the amount of the penalty in Cook
18 County or in Sangamon County in which litigation the
19 Commission shall be represented by the Attorney General. The
20 Commission shall send notice of its finding of non-compliance
21 and assessment of the civil penalty to the Attorney General.
22 It shall be the duty of the Attorney General within 30 days
23 after receipt of the notice, to institute prosecutions and
24 promptly prosecute all reported violations of this Section.

25 (e) This Act shall not affect or disturb the continuance
26 of any existing insurance, mutual aid, benefit, or relief
27 association or department, whether maintained in whole or in
28 part by the employer or whether maintained by the employees,
29 the payment of benefits of such association or department
30 being guaranteed by the employer or by some person, firm or
31 corporation for him or her: Provided, the employer
32 contributes to such association or department an amount not
33 less than the full compensation herein provided, exclusive of
34 the cost of the maintenance of such association or department

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

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

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

25 In the event the employer does not pay the compensation
26 for which he or she is liable, then an insurance company,
27 association or insurer which may have insured such employer
28 against such liability shall become primarily liable to pay
29 to the employee, his or her personal representative or
30 beneficiary the compensation required by the provisions of
31 this Act to be paid by such employer. The insurance carrier
32 may be made a party to the proceedings in which the employer
33 is a party and an award may be entered jointly against the
34 employer and the insurance carrier.

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

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

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

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

31 The Chairman of the Commission shall promptly act upon
32 all initial applications and applications for renewal in full
33 accordance with the recommendations of the Board or, should
34 the Chairman disagree with any recommendation of disposition

1 of the Self-Insurer's Advisory Board, he shall within 30 days
2 of receipt of such recommendation provide to the Board in
3 writing the reasons supporting his decision. The Chairman
4 shall also promptly notify the employer of his decision
5 within 15 days of receipt of the recommendation of the Board.

6 If an employer is denied a renewal of self-insurance
7 privileges pursuant to application it shall retain said
8 privilege for 120 days after receipt of a notice of
9 cancellation of the privilege from the Chairman of the
10 Commission.

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

24 (Source: P.A. 91-375, eff. 1-1-00; 91-757, eff. 1-1-01;
25 92-324, eff. 8-9-01.)

26 Section 10. The Workers' Occupational Diseases Act is
27 amended by changing Section 4 as follows:

28 (820 ILCS 310/4) (from Ch. 48, par. 172.39)

29 Sec. 4. (a) Any employer, including but not limited to
30 general contractors and their subcontractors, required by the
31 terms of this Act or by election to pay the compensation
32 provided for in this Act shall:

1 (1) File with the Commission an application for
2 approval as a self-insurer which shall include a current
3 financial statement. The application and financial
4 statement shall be signed and sworn to by the president
5 or vice-president and secretary or assistant secretary of
6 the employer if it be a corporation, or by all of the
7 partners if it be a copartnership, or by the owner if it
8 be neither a copartnership nor a corporation. An
9 employer may elect to provide and pay compensation as
10 provided for in this Act as a member of a group workers'
11 compensation pool under Article V 3/4 of the Illinois
12 Insurance Code. If an employer becomes a member of a
13 group workers' compensation pool, the employer shall not
14 be relieved of any obligations imposed by this Act.

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

19 (2) Furnish security, indemnity or a bond
20 guaranteeing the payment by the employer of the
21 compensation provided for in this Act, provided that any
22 such employer who shall have secured his or her liability
23 in part by excess liability coverage shall be required to
24 furnish to the Commission security, indemnity or bond
25 guaranteeing his or her payment up to the amount of the
26 effective limits of the excess coverage in accordance
27 with the provisions of this paragraph, or

28 (3) Insure his or her entire liability to pay such
29 compensation in some insurance carrier authorized,
30 licensed or permitted to do such insurance business in
31 this State. All policies of such insurance carriers
32 insuring the payment of compensation under this Act shall
33 cover all the employees and all such employer's
34 compensation liability in all cases in which the last day

1 of the last exposure to the occupational disease involved
2 is within the effective period of the policy, anything to
3 the contrary in the policy notwithstanding. Provided,
4 however, that any employer may insure his or her
5 compensation liability under this Act with 2 or more
6 insurance carriers or may insure a part and qualify under
7 Subsection 1, 2, or 4 for the remainder of his liability
8 to pay such compensation, subject to the following two
9 provisions:

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

14 Secondly, the employer shall submit evidence
15 satisfactory to the Commission that his or her
16 entire liability for the compensation provided for
17 in this Act will be secured.

18 Any provision in a policy or in any endorsement
19 attached thereto attempting to limit or modify in any way
20 the liability of the insurance carrier issuing the same,
21 except as otherwise provided herein, shall be wholly
22 void.

23 The insurance or security in force to cover
24 compensation liability under this Act shall be separate
25 and distinct from the insurance or security under the
26 "Workers' Compensation Act" and any insurance contract
27 covering liability under either Act need not cover any
28 liability under the other. Nothing herein contained
29 shall apply to policies of excess liability carriage
30 secured by employers who have been approved by the
31 Commission as self-insurers, or

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

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

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

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

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

17 The Industrial Commission shall impose a penalty upon an
18 employer for violation of this subsection (a-1) if:

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

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

26 The penalty shall not exceed \$1,000 for each day of work
27 for which the employer failed to make payments upon the
28 premium rates of the situs where the work or project is
29 located in Illinois, but the total penalty shall not exceed
30 \$50,000 for each project or each contract under which the
31 work was performed.

32 Any penalty under this subsection (a-1) must be imposed
33 not later than one year after the expiration of the
34 applicable limitation period specified in subsection (c) of

1 Section 6 of this Act. Penalties imposed under this
2 subsection (a-1) shall be deposited into the Industrial
3 Commission Operations Fund created under Section 4 of the
4 Workers' Compensation Act.

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

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

16 Upon the approval of the sworn application and financial
17 statement, security, indemnity or bond or amount of
18 insurance, filed, furnished, or carried, as the case may be,
19 the Commission shall send to the employer written notice of
20 its approval thereof. Said certificate of compliance by the
21 employer with the provisions of subparagraphs (2) and (3) of
22 paragraph (a) of this Section shall be delivered by the
23 insurance carrier to the Industrial Commission within 5 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
27 no further certificate need be filed in case such insurance
28 is renewed, extended or otherwise continued by such carrier.
29 The insurance so certified shall not be cancelled or in the
30 event that such insurance is not renewed, extended or
31 otherwise continued, such insurance shall not be terminated
32 until at least 10 days after receipt by the Industrial
33 Commission of notice of the cancellation or termination of
34 said insurance; provided, however, that if the employer has

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

8 (c) Whenever the Commission shall find that any
9 corporation, company, association, aggregation of
10 individuals, reciprocal or interinsurers exchange, or other
11 insurer effecting workers' occupational disease compensation
12 insurance in this State shall be insolvent, financially
13 unsound, or unable to fully meet all payments and liabilities
14 assumed or to be assumed for compensation insurance in this
15 State, or has been shown by clear and convincing evidence to
16 have engaged in a pattern and shall practice a policy of
17 fraudulent delay or unfairness toward employees in the
18 adjustment, settlement, or payment of benefits due such
19 employees, the Commission may after reasonable notice and
20 hearing order and direct that such corporation, company,
21 association, aggregation of individuals, reciprocal or
22 interinsurers exchange, or insurer, shall from and after a
23 date fixed in such order discontinue the writing of any such
24 workers' occupational disease compensation insurance in this
25 State. It shall thereupon be unlawful for any such
26 corporation, company, association, aggregation of
27 individuals, reciprocal or interinsurers exchange, or insurer
28 to effect any workers' occupational disease compensation
29 insurance in this State. A copy of the order shall be served
30 upon the Director of Insurance by registered mail. Whenever
31 the Commission finds that any service or adjustment company
32 used or employed by a self-insured employer or by an
33 insurance carrier to process, adjust, investigate, compromise
34 or otherwise handle claims under this Act, has practiced or

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

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

20 All orders made by the Commission under this Section
21 shall be subject to review by the courts, the review to be
22 taken in the same manner and within the same time as provided
23 by Section 19 of this Act for review of awards and decisions
24 of the Commission, upon the party seeking the review filing
25 with the clerk of the court to which said review is taken a
26 bond in an amount to be fixed and approved by the court to
27 which said review is taken, conditioned upon the payment of
28 all compensation awarded against the person taking the review
29 pending a decision thereof and further conditioned upon such
30 other obligations as the court may impose. Upon the review
31 the Circuit Court shall have power to review all questions of
32 fact as well as of law. The penalty hereinafter provided for
33 in this paragraph shall not attach and shall not begin to run
34 until the final determination of the order of the Commission.

1 (d) Upon a finding by the Commission, after reasonable
2 notice and hearing, of the knowing and wilful failure of an
3 employer to comply with any of the provisions of paragraph
4 (a) of this Section or the failure or refusal of an employer,
5 service or adjustment company, or insurance carrier to comply
6 with any order of the Industrial Commission pursuant to
7 paragraph (c) of this Section the Commission may assess a
8 civil penalty of up to \$500 per day for each day of such
9 failure or refusal after the effective date of this
10 amendatory Act of 1989. Each day of such failure or refusal
11 shall constitute a separate offense.

12 Upon the failure or refusal of any employer, service or
13 adjustment company or insurance carrier to comply with the
14 provisions of this Section and orders of the Commission under
15 this Section, or the order of the court on review after final
16 adjudication, the Commission may bring a civil action to
17 recover the amount of the penalty in Cook County or in
18 Sangamon County in which litigation the Commission shall be
19 represented by the Attorney General. The Commission shall
20 send notice of its finding of non-compliance and assessment
21 of the civil penalty to the Attorney General. It shall be
22 the duty of the Attorney General within 30 days after receipt
23 of the notice, to institute prosecutions and promptly
24 prosecute all reported violations of this Section.

25 (e) This Act shall not affect or disturb the continuance
26 of any existing insurance, mutual aid, benefit, or relief
27 association or department, whether maintained in whole or in
28 part by the employer or whether maintained by the employees,
29 the payment of benefits of such association or department
30 being guaranteed by the employer or by some person, firm or
31 corporation for him or her: Provided, the employer
32 contributes to such association or department an amount not
33 less than the full compensation herein provided, exclusive of
34 the cost of the maintenance of such association or department

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

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

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

25 In the event the employer does not pay the compensation
26 for which he or she is liable, then an insurance company,
27 association or insurer which may have insured such employer
28 against such liability shall become primarily liable to pay
29 to the employee, his personal representative or beneficiary
30 the compensation required by the provisions of this Act to be
31 paid by such employer. The insurance carrier may be made a
32 party to the proceedings in which the employer is a party and
33 an award may be entered jointly against the employer and the
34 insurance carrier.

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

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

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

21 (Source: P.A. 90-109, eff. 1-1-98; 91-375, eff. 1-1-00;
22 91-757, eff. 1-1-01.)