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**EMPLOYMENT
(820 ILCS 310/) Workers' Occupational Diseases Act.**

(820 ILCS 310/1) (from Ch. 48, par. 172.36)

Sec. 1. This Act shall be known and may be cited as the "Workers' Occupational Diseases Act".

(a) The term "employer" as used in this Act shall be construed to be:

1. The State and each county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein.

2. Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious or charitable corporations or associations, who has any person in service or under any contract for hire, express or implied, oral or written.

3. Where an employer operating under and subject to the provisions of this Act loans an employee to another such employer and such loaned employee sustains a compensable occupational disease in the employment of such borrowing employer and where such borrowing employer does not provide or pay the benefits or payments due such employee, such loaning employer shall be liable to provide or pay all benefits or payments due such employee under this Act and as to such employee the liability of such loaning and borrowing employers shall be joint and several, provided that such loaning employer shall in the absence of agreement to the contrary be entitled to receive from such borrowing employer full reimbursement for all sums paid or incurred pursuant to this paragraph together with reasonable attorneys' fees and expenses in any hearings before the Illinois Workers' Compensation Commission or in any action to secure such reimbursement. Where any benefit is provided or paid by such loaning employer, the employee shall have the duty of rendering reasonable co-operation in any hearings, trials or proceedings in the case, including such proceedings for reimbursement.

Where an employee files an Application for Adjustment of Claim with the Illinois Workers' Compensation Commission alleging that his or her claim is covered by the provisions of the preceding paragraph, and joining both the alleged loaning and borrowing employers, they and each of them, upon written demand by the employee and within 7 days after receipt of such demand, shall have the duty of filing with the Illinois Workers' Compensation Commission a written admission or denial of the allegation that the claim is covered by the provisions of the preceding paragraph and in default of such filing or if any such denial be ultimately

determined not to have been bona fide then the provisions of Paragraph K of Section 19 of this Act shall apply.

An employer whose business or enterprise or a substantial part thereof consists of hiring, procuring or furnishing employees to or for other employers operating under and subject to the provisions of this Act for the performance of the work of such other employers and who pays such employees their salary or wage notwithstanding that they are doing the work of such other employers shall be deemed a loaning employer within the meaning and provisions of this Section.

(b) The term "employee" as used in this Act, shall be construed to mean:

1. Every person in the service of the State, county, city, town, township, incorporated village or school district, body politic or municipal corporation therein, whether by election, appointment or contract of hire, express or implied, oral or written, including any official of the State, or of any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein and except any duly appointed member of the fire department in any city whose population exceeds 500,000 according to the last Federal or State census, and except any member of a fire insurance patrol maintained by a board of underwriters in this State. One employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic or municipal corporation therein, through its representatives, shall not be considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

2. Every person in the service of another under any contract of hire, express or implied, oral or written, who contracts an occupational disease while working in the State of Illinois, or who contracts an occupational disease while working outside of the State of Illinois but where the contract of hire is made within the State of Illinois, and any person whose employment is principally localized within the State of Illinois, regardless of the place where the disease was contracted or place where the contract of hire was made, including aliens, and minors who, for the purpose of this Act, except Section 3 hereof, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees. An employee or his or her dependents under this Act who shall have a cause of action by reason of an occupational disease, disablement or death arising out of and in the course of his or her employment may elect or pursue his or her remedy in the State where the disease was contracted, or in the State where the contract of hire is made, or in the State where the employment is principally localized.

(c) "Commission" means the Illinois Workers' Compensation Commission created by the Workers' Compensation Act, approved July 9, 1951, as amended.

(d) In this Act the term "Occupational Disease" means a disease arising out of and in the course of the employment or which has become aggravated and rendered disabling as a result of the exposure of the employment. Such aggravation shall arise out of a risk peculiar to or increased by the employment and not common to the general public.

A disease shall be deemed to arise out of the employment if

there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin or aggravation in a risk connected with the employment and to have flowed from that source as a rational consequence.

An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when, for any length of time however short, he or she is employed in an occupation or process in which the hazard of the disease exists; provided however, that in a claim of exposure to atomic radiation, the fact of such exposure must be verified by the records of the central registry of radiation exposure maintained by the Department of Public Health or by some other recognized governmental agency maintaining records of such exposures whenever and to the extent that the records are on file with the Department of Public Health or the agency.

Any injury to or disease or death of an employee arising from the administration of a vaccine, including without limitation smallpox vaccine, to prepare for, or as a response to, a threatened or potential bioterrorist incident to the employee as part of a voluntary inoculation program in connection with the person's employment or in connection with any governmental program or recommendation for the inoculation of workers in the employee's occupation, geographical area, or other category that includes the employee is deemed to arise out of and in the course of the employment for all purposes under this Act. This paragraph added by Public Act 93-829 is declarative of existing law and is not a new enactment.

The employer liable for the compensation in this Act provided shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed upon regardless of the length of time of such last exposure, except, in cases of silicosis or asbestosis, the only employer liable shall be the last employer in whose employment the employee was last exposed during a period of 60 days or more after the effective date of this Act, to the hazard of such occupational disease, and, in such cases, an exposure during a period of less than 60 days, after the effective date of this Act, shall not be deemed a last exposure. If a miner who is suffering or suffered from pneumoconiosis was employed for 10 years or more in one or more coal mines there shall, effective July 1, 1973 be a rebuttable presumption that his or her pneumoconiosis arose out of such employment.

If a deceased miner was employed for 10 years or more in one or more coal mines and died from a respirable disease there shall, effective July 1, 1973, be a rebuttable presumption that his or her death was due to pneumoconiosis.

Any condition or impairment of health of an employee employed as a firefighter, emergency medical technician (EMT), or paramedic which results directly or indirectly from any bloodborne pathogen, lung or respiratory disease or condition, heart or vascular disease or condition, hypertension, tuberculosis, or cancer resulting in any disability (temporary, permanent, total, or partial) to the employee shall be rebuttably presumed to arise out of and in the course of the employee's firefighting, EMT, or paramedic employment and, further, shall be rebuttably presumed to be causally connected to the hazards or exposures of the employment. This presumption shall also apply to any hernia or hearing loss suffered by an

employee employed as a firefighter, EMT, or paramedic. However, this presumption shall not apply to any employee who has been employed as a firefighter, EMT, or paramedic for less than 5 years at the time he or she files an Application for Adjustment of Claim concerning this condition or impairment with the Illinois Workers' Compensation Commission. The rebuttable presumption established under this subsection, however, does not apply to an emergency medical technician (EMT) or paramedic employed by a private employer if the employee spends the preponderance of his or her work time for that employer engaged in medical transfers between medical care facilities or non-emergency medical transfers to or from medical care facilities. The changes made to this subsection by this amendatory Act of the 98th General Assembly shall be narrowly construed. The Finding and Decision of the Illinois Workers' Compensation Commission under only the rebuttable presumption provision of this paragraph shall not be admissible or be deemed res judicata in any disability claim under the Illinois Pension Code arising out of the same medical condition; however, this sentence makes no change to the law set forth in *Krohe v. City of Bloomington*, 204 Ill.2d 392.

The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering such employer liable in accordance with the provisions of this Act.

(e) "Disablement" means an impairment or partial impairment, temporary or permanent, in the function of the body or any of the members of the body, or the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he or she claims compensation, or equal wages in other suitable employment; and "disability" means the state of being so incapacitated.

(f) No compensation shall be payable for or on account of any occupational disease unless disablement, as herein defined, occurs within two years after the last day of the last exposure to the hazards of the disease, except in cases of occupational disease caused by berylliosis or by the inhalation of silica dust or asbestos dust and, in such cases, within 3 years after the last day of the last exposure to the hazards of such disease and except in the case of occupational disease caused by exposure to radiological materials or equipment, and in such case, within 25 years after the last day of last exposure to the hazards of such disease.

(Source: P.A. 98-291, eff. 1-1-14.)

(820 ILCS 310/2) (from Ch. 48, par. 172.37)

Sec. 2. (a) Where any employer in this State is automatically and without election subject to and bound by the provisions of the Workers' Compensation Act by reason of the provisions of Section 3 thereof, as heretofore or hereafter amended, then such employer and all of his employees working within this State shall be automatically and without election subject to and bound by the compensation provisions of this Act with respect to all cases in which the last day of the last exposure to the hazards of the disease claimed upon shall have been on or after July 1, 1957. However, nothing contained in this Act shall be construed to apply to any business, enterprise, household or residence which is exempt from the compensation provisions of the Workers' Compensation Act under paragraphs 17, 18 and 19 of Section 3 of that Act.

(b) Any employer in this State who does not come within the classes enumerated by Section 2 (a) of this Act may elect to provide and pay compensation according to the provisions of this Act, for disability or death resulting from occupational diseases, and such election, when effective, shall apply to all cases in which the last day of the last exposure as defined in this Act to the hazards of the occupational disease claimed upon shall have occurred on or after the effective date of such election, and shall relieve such employer of all liability under Section 3 of this Act and all other liability with respect to injury to health or death therefrom by reason of any disease contracted or sustained in the course of the employment. The State of Illinois hereby elects to provide and pay compensation according to the provisions of this Act.

(c) Election by any employer, pursuant to paragraph (b) of this Section shall be made by filing notice of such election with the Illinois Workers' Compensation Commission or by insuring his liability to pay compensation under this Act in some insurance carrier authorized, licensed or permitted to do such insurance business in this State. Such employer shall either furnish to his employees personally or post in a conspicuous place in the place of employment notice of his election.

(d) Every employer who has elected pursuant to paragraphs (b) and (c) of this section to provide and pay compensation shall, from and after the effective date of such election be and operate under all provisions of this Act except Section 3 hereof, with respect to all his employees except those who have rejected in due time as provided in paragraph (e). Any employer having elected, prior to October 1, 1941, not to provide and pay compensation may at any time thereafter again elect pursuant to paragraphs (b) and (c) to provide and pay compensation, but having thus elected for the second time to provide and pay compensation such employer shall, from and after the effective date of such last said election, be and operate under all provisions of this Act, except Section 3 hereof, with respect to all employees except those who have rejected in due time as provided in paragraph (e) of this section.

(e) If any employer elects, pursuant to paragraph (b) and (c) of this section, then every employee of such employer, who may be employed at the time of such election by such employer, shall be deemed to have accepted all the compensation provisions of this Act and shall be bound thereby unless within 30 days after such election he shall file a notice to the contrary with the Commission whose duty it shall be immediately to notify the employer, and until such notice is given to the employer, the measure of liability of such employer shall be determined according to the compensation provisions of this Act; and every employee of such employer, hired after such employer's election, as a part of his contract of hiring shall be deemed to have accepted all of the compensation provisions of this Act, and shall have no right of rejection.

(f) Every employer within the provisions of this Act who has elected to provide any pay compensation according to the provisions of this Act by filing notice of such election with the Commission, shall be bound thereby as to all his employees until January 1st of the next succeeding year and for terms of each year thereafter.

Any such employer who may have once elected, may elect not to provide and pay the compensation herein provided for accidents resulting in either injury or death and occurring after the expiration of any such calendar year by filing notice

of such election with the Commission at least 60 days prior to the expiration of any such calendar year, and by posting such notice at a conspicuous place in the plant, shop, office, room or place where such employee is employed, or by personal service, in written or printed form, upon such employees, at least 60 days prior to the expiration of any such calendar year.

Every employer within the provisions of this Act who has elected to provide and pay compensation according to the provisions of this Act by insuring his liability to pay compensation under this Act, as above provided, shall be bound thereby as to all his employees until the date of expiration or cancellation of such policy of insurance, or any renewal thereof.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/3) (from Ch. 48, par. 172.38)

Sec. 3. Where an employee in this State sustains injury to health or death by reason of a disease contracted or sustained in the course of the employment and proximately caused by the negligence of the employer, unless such employer shall be subject to this Act under the provisions of paragraph (a) of Section 2 of this Act or shall have elected to provide and pay compensation as provided in Section 2 of this Act, a right of action shall accrue to the employee whose health has been so injured for any damages sustained thereby; and in case of death, a right of action shall accrue to the widow or widower of such deceased person, his or her lineal heirs or adopted children, or to any person or persons who were, before such loss of life, dependent for support upon such deceased person, for a like recovery of damages for the injury sustained by reason of such death not to exceed the sum of \$10,000. Violation by any employer of any effective rule or rules made by the Illinois Workers' Compensation Commission pursuant to the "Health and Safety Act", approved March 16, 1936, as amended, or violation by the employer of any statute of this State, intended for the protection of the health of employees shall be and constitute negligence of the employer within the meaning of this Section. Every such action for damage for injury to the health shall be commenced within 3 years after the last day of the last exposure to the hazards of the disease and every such action for damages in case of death shall be commenced within one year after the death of such employee and within 5 years after the last day of the last exposure to the hazards of the disease except where the disease is caused by atomic radiation, in which case, every action for damages for injury to health shall be commenced within 15 years after the last day of last exposure to the hazard of such disease and every action for damages in case of death shall be commenced within one year after the death of such employee and within 15 years after last exposure to the hazards of the disease. In any action to recover damages under this Section, it shall not be a defense that the employee either expressly or impliedly assumed the risk of the employment, or that the contraction or sustaining of the disease or death was caused in whole or in part by the negligence of a fellow servant or fellow servants, or that the contraction or sustaining of the disease or death resulting was caused in whole or in part by the contributory negligence of the employee, where such contributory negligence was not wilful.

(Source: P.A. 93-721, eff. 1-1-05.)

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

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

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

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

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

(3) Insure his or her entire liability to pay such compensation in some insurance carrier authorized, licensed or permitted to do such insurance business in this State. All policies of such insurance carriers insuring the payment of compensation under this Act shall cover all the employees and all such employer's compensation liability in all cases in which the last day of the last exposure to the occupational disease involved is within the effective period of the policy, anything to the contrary in the policy notwithstanding. Provided, however, that any employer may insure his or her compensation liability under this Act with 2 or more insurance carriers or may insure a part and qualify under Subsection 1, 2, or 4 for the remainder of his liability to pay such compensation, subject to the following two provisions:

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

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

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

The insurance or security in force to cover

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

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

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

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

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

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

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

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

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

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

Any penalty under this subsection (a-1) must be imposed not later than one year after the expiration of the applicable limitation period specified in subsection (c) of Section 6 of this Act. Penalties imposed under this subsection (a-1) shall be deposited into the Illinois Workers' Compensation Commission Operations Fund created under Section 4 of the Workers' Compensation Act.

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

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

Upon the approval of the sworn application and financial statement, security, indemnity or bond or amount of insurance, filed, furnished, or carried, as the case may be, the Commission shall send to the employer written notice of its approval

thereof. Said certificate of compliance by the employer with the provisions of subparagraphs (2) and (3) of paragraph (a) of this Section shall be delivered by the insurance carrier to the Illinois Workers' Compensation Commission within 5 days after the effective date of the policy so certified. The insurance so certified shall cover all compensation liability occurring during the time that the insurance is in effect and no further certificate need be filed in case such insurance is renewed, extended or otherwise continued by such carrier. The insurance so certified shall not be cancelled or in the event that such insurance is not renewed, extended or otherwise continued, such insurance shall not be terminated until at least 10 days after receipt by the Illinois Workers' Compensation Commission of notice of the cancellation or termination of said insurance; provided, however, that if the employer has secured insurance from another insurance carrier, or has otherwise secured the payment of compensation in accordance with this Section, and such insurance or other security becomes effective prior to the expiration of said 10 days, cancellation or termination may, at the option of the insurance carrier indicated in such notice, be effective as of the effective date of such other insurance or security.

(c) Whenever the Commission shall find that any corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or other insurer effecting workers' occupational disease compensation insurance in this State shall be insolvent, financially unsound, or unable to fully meet all payments and liabilities assumed or to be assumed for compensation insurance in this State, or shall practice a policy of delay or unfairness toward employees in the adjustment, settlement, or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer, shall from and after a date fixed in such order discontinue the writing of any such workers' occupational disease compensation insurance in this State. It shall thereupon be unlawful for any such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer to effect any workers' occupational disease compensation insurance in this State. A copy of the order shall be served upon the Director of Insurance by registered mail. Whenever the Commission finds that any service or adjustment company used or employed by a self-insured employer or by an insurance carrier to process, adjust, investigate, compromise or otherwise handle claims under this Act, has practiced or is practicing a policy of delay or unfairness toward employees in the adjustment, settlement or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that such service or adjustment company shall from and after a date fixed in such order be prohibited from processing, adjusting, investigating, compromising or otherwise handling claims under this Act.

Whenever the Commission finds that any self-insured employer has practiced or is practicing delay or unfairness toward employees in the adjustment, settlement or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that after a date fixed in the order such self-insured employer shall be disqualified to operate as a self-insurer and shall be required to insure his entire liability to pay compensation in some insurance carrier authorized, licensed and permitted to do such insurance business

in this State as provided in subparagraph (3) of paragraph (a) of this Section.

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

(d) Upon a finding by the Commission, after reasonable notice and hearing, of the knowing and wilful failure of an employer to comply with any of the provisions of paragraph (a) of this Section or the failure or refusal of an employer, service or adjustment company, or insurance carrier to comply with any order of the Illinois Workers' Compensation Commission pursuant to paragraph (c) of this Section the Commission may assess a civil penalty of up to \$500 per day for each day of such failure or refusal after the effective date of this amendatory Act of 1989. Each day of such failure or refusal shall constitute a separate offense.

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

(e) This Act shall not affect or disturb the continuance of any existing insurance, mutual aid, benefit, or relief association or department, whether maintained in whole or in part by the employer or whether maintained by the employees, the payment of benefits of such association or department being guaranteed by the employer or by some person, firm or corporation for him or her: Provided, the employer contributes to such association or department an amount not less than the full compensation herein provided, exclusive of the cost of the maintenance of such association or department and without any expense to the employee. This Act shall not prevent the organization and maintaining under the insurance laws of this State of any benefit or insurance company for the purpose of insuring against the compensation provided for in this Act, the expense of which is maintained by the employer. This Act shall not prevent the organization or maintaining under the insurance laws of this State of any voluntary mutual aid, benefit or relief association among employees for the payment of additional accident or sick benefits.

(f) No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein

contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

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

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

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

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

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

(Source: P.A. 93-721, eff. 1-1-05.)

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

Sec. 4a. (Repealed).

(Source: P.A. 89-97, eff. 7-7-95. Repealed by P.A. 91-757, eff. 1-1-01.)

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

Sec. 4b. The provisions of this Act relating to self-insurance and the rules and regulations promulgated hereunder shall not be construed to be a limitation upon the powers of self-insurance granted to the State and units of local government and school districts by Article VII, Section 1 of the Illinois Constitution or by statute, nor to any governmental entity so designated by the legislature.

(Source: P.A. 81-1482.)

(820 ILCS 310/5) (from Ch. 48, par. 172.40)

(Text of Section WITH the changes made by P.A. 89-7, which has been held unconstitutional)

Sec. 5. (a) There is no common law or statutory right to recover compensation or damages from the employer, his insurer, his broker, any service organization retained by the employer, his insurer or his broker to provide safety service, advice or recommendations for the employer or the agents or employees of any of them for or on account of any injury to health, disease, or death therefrom, other than for the compensation herein provided or for damages as provided in Section 3 of this Act. This Section shall not affect any right to compensation under the "Workers' Compensation Act".

No compensation is payable under this Act for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under the "Workers' Compensation Act".

(b) Where the disablement or death for which compensation is payable under this Act was caused under circumstances creating a legal liability for damages on the part of some person other than his employer to pay damages, then legal proceedings may be taken against such other person to recover damages notwithstanding such employer's payment of or liability to pay compensation under this Act. In such case, however, if the action against such other person is brought by the disabled employee or his personal representative and judgment is obtained and paid or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or personal representative, including amounts paid or to be paid pursuant to paragraph (a) of Section 8 of the Workers' Compensation Act as required under Section 7 of this Act. If the employee or personal representative brings an action against another person and the other person then brings an action for contribution against the employer, the amount, if any, that shall be paid to the employer by the employee or personal representative pursuant to this Section shall be reduced by an amount equal to the amount found by the trier of fact to be the employer's pro rata share of the common liability in the action.

Out of any reimbursement received by the employer, pursuant to this Section the employer shall pay his pro rata share of all costs and reasonably necessary expenses in connection with such third party claim, action or suit, and where the services of an attorney at law of the employee or dependents have resulted in or substantially contributed to the procurement by suit, settlement or otherwise of the proceeds out of which the employer is reimbursed, then, in the absence of other agreement, the employer shall pay such attorney 25% of the gross amount of such reimbursement.

If the disabled employee or his personal representative agrees to receive compensation from the employer or accept from the employer any payment on account of such compensation, or to institute proceedings to recover the same, the employer may have or claim a lien upon any award, judgment or fund out of which such employee might be compensated from such third party.

In such actions brought by the employee or his personal representative, he shall forthwith notify his employer by personal service or registered mail, of such fact and of the name of the court in which the suit is brought, filing proof thereof in the action. The employer may, at any time thereafter join in the action upon his motion so that all orders of court

after hearing and judgment shall be made for his protection. No release or settlement of claim for damages by reason of such disability or death, and no satisfaction of judgment in such proceedings, are valid without the written consent of both employer and employee or his personal representative, except in the case of the employers, such consent is not required where the employer has been fully indemnified or protected by court order.

In the event the employee or his personal representative fails to institute a proceeding against such third person at any time prior to 3 months before such action would be barred at law the employer may in his own name, or in the name of the employee or his personal representative, commence a proceeding against such other person for the recovery of damages on account of such disability or death to the employee, and out of any amount recovered the employer shall pay over to the injured employee or his personal representative all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation paid or to be paid under this Act, including amounts paid or to be paid pursuant to paragraph (a) of Section 8 of the Workers' Compensation Act as required by Section 7 of this Act, and costs, attorney's fees and reasonable expenses as may be incurred by such employer in making such collection or in enforcing such liability.

This amendatory Act of 1995 applies to causes of action accruing on or after its effective date.
(Source: P.A. 89-7, eff. 3-9-95.)

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)

Sec. 5. (a) There is no common law or statutory right to recover compensation or damages from the employer, his insurer, his broker, any service organization retained by the employer, his insurer or his broker to provide safety service, advice or recommendations for the employer or the agents or employees of any of them for or on account of any injury to health, disease, or death therefrom, other than for the compensation herein provided or for damages as provided in Section 3 of this Act. This Section shall not affect any right to compensation under the "Workers' Compensation Act".

No compensation is payable under this Act for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under the "Workers' Compensation Act".

(b) Where the disablement or death for which compensation is payable under this Act was caused under circumstances creating a legal liability for damages on the part of some person other than his employer to pay damages, then legal proceedings may be taken against such other person to recover damages notwithstanding such employer's payment of or liability to pay compensation under this Act. In such case, however, if the action against such other person is brought by the disabled employee or his personal representative and judgment is obtained and paid or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or personal representative, including amounts paid or to be paid pursuant to paragraph (a) of Section 8 of this Act.

Out of any reimbursement received by the employer, pursuant to this Section the employer shall pay his pro rata share of all

costs and reasonably necessary expenses in connection with such third party claim, action or suit, and where the services of an attorney at law of the employee or dependents have resulted in or substantially contributed to the procurement by suit, settlement or otherwise of the proceeds out of which the employer is reimbursed, then, in the absence of other agreement, the employer shall pay such attorney 25% of the gross amount of such reimbursement.

If the disabled employee or his personal representative agrees to receive compensation from the employer or accept from the employer any payment on account of such compensation, or to institute proceedings to recover the same, the employer may have or claim a lien upon any award, judgment or fund out of which such employee might be compensated from such third party.

In such actions brought by the employee or his personal representative, he shall forthwith notify his employer by personal service or registered mail, of such fact and of the name of the court in which the suit is brought, filing proof thereof in the action. The employer may, at any time thereafter join in the action upon his motion so that all orders of court after hearing and judgment shall be made for his protection. No release or settlement of claim for damages by reason of such disability or death, and no satisfaction of judgment in such proceedings, are valid without the written consent of both employer and employee or his personal representative, except in the case of the employers, such consent is not required where the employer has been fully indemnified or protected by court order.

In the event the employee or his personal representative fails to institute a proceeding against such third person at any time prior to 3 months before such action would be barred at law the employer may in his own name, or in the name of the employee or his personal representative, commence a proceeding against such other person for the recovery of damages on account of such disability or death to the employee, and out of any amount recovered the employer shall pay over to the injured employee or his personal representative all sums collected from such other person by judgment or otherwise in excess of the amount of such compensation paid or to be paid under this Act, including amounts paid or to be paid pursuant to paragraph (a) of Section 8 of this Act, and costs, attorney's fees and reasonable expenses as may be incurred by such employer in making such collection or in enforcing such liability.

(Source: P.A. 81-992.)

(820 ILCS 310/6) (from Ch. 48, par. 172.41)

Sec. 6. (a) Every employer operating under the compensation provisions of this Act, shall post printed notices in their respective places of employment in conspicuous places and in such number and at such places as may be determined by the Commission, containing such information relative to this Act as in the judgment of the Commission may be necessary to aid employees to safeguard their rights under this Act.

In addition thereto, the employer shall post in a conspicuous place on the premises of the employment a printed or typewritten notice stating whether he is insured or whether he has qualified and is operating as a self-insured employer. In the event the employer is insured, the notice shall state the name and address of his or her insurance carrier, the number of the insurance policy, its effective date and the date of termination. In the event of the termination of the policy for

any reason prior to the termination date stated, the posted notice shall promptly be corrected accordingly. In the event the employer is operating as a self-insured employer the notice shall state the name and address of the company, if any, servicing the compensation payments of the employer, and the name and address of the person in charge of making compensation payments.

(b) Every employer subject to this Act shall maintain accurate records of work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion or transfer to another job and file with the Illinois Workers' Compensation Commission, in writing, a report of all occupational diseases arising out of and in the course of the employment and resulting in death, or disablement or illness resulting in the loss of more than 3 scheduled work days. In the case of death such report shall be made no later than 2 working days following the occupational death. In all other cases such report shall be made between the 15th and 25th of each month unless required to be made sooner by rule of the Illinois Workers' Compensation Commission. In case the occupational disease results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result therefrom. All reports shall state the date of the disablement, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the disabled person, the specific occupation of the person, the nature and character of the occupational disease, the length of disability, and, in case of death, the length of disability before death, the wages of the employee, whether compensation has been paid to the employee, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The reports shall be made on forms and in the manner as prescribed by the Illinois Workers' Compensation Commission and shall contain such further information as the Commission shall deem necessary and require. The making of such reports releases the employer from making such reports to any other officer of the State and shall satisfy the reporting provisions as contained in the "Health And Safety Act" and "An Act in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act therein named", approved July 18, 1955, as amended. The report filed with the Illinois Workers' Compensation Commission pursuant to the provisions of this Section shall be made available by the Illinois Workers' Compensation Commission to the Director of Labor or his representatives, to the Department of Public Health pursuant to the Illinois Health and Hazardous Substances Registry Act, and to all other departments of the State of Illinois which shall require such information for the proper discharge of their official duties. Failure to file with the Commission any of the reports required in this Section is a petty offense.

Except as provided in this paragraph, all reports filed hereunder shall be confidential and any person having access to such records filed with the Illinois Workers' Compensation Commission as herein required, who shall release the names or otherwise identify any persons sustaining injuries or disabilities, or gives access to such information to any unauthorized person, shall be subject to discipline or discharge, and in addition shall be guilty of a Class B

misdemeanor. The Commission shall compile and distribute to interested persons aggregate statistics, taken from the reports filed hereunder. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

(c) There shall be given notice to the employer of disablement arising from an occupational disease as soon as practicable after the date of the disablement. If the Commission shall find that the failure to give such notice substantially prejudices the rights of the employer the Commission in its discretion may order that the right of the employee to proceed under this Act shall be barred.

In case of legal disability of the employee or any dependent of a deceased employee who may be entitled to compensation, under the provisions of this Act, the limitations of time in this Section of this Act provided shall not begin to run against such person who is under legal disability until a conservator or guardian has been appointed. No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he or she is unduly prejudiced in such proceedings by such defect or inaccuracy. Notice of the disabling disease may be given orally or in writing. In any case, other than injury or death caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 3 years after the date of the disablement, where no compensation has been paid, or within 2 years after the date of the last payment of compensation, where any has been paid, whichever shall be later, the right to file such application shall be barred. If the occupational disease results in death, application for compensation for death may be filed with the Commission within 3 years after the date of death where no compensation has been paid, or within 3 years after the last payment of compensation, where any has been paid, whichever is later, but not thereafter.

Effective July 1, 1973 in cases of disability caused by coal miners pneumoconiosis unless application for compensation is filed with the Commission within 5 years after the employee was last exposed where no compensation has been paid, or within 5 years after the last payment of compensation where any has been paid, the right to file such application shall be barred.

In cases of disability caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 25 years after the employee was so exposed, the right to file such application shall be barred.

In cases of death occurring within 25 years from the last exposure to radiological material or equipment or asbestos, application for compensation must be filed within 3 years of death where no compensation has been paid, or within 3 years, after the date of the last payment where any has been paid, but not thereafter.

(d) Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this Act within 7 days after the disablement shall be presumed to be fraudulent.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/7) (from Ch. 48, par. 172.42)

Sec. 7. If any employee sustains any disablement, impairment, or disfigurement, or dies and his or her disability,

impairment, disfigurement or death is caused by a disease aggravated by an exposure of the employment or by an occupational disease arising out of and in the course of his or her employment, such employee or such employee's dependents, as the case may be, shall be entitled to compensation, medical, surgical, hospital and rehabilitation care, prosthesis, burial costs, and all other benefits, rights and remedies, in the same manner, to the same extent and subject to the same terms, conditions and limitations, except as herein otherwise provided, as are now or may hereafter be provided by the "Workers' Compensation Act" for accidental injuries sustained by employees arising out of and in the course of their employment (except that the amount of compensation which shall be paid for loss of hearing of one ear is 100 weeks) and for this purpose the disablement, disfigurement or death of an employee by reason of an occupational disease, arising out of and in the course of his or her employment, shall be treated as the happening of an accidental injury.

(a) Loss of hearing for compensation purposes shall be confined to the frequencies of 1,000, 2,000 and 3,000 cycles per second. Loss of hearing ability for frequency tones above 3,000 cycles per second are not to be considered as constituting disability for hearing.

(b) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average in decibels for the thresholds of hearing for the frequencies of 1,000, 2,000 and 3,000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 30 decibels or less in the 3 frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 85 decibels or more in the 3 frequencies, then the same shall constitute and be total or 100 percent compensable hearing loss.

(c) In measuring hearing impairment, the lowest measured losses in each of the 3 frequencies shall be added together and divided by 3 to determine the average decibel loss. For every decibel of loss exceeding 30 decibels an allowance of 1.82% shall be made up to the maximum of 100 percent which is reached at 85 decibels.

(d) If a hearing loss is established to have existed on July 1, 1975, by audiometric testing the employer shall not be liable for the previous loss so established nor shall he be liable for any loss for which compensation has been paid or awarded.

(e) No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

(f) No claim for loss of hearing due to industrial noise shall be brought against an employer or allowed unless the employee has been exposed for a period of time sufficient to cause permanent impairment to noise levels in excess of the following:

Sound Level DBA	Hours Per Day
Slow Response	
90	8
92	6
95	4
97	3
100	2
102	1-1/2

105	1
110	1/2
115	1/4

This subparagraph (f) shall not be applied in cases of hearing loss resulting from trauma or explosion.

In addition to discharging the foregoing obligations, the employer shall pay into the Special Fund created under paragraph (f) of Section 7 of the "Workers' Compensation Act", the same amounts and in the same manner as is provided in the same Act in cases of accidental injuries arising out of and in the course of the employment.

(Source: P.A. 81-1482.)

(820 ILCS 310/8) (from Ch. 48, par. 172.43)

Sec. 8. Whenever by virtue of the provisions of Section 7 of this Act an employee seeks to exercise any right or remedy provided in the Workers' Compensation Act, the period of limitation, except as in this Act otherwise provided, shall be the same as under the Workers' Compensation Act, and where applicable shall begin to run from the date of disablement instead of the date of accident.

(Source: P.A. 81-992.)

(820 ILCS 310/9) (from Ch. 48, par. 172.44)

Sec. 9. Any employer or employee or beneficiary who shall desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the Commission, asking that such compensation be so paid. If, upon proper notice to the interested parties and a proper showing made before such Commission or any member thereof, it appears to the best interest of the parties that such compensation be so paid, the Commission may order the commutation of the compensation to an equivalent lump sum, which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at 3% per annum with annual rests.

In cases indicating complete disability no petition for a commutation to a lump sum basis shall be entertained by the Commission until after the expiration of 6 months from the date of the disablement.

Where necessary, upon proper application being made, a guardian or administrator, as the case may be, may be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this Act and liable to pay such compensation, may petition for the appointment of the public administrator or guardian, where no legal representative has been appointed or is acting for such party or parties so under disability.

The payment of compensation in a lump sum to the employee in his lifetime upon order of the Commission, shall extinguish and bar all claims for compensation for death if the compensation paid in a lump sum represents a compromise of a dispute on any question other than the extent of disability.

Subject to the provisions herein above in this paragraph contained, where no dispute exists as to the fact that the occupational disease arose out of and in the course of the employment and where such disease results in death or in the amputation of any member or in the enucleation of an eye, then and in such case the arbitrator or Commission may, upon the petition of either the employer or the employee, enter an award

providing for the payment of compensation for such death or disability in accordance with the provisions of Section 7 or paragraph (e) of Section 8 of this Act.

(Source: P.A. 83-706.)

(820 ILCS 310/10) (from Ch. 48, par. 172.45)

Sec. 10. The basis for computing the compensation provided for in Sections 7 and 8 of the Act shall be as follows:

(a) The compensation shall be computed on the basis of the annual earnings which the disabled person received as salary, wages or earnings if in the employment of the same employer continuously during the year next preceding the day of last exposure.

(b) Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employee was employed at the time of the last day of the last exposure, uninterrupted by absence from work due to illness or any other unavoidable cause.

(c) If such person has not been engaged in the employment of the same employer for the full year immediately preceding the last day of the last exposure, the compensation shall be computed according to the annual earnings which persons of the same class in the same employment and same location, (or if that be impracticable, of neighboring employments of the same kind) have earned during such period.

(d) As to employees in employments in which it is the custom to operate throughout the working days of the year, the annual earnings, if not otherwise determinable, shall be regarded as 300 times the average daily earnings in such computation.

(e) As to employees in employments in which it is the custom to operate for a part of the whole number of working days in each year, such number, if the annual earnings are not otherwise determinable, shall be used instead of 300 as a basis for computing the annual earnings, provided the minimum number of days which shall be so used for the basis of the year's work shall be not less than 200.

(f) In the case of injured employees who earn either no wage or less than the earnings of adult day laborers in the same line of employment in that locality, the yearly wage shall be reckoned according to the average annual earnings of adults of the same class in the same (or if that is impracticable, then of neighboring) employments.

(g) Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment, and shall include overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of his employment.

(h) In computing the compensation to be paid to any employee, who, before the disablement for which he claims compensation, was disabled and drawing compensation under the terms of this Act, the compensation for each subsequent disablement shall be apportioned according to the proportion of incapacity and disability caused by the respective disablements which he may have suffered.

(i) To determine the amount of compensation for each installment period, the amount per annum shall be ascertained pursuant hereto, and such amount divided by the number of installment periods per annum.

(Source: P.A. 79-78.)

(820 ILCS 310/11) (from Ch. 48, par. 172.46)

Sec. 11. The compensation herein provided for shall be the full, complete and only measure of the liability of the employer bound by election under this Act and such employer's liability for compensation and medical benefits under this Act shall be exclusive and in place of any and all other civil liability whatsoever, at common law or otherwise, to any employee or his legal representative on account of damage, disability or death caused or contributed to by any disease contracted or sustained in the course of the employment.

(Source: Laws 1951, p. 1095.)

(820 ILCS 310/12) (from Ch. 48, par. 172.47)

Sec. 12. (a) An employee entitled to receive disability payments shall be required, if requested by the employer, to submit himself, at the expense of the employer, for examination to a duly qualified medical practitioner or surgeon selected by the employer, at any time and place reasonably convenient for the employee, either within or without the State of Illinois, for the purpose of determining the nature, extent and probable duration of the occupational disease and the disability therefrom suffered by the employee, and for the purpose of ascertaining the amount of compensation which may be due the employee from time to time for disability according to the provisions of this Act. An employee may also be required to submit himself for examination by medical experts under subsection (c) of Section 19.

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

In all cases where the examination is made by a physician or surgeon engaged by the employer, and the employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination at the instance of the employer to deliver to the employee, or his representative, a statement in writing of the examination and findings to the same extent that said physician or surgeon reports to the employer and the same shall be an exact copy of that furnished to the employer, said copy to be furnished the employee, or his representative as soon as practicable but not later than the time the case is set for hearing. Such delivery shall be made in person either to the employee or his representative, or by registered mail to either, and the receipt of either shall be proof of such delivery. If such physician or surgeon refuses to furnish the employee with such statement to the same extent as that furnished the employer said physician or surgeon shall not be permitted to testify at the hearing next following said examination.

If the employee refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation

payment shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this Act for such period.

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

In all cases where the examination is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination at the instance of the employee, to deliver to the employer, or his representative, a statement in writing of the condition and extent of the examination and findings to the same extent that said physician or surgeon reports to the employee and the same shall be an exact copy of that furnished to the employee, said copy to be furnished the employer, or his representative, as soon as practicable but not later than the time the case is set for hearing. Such delivery shall be made in person either to the employer, or his representative, or by registered mail to either, and the receipt of either shall be proof of such delivery. If such physician or surgeon refuses to furnish the employer with such statement to the same extent as that furnished the employee, said physician or surgeon shall not be permitted to testify at the hearing next following said examination.

(b) Whenever, after the death of an employee, any party in interest files an application for adjustment of claim under this Act, and it appears that an autopsy may disclose material evidence as to whether or not such death was due to the inhalation of silica or asbestos dust, the commission, upon petition of either party, may order an autopsy at the expense of the party requesting same, and if such autopsy is so ordered, the commission shall designate a competent pathologist to perform the same, and shall give the parties in interest such reasonable notice of the time and place thereof as will afford a reasonable opportunity to witness such autopsy in person or by a representative.

It shall be the duty of such pathologist to perform such autopsy as, in his best judgment, is required to ascertain the cause of death. Such pathologist shall make a complete written report of all his findings to the commission (including laboratory results described as such, if any). The said report of the pathologist shall contain his findings on post-mortem examination and said report shall not contain any conclusion of the said pathologist based upon the findings so reported.

Said report shall be placed on file with the commission, and shall be a public record. Said report, or a certified copy thereof, may be introduced by either party on any hearing as evidence of the findings therein stated, but shall not be conclusive evidence of such findings, and either party may rebut any part thereof.

Where an autopsy has been performed at any time with the express or implied consent of any interested party, and without some opposing party, if known or reasonably ascertainable, having reasonable notice of and reasonable opportunity of witnessing the same, all evidence obtained by such autopsy shall be barred upon objection at any hearing. This paragraph shall not apply to autopsies by a coroner's physician in the discharge

of his official duties.
(Source: P.A. 94-277, eff. 7-20-05.)

(820 ILCS 310/13) (from Ch. 48, par. 172.48)

Sec. 13. The Illinois Workers' Compensation Commission shall have jurisdiction over the operation and administration of this Act and it shall have, exercise, perform and discharge the same rights, powers and duties with reference to this Act as it shall have, exercise, perform and discharge with reference to the Workers' Compensation Act or any amendment thereto or modification thereof.
(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/14) (from Ch. 48, par. 172.49)

Sec. 14. The members of the Commission, Arbitrators and other employees whose duties require them to travel, shall have reimbursed to them their actual traveling expenses and disbursements made or incurred by them in the discharge of their official duties while away from their place of residence in the performance of their duties.

The Secretary or Assistant Secretary, under the direction of the Commission, shall have charge and custody of the seal of the Commission and also charge and custody of all records, files, orders, proceedings, decisions, awards and other documents on file with the Commission. He shall furnish certified copies, under the seal of the Commission, of any such records, files, orders, proceedings, decisions, awards and other documents on file with the Commission as may be required. Certified copies so furnished by the Secretary or Assistant Secretary shall be received in evidence before the Commission or any Arbitrator thereof, and in all courts, provided that the original of such certified copy is otherwise competent and admissible in evidence. The Secretary or Assistant Secretary shall perform such other duties as may be prescribed from time to time by the Commission.

The Security Supervisor, under the direction of the Commission, shall perform such duties as may be prescribed from time to time by the Commission.
(Source: Laws 1951, p. 1095.)

(820 ILCS 310/15) (from Ch. 48, par. 172.50)

Sec. 15. The Commission shall report in writing to the Governor on the 30th day of June, annually, the details and results of its administration of this Act, and may prepare and issue such special bulletins and reports from time to time as may seem advisable. The annual report shall include, but need not be limited to, the following:

(a) Information as to the type of insurance coverage elected by various employers in this State;

(b) A summary of the information received in reports filed by employers pursuant to Section 6(b) such as the average weekly wage of injured workers, the number of injuries and diseases; average benefit levels; average duration of disability, when available; the average payment for hospital and medical care; average funeral benefit in death cases; average benefit payment broken down by type of benefit; and case disposition; and

(c) Such other information about the Commission's administration of this Act as the Commission shall deem

appropriate.
(Source: P.A. 81-1482.)

(820 ILCS 310/16) (from Ch. 48, par. 172.51)

Sec. 16. The Commission shall make and publish procedural rules and orders for carrying out the duties imposed upon it by law, which rules and orders shall be deemed prima facie reasonable and valid.

The process and procedure before the Commission shall be as simple and summary as reasonably may be.

The Commission upon application of either party may issue a dedimus potestatem directed to a commissioner, notary public, magistrate, justice of the peace or any other officer authorized by law to administer oaths, to take the depositions of such witness or witnesses as may be necessary in the judgment of such applicant. Such dedimus potestatem may issue to any of the officers aforesaid in any state or territory of the United States. When the deposition of any witness resident of a foreign country is desired to be taken, the dedimus shall be directed to and the deposition taken before a consul, vice consul or other authorized representative of the government of the United States of America, whose station is in the country where the witness whose deposition is to be taken resides. In countries where the government of the United States has no consul or other diplomatic representative, then depositions in such case shall be taken through the appropriate judicial authority of that country; or where treaties provide for other methods of taking depositions, then the same may be taken as in such treaties provided. The Commission shall have the power to adopt necessary rules to govern the issue of such dedimus potestatem.

The Commission, or any member thereof, or any Arbitrator designated by said Commission shall have the power to administer oaths, subpoena and examine witnesses; to issue subpoenas duces tecum, requiring the production of such books, papers, records and documents as may be evidence of any matter under inquiry and to examine and inspect the same and such places or premises as may relate to the question in dispute. Said Commission or any member thereof, or any Arbitrator designated by said Commission, shall on written request of either party to the dispute, issue subpoenas for the attendance of such witnesses and production of such books, papers, records and documents as shall be designated in said applications, providing however, that the parties applying for such subpoena shall advance the officer and witness fees provided for in suits pending in the Circuit Court. Service of such subpoena shall be made by any sheriff or other person. In case any person refuses to comply with an order of the Commission or subpoenas issued by it or by any member thereof, or any Arbitrator designated by said Commission or to permit an inspection of places or premises, or to produce any books, papers, records or documents, or any witness refuses to testify to any matters regarding which he may be lawfully interrogated, the Circuit Court for the county in which said hearing or matter is pending, on application of any member of the Commission or any Arbitrator designated by the Commission, shall compel obedience by attachment proceedings, as for contempt, as in a case of disobedience of the requirements of a subpoena from such court on a refusal to testify therein.

The records kept by a hospital, certified to as true and correct by the superintendent or other officer in charge, showing the medical and surgical treatment given an injured employee in such hospital, shall be admissible without any

further proof as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

The Commission at its expense shall provide an official court reporter to take the testimony and record of proceedings at the hearings before an Arbitrator or the Commission, who shall furnish a transcript of such testimony or proceedings to either party requesting it, upon payment to him therefor at the rate of \$1.00 per page for the original and 35 cents per page for each copy of such transcript. Payment for photostatic copies of exhibits shall be extra. If the Commission has determined, as provided in Section 19.5 of this Act, that the employee is a poor person, a transcript of such testimony and proceedings, including photostatic copies of exhibits, shall be furnished to such employee at the Commission's expense.

The Commission shall have the power to determine the reasonableness and fix the amount of any fee of compensation charged by any person, including attorneys, physicians, surgeons and hospitals, for any service performed in connection with this Act, or for which payment is to be made under this Act or rendered in securing any right under this Act.

Whenever the Commission shall find that the employer, his agent, service company or insurance carrier has been guilty of delay or unfairness towards an employee in the adjustment, settlement or payment of benefits due such employee or has been guilty of unreasonable or vexatious delay, intentional underpayment of compensation benefits, or has engaged in frivolous defenses which do not present a real controversy, the Commission may assess all or any part of the attorney's fees and costs against such employer and his insurance carrier.

(Source: P.A. 86-998; 87-895.)

(820 ILCS 310/16a) (from Ch. 48, par. 172.51a)

Sec. 16a. (A) In the establishment or approval of attorney's fees in relation to claims brought under this Act, the Commission shall be guided by the provisions of this Section and by the legislative intent, hereby declared, to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under this Act.

(B) With respect to any and all proceedings in connection with any initial or original claim under this Act, no claim of any attorney for services rendered in connection with the securing of compensation for an employee or his dependents, whether secured by agreement, order, award or a judgment in any court shall exceed 20% of the amount of compensation recovered and paid, unless further fees shall be allowed to the attorney upon a hearing by the Commission fixing fees and subject to the other provisions of this Section. However, except as hereinafter provided in this Section, in death cases, total disability cases and partial disability cases, the amount of an attorney's fees shall not exceed 20% of the sum which would be due under the Workers' Compensation Act for 364 weeks of permanent total disability based upon the employee's average gross weekly wage prior to the date of the accident and subject to the maximum weekly benefits provided in this Act unless further fees shall be allowed to the attorney upon a hearing by the Commission fixing fees.

(C) All attorneys' fees in connection with the initial or original claim for compensation shall be fixed pursuant to a written contract on forms prescribed by the Commission between

the attorney and the employee or his dependents, and every attorney, whether the disposition of the original claim is by agreement, settlement, award, judgment or otherwise, shall file his contract with the Chairman of the Commission who shall approve the contract only if it is in accordance with all provisions of this Section.

(D) No attorneys' fees shall be charged with respect to compensation for undisputed medical expenses.

(E) No attorneys' fees shall be charged in connection with any temporary total disability compensation unless the payment of such compensation in a timely manner or in the proper amount is refused, or unless such compensation is terminated by the employer and the payment of such compensation is obtained or reinstated by the efforts of the attorney, whether by agreement, settlement, award or judgment.

(F) With regard to any claim where the amount to be paid for compensation does not exceed the written offer made to the claimant or claimants by the employer or his agent prior to representation by an attorney, no fees shall be paid to any such attorney.

(G) All attorneys' fees for representation of an employee or his dependents shall be only recoverable from compensation actually paid to such employee or dependents.

(H) Any and all disputes regarding attorneys' fees, whether such disputes relate to which one or more attorneys represents the claimant or claimants or is entitled to the attorneys' fees, or a division of attorneys' fees where the claimant or claimants are or have been represented by more than one attorney, or any other disputes concerning attorneys' fees or contracts for attorneys' fees, shall be heard and determined by the Commission after reasonable notice to all interested parties and attorneys.

(I) After reasonable notice and hearing before the Commission, any attorney found to be in violation of any provision of this Section shall be required to make restitution of any excess fees charged, plus interest at a reasonable rate as determined by the Commission.

(Source: P.A. 81-1482.)

(820 ILCS 310/17) (from Ch. 48, par. 172.52)

Sec. 17. The Commission shall cause to be printed and shall furnish free of charge upon request by any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this Act, and the performance of the duties of the Commission. It shall provide a proper record in which shall be entered and indexed the name of any employer who shall file a notice of election under this Act, and the date of the filing thereof; and a proper record in which shall be entered and indexed the name of any employee who shall file a notice of election, and the date of the filing thereof; and such other notices as may be required by this Act; and records in which shall be recorded all proceedings, orders and awards had or made by the Commission, or by the arbitration committees, and such other books or records as it shall deem necessary, all such records to be kept in the office of the Commission. The Commission, in its discretion, may destroy all papers and documents except notices of election and waivers which have been on file for more than five years where there is no claim for compensation pending, or where more than two years have elapsed since the termination of the compensation period.

The Commission shall compile and distribute to interested persons aggregate statistics, taken from any records and reports

in the possession of the Commission. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

The Commission is authorized to establish reasonable fees and methods of payment limited to covering only the costs to the Commission for processing, maintaining and generating records or data necessary for the computerized production of documents, records and other materials except to the extent of any salaries or compensation of Commission officers or employees.

All fees collected by the Commission under this Section shall be deposited in the Statistical Services Revolving Fund and credited to the account of the Illinois Workers' Compensation Commission.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/18) (from Ch. 48, par. 172.53)

Sec. 18. All questions arising under this Act, if not settled by agreement of the parties interested therein, shall, except as otherwise provided, be determined by the Commission.

(Source: Laws 1951, p. 1095.)

(820 ILCS 310/19) (from Ch. 48, par. 172.54)

Sec. 19. Any disputed questions of law or fact shall be determined as herein provided.

(a) It shall be the duty of the Commission upon notification that the parties have failed to reach an agreement to designate an Arbitrator.

(1) The application for adjustment of claim filed with the Commission shall state:

A. The approximate date of the last day of the last exposure and the approximate date of the disablement.

B. The general nature and character of the illness or disease claimed.

C. The name and address of the employer by whom employed on the last day of the last exposure and if employed by any other employer after such last exposure and before disablement the name and address of such other employer or employers.

D. In case of death, the date and place of death.

(2) Amendments to applications for adjustment of claim which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the Commissioner or an Arbitrator thereof, in their discretion, and in the exercise of such discretion, they may in proper cases order a trial de novo; such amendment shall relate back to the date of the filing of the original application so amended.

(3) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under this Act and it is subsequently discovered, at any time before final disposition of such cause, that the claim for disability or death which was the basis for such application should properly have been made under the Workers' Compensation Act, then the provisions of Section 19 paragraph (a-1) of the Workers' Compensation Act having reference to such application shall apply.

Whenever any claimant misconceives his remedy and

files an application for adjustment of claim under the Workers' Compensation Act and it is subsequently discovered, at any time before final disposition of such cause that the claim for injury or death which was the basis for such application should properly have been made under this Act, then the application so filed under the Workers' Compensation Act may be amended in form, substance or both to assert claim for such disability or death under this Act and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this Act. When such amendment is submitted, further or additional evidence may be heard by the Arbitrator or Commission when deemed necessary; provided, that nothing in this Section contained shall be construed to be or permit a waiver of any provisions of this Act with reference to notice, but notice if given shall be deemed to be a notice under the provisions of this Act if given within the time required herein.

(b) The Arbitrator shall make such inquiries and investigations as he shall deem necessary and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute and hear such proper evidence as the parties may submit.

The hearings before the Arbitrator shall be held in the vicinity where the last exposure occurred, after 10 days' notice of the time and place of such hearing shall have been given to each of the parties or their attorneys of record.

The Arbitrator may find that the disabling condition is temporary and has not yet reached a permanent condition and may order the payment of compensation up to the date of the hearing, which award shall be reviewable and enforceable in the same manner as other awards, and in no instance be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, but shall be conclusive as to all other questions except the nature and extent of such disability.

The decision of the Arbitrator shall be filed with the Commission which Commission shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed. As of the effective date of this amendatory Act of the 94th General Assembly, all decisions of the Arbitrator shall set forth in writing findings of fact and conclusions of law, separately stated, if requested by either party. Unless a petition for review is filed by either party within 30 days after the receipt by such party of the copy of the decision and notification of time when filed, and unless such party petitioning for a review shall within 35 days after the receipt by him of the copy of the decision, file with the Commission either an agreed statement of the facts appearing upon the hearing before the Arbitrator, or if such party shall so elect a correct transcript of evidence of the proceedings at such hearings, then the decision shall become the decision of the Commission and in the absence of fraud shall be conclusive. The Petition for Review shall contain a statement of the petitioning party's specific exceptions to the decision of the arbitrator. The jurisdiction of the Commission to review the decision of the arbitrator shall not be limited to the exceptions stated in the Petition for Review. The Commission, or any member thereof, may grant further time not exceeding 30 days, in which to file such agreed statement or transcript of evidence. Such agreed statement of facts or correct transcript

of evidence, as the case may be, shall be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the transcript of evidence it shall be authenticated by the signature of the Arbitrator designated by the Commission.

Whether the employee is working or not, if the employee is not receiving or has not received medical, surgical, or hospital services or other services or compensation as provided in paragraph (a) of Section 8 of the Workers' Compensation Act, or compensation as provided in paragraph (b) of Section 8 of the Workers' Compensation Act, the employee may at any time petition for an expedited hearing by an Arbitrator on the issue of whether or not he or she is entitled to receive payment of the services or compensation. Provided the employer continues to pay compensation pursuant to paragraph (b) of Section 8 of the Workers' Compensation Act, the employer may at any time petition for an expedited hearing on the issue of whether or not the employee is entitled to receive medical, surgical, or hospital services or other services or compensation as provided in paragraph (a) of Section 8 of the Workers' Compensation Act, or compensation as provided in paragraph (b) of Section 8 of the Workers' Compensation Act. When an employer has petitioned for an expedited hearing, the employer shall continue to pay compensation as provided in paragraph (b) of Section 8 of the Workers' Compensation Act unless the arbitrator renders a decision that the employee is not entitled to the benefits that are the subject of the expedited hearing or unless the employee's treating physician has released the employee to return to work at his or her regular job with the employer or the employee actually returns to work at any other job. If the arbitrator renders a decision that the employee is not entitled to the benefits that are the subject of the expedited hearing, a petition for review filed by the employee shall receive the same priority as if the employee had filed a petition for an expedited hearing by an arbitrator. Neither party shall be entitled to an expedited hearing when the employee has returned to work and the sole issue in dispute amounts to less than 12 weeks of unpaid compensation pursuant to paragraph (b) of Section 8 of the Workers' Compensation Act.

Expedited hearings shall have priority over all other petitions and shall be heard by the Arbitrator and Commission with all convenient speed. Any party requesting an expedited hearing shall give notice of a request for an expedited hearing under this paragraph. A copy of the Application for Adjustment of Claim shall be attached to the notice. The Commission shall adopt rules and procedures under which the final decision of the Commission under this paragraph is filed not later than 180 days from the date that the Petition for Review is filed with the Commission.

Where 2 or more insurance carriers, private self-insureds, or a group workers' compensation pool under Article V 3/4 of the Illinois Insurance Code dispute coverage for the same disease, any such insurance carrier, private self-insured, or group workers' compensation pool may request an expedited hearing pursuant to this paragraph to determine the issue of coverage, provided coverage is the only issue in dispute and all other issues are stipulated and agreed to and further provided that all compensation benefits including medical benefits pursuant to Section 8(a) of the Workers' Compensation Act continue to be paid to or on behalf of petitioner. Any insurance carrier, private self-insured, or group workers' compensation pool that is determined to be liable for coverage for the disease in issue

shall reimburse any insurance carrier, private self-insured, or group workers' compensation pool that has paid benefits to or on behalf of petitioner for the disease.

(b-1) If the employee is not receiving, pursuant to Section 7, medical, surgical or hospital services of the type provided for in paragraph (a) of Section 8 of the Workers' Compensation Act or compensation of the type provided for in paragraph (b) of Section 8 of the Workers' Compensation Act, the employee, in accordance with Commission Rules, may file a petition for an emergency hearing by an Arbitrator on the issue of whether or not he is entitled to receive payment of such compensation or services as provided therein. Such petition shall have priority over all other petitions and shall be heard by the Arbitrator and Commission with all convenient speed.

Such petition shall contain the following information and shall be served on the employer at least 15 days before it is filed:

- (i) the date and approximate time of the last exposure;
- (ii) the approximate location of the last exposure;
- (iii) a description of the last exposure;
- (iv) the nature of the disability incurred by the employee;
- (v) the identity of the person, if known, to whom the disability was reported and the date on which it was reported;
- (vi) the name and title of the person, if known, representing the employer with whom the employee conferred in any effort to obtain pursuant to Section 7 compensation of the type provided for in paragraph (b) of Section 8 of the Workers' Compensation Act or medical, surgical or hospital services of the type provided for in paragraph (a) of Section 8 of the Workers' Compensation Act and the date of such conference;
- (vii) a statement that the employer has refused to pay compensation pursuant to Section 7 of the type provided for in paragraph (b) of Section 8 of the Workers' Compensation Act or for medical, surgical or hospital services pursuant to Section 7 of the type provided for in paragraph (a) of Section 8 of the Workers' Compensation Act;
- (viii) the name and address, if known, of each witness to the last exposure and of each other person upon whom the employee will rely to support his allegations;
- (ix) the dates of treatment related to the disability by medical practitioners, and the names and addresses of such practitioners, including the dates of treatment related to the disability at any hospitals and the names and addresses of such hospitals, and a signed authorization permitting the employer to examine all medical records of all practitioners and hospitals named pursuant to this paragraph;
- (x) a copy of a signed report by a medical practitioner, relating to the employee's current inability to return to work because of the disability incurred as a result of the exposure or such other documents or affidavits which show that the employee is entitled to receive pursuant to Section 7 compensation of the type provided for in paragraph (b) of Section 8 of the Workers' Compensation Act or medical, surgical or hospital services of the type provided for in paragraph (a) of Section 8 of the Workers' Compensation Act. Such reports, documents or affidavits shall state, if possible, the history of the exposure given

by the employee, and describe the disability and medical diagnosis, the medical services for such disability which the employee has received and is receiving, the physical activities which the employee cannot currently perform as a result of such disability, and the prognosis for recovery;

(xi) complete copies of any reports, records, documents and affidavits in the possession of the employee on which the employee will rely to support his allegations, provided that the employer shall pay the reasonable cost of reproduction thereof;

(xii) a list of any reports, records, documents and affidavits which the employee has demanded by subpoena and on which he intends to rely to support his allegations;

(xiii) a certification signed by the employee or his representative that the employer has received the petition with the required information 15 days before filing.

Fifteen days after receipt by the employer of the petition with the required information the employee may file said petition and required information and shall serve notice of the filing upon the employer. The employer may file a motion addressed to the sufficiency of the petition. If an objection has been filed to the sufficiency of the petition, the arbitrator shall rule on the objection within 2 working days. If such an objection is filed, the time for filing the final decision of the Commission as provided in this paragraph shall be tolled until the arbitrator has determined that the petition is sufficient.

The employer shall, within 15 days after receipt of the notice that such petition is filed, file with the Commission and serve on the employee or his representative a written response to each claim set forth in the petition, including the legal and factual basis for each disputed allegation and the following information: (i) complete copies of any reports, records, documents and affidavits in the possession of the employer on which the employer intends to rely in support of his response, (ii) a list of any reports, records, documents and affidavits which the employer has demanded by subpoena and on which the employer intends to rely in support of his response, (iii) the name and address of each witness on whom the employer will rely to support his response, and (iv) the names and addresses of any medical practitioners selected by the employer pursuant to Section 12 of this Act and the time and place of any examination scheduled to be made pursuant to such Section.

Any employer who does not timely file and serve a written response without good cause may not introduce any evidence to dispute any claim of the employee but may cross examine the employee or any witness brought by the employee and otherwise be heard.

No document or other evidence not previously identified by either party with the petition or written response, or by any other means before the hearing, may be introduced into evidence without good cause. If, at the hearing, material information is discovered which was not previously disclosed, the Arbitrator may extend the time for closing proof on the motion of a party for a reasonable period of time which may be more than 30 days. No evidence may be introduced pursuant to this paragraph as to permanent disability. No award may be entered for permanent disability pursuant to this paragraph. Either party may introduce into evidence the testimony taken by deposition of any medical practitioner.

The Commission shall adopt rules, regulations and procedures whereby the final decision of the Commission is filed not later

than 90 days from the date the petition for review is filed but in no event later than 180 days from the date the petition for an emergency hearing is filed with the Illinois Workers' Compensation Commission.

All service required pursuant to this paragraph (b-1) must be by personal service or by certified mail and with evidence of receipt. In addition, for the purposes of this paragraph, all service on the employer must be at the premises where the accident occurred if the premises are owned or operated by the employer. Otherwise service must be at the employee's principal place of employment by the employer. If service on the employer is not possible at either of the above, then service shall be at the employer's principal place of business. After initial service in each case, service shall be made on the employer's attorney or designated representative.

(c)(1) At a reasonable time in advance of and in connection with the hearing under Section 19(e) or 19(h), the Commission may on its own motion order an impartial physical or mental examination of a petitioner whose mental or physical condition is in issue, when in the Commission's discretion it appears that such an examination will materially aid in the just determination of the case. The examination shall be made by a member or members of a panel of physicians chosen for their special qualifications by the Illinois State Medical Society. The Commission shall establish procedures by which a physician shall be selected from such list.

(2) Should the Commission at any time during the hearing find that compelling considerations make it advisable to have an examination and report at that time, the Commission may in its discretion so order.

(3) A copy of the report of examination shall be given to the Commission and to the attorneys for the parties.

(4) Either party or the Commission may call the examining physician or physicians to testify. Any physician so called shall be subject to cross-examination.

(5) The examination shall be made, and the physician or physicians, if called, shall testify, without cost to the parties. The Commission shall determine the compensation and the pay of the physician or physicians. The compensation for this service shall not exceed the usual and customary amount for such service.

The fees and payment thereof of all attorneys and physicians for services authorized by the Commission under this Act shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the Commission.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery, the Commission may, in its discretion, reduce or suspend the compensation of any such employee; provided, that when an employer and employee so agree in writing, the foregoing provision shall not be construed to authorize the reduction or suspension of compensation of an employee who is relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof.

(e) This paragraph shall apply to all hearings before the Commission. Such hearings may be held in its office or elsewhere as the Commission may deem advisable. The taking of testimony on

such hearings may be had before any member of the Commission. If a petition for review and agreed statement of facts or transcript of evidence is filed, as provided herein, the Commission shall promptly review the decision of the Arbitrator and all questions of law or fact which appear from the statement of facts or transcripts of evidence. In all cases in which the hearing before the arbitrator is held after the effective date of this amendatory Act of 1989, no additional evidence shall be introduced by the parties before the Commission on review of the decision of the Arbitrator. The Commission shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed. Decisions shall be filed within 60 days after the Statement of Exceptions and Supporting Brief and Response thereto are required to be filed or oral argument whichever is later.

In the event either party requests oral argument, such argument shall be had before a panel of 3 members of the Commission (or before all available members pursuant to the determination of 7 members of the Commission that such argument be held before all available members of the Commission) pursuant to the rules and regulations of the Commission. A panel of 3 members, which shall be comprised of not more than one representative citizen of the employing class and not more than one representative citizen of the employee class, shall hear the argument; provided that if all the issues in dispute are solely the nature and extent of the permanent partial disability, if any, a majority of the panel may deny the request for such argument and such argument shall not be held; and provided further that 7 members of the Commission may determine that the argument be held before all available members of the Commission. A decision of the Commission shall be approved by a majority of Commissioners present at such hearing if any; provided, if no such hearing is held, a decision of the Commission shall be approved by a majority of a panel of 3 members of the Commission as described in this Section. The Commission shall give 10 days' notice to the parties or their attorneys of the time and place of such taking of testimony and of such argument.

In any case the Commission in its decision may in its discretion find specially upon any question or questions of law or facts which shall be submitted in writing by either party whether ultimate or otherwise; provided that on issues other than nature and extent of the disablement, if any, the Commission in its decision shall find specially upon any question or questions of law or fact, whether ultimate or otherwise, which are submitted in writing by either party; provided further that not more than 5 such questions may be submitted by either party. Any party may, within 20 days after receipt of notice of the Commission's decision, or within such further time, not exceeding 30 days, as the Commission may grant, file with the Commission either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct transcript of evidence of the additional proceedings presented before the Commission in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or transcript of evidence to be authenticated by the signature of the parties or their attorneys, and in the event that they do not agree, then the authentication of such transcript of evidence shall be by the signature of any member of the Commission.

If a reporter does not for any reason furnish a transcript

of the proceedings before the Arbitrator in any case for use on a hearing for review before the Commission, within the limitations of time as fixed in this Section, the Commission may, in its discretion, order a trial de novo before the Commission in such case upon application of either party. The applications for adjustment of claim and other documents in the nature of pleadings filed by either party, together with the decisions of the Arbitrator and of the Commission and the statement of facts or transcript of evidence hereinbefore provided for in paragraphs (b) and (c) shall be the record of the proceedings of the Commission, and shall be subject to review as hereinafter provided.

At the request of either party or on its own motion, the Commission shall set forth in writing the reasons for the decision, including findings of fact and conclusions of law, separately stated. The Commission shall by rule adopt a format for written decisions for the Commission and arbitrators. The written decisions shall be concise and shall succinctly state the facts and reasons for the decision. The Commission may adopt in whole or in part, the decision of the arbitrator as the decision of the Commission. When the Commission does so adopt the decision of the arbitrator, it shall do so by order. Whenever the Commission adopts part of the arbitrator's decision, but not all, it shall include in the order the reasons for not adopting all of the arbitrator's decision. When a majority of a panel, after deliberation, has arrived at its decision, the decision shall be filed as provided in this Section without unnecessary delay, and without regard to the fact that a member of the panel has expressed an intention to dissent. Any member of the panel may file a dissent. Any dissent shall be filed no later than 10 days after the decision of the majority has been filed.

Decisions rendered by the Commission after the effective date of this amendatory Act of 1980 and dissents, if any, shall be published together by the Commission. The conclusions of law set out in such decisions shall be regarded as precedents by arbitrators, for the purpose of achieving a more uniform administration of this Act.

(f) The decision of the Commission acting within its powers, according to the provisions of paragraph (e) of this Section shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided. However, the Arbitrator or the Commission may on his or its own motion, or on the motion of either party, correct any clerical error or errors in computation within 15 days after the date of receipt of any award by such Arbitrator or any decision on review of the Commission, and shall have the power to recall the original award on arbitration or decision on review, and issue in lieu thereof such corrected award or decision. Where such correction is made the time for review herein specified shall begin to run from the date of the receipt of the corrected award or decision.

(1) Except in cases of claims against the State of Illinois, in which case the decision of the Commission shall not be subject to judicial review, the Circuit Court of the county where any of the parties defendant may be found, or if none of the parties defendant be found in this State then the Circuit Court of the county where any of the exposure occurred, shall by summons to the Commission have power to review all questions of law and fact presented by such record.

A proceeding for review shall be commenced within 20

days of the receipt of notice of the decision of the Commission. The summons shall be issued by the clerk of such court upon written request returnable on a designated return day, not less than 10 or more than 60 days from the date of issuance thereof, and the written request shall contain the last known address of other parties in interest and their attorneys of record who are to be served by summons. Service upon any member of the Commission or the Secretary or the Assistant Secretary thereof shall be service upon the Commission, and service upon other parties in interest and their attorneys of record shall be by summons, and such service shall be made upon the Commission and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the summons to the office of the Commission and to the last known place of residence of other parties in interest or their attorney or attorneys of record. The clerk of the court issuing the summons shall on the day of issue mail notice of the commencement of the proceedings which shall be done by mailing a copy of the summons to the office of the Commission, and a copy of the summons to the other parties in interest or their attorney or attorneys of record and the clerk of the court shall make certificate that he has so sent such notices in pursuance of this Section, which shall be evidence of service on the Commission and other parties in interest.

The Commission shall not be required to certify the record of their proceedings in the Circuit Court unless the party commencing the proceedings for review in the Circuit Court as above provided, shall file with the Commission notice of intent to file for review in Circuit Court. It shall be the duty of the Commission upon such filing of notice of intent to file for review in Circuit Court to prepare a true and correct copy of such testimony and a true and correct copy of all other matters contained in such record and certified to by the Secretary or Assistant Secretary thereof. The changes made to this subdivision (f)(1) by this amendatory Act of the 98th General Assembly apply to any Commission decision entered after the effective date of this amendatory Act of the 98th General Assembly.

No request for a summons may be filed and no summons shall issue unless the party seeking to review the decision of the Commission shall exhibit to the clerk of the Circuit Court proof of filing with the Commission of the notice of the intent to file for review in the Circuit Court or an affidavit of the attorney setting forth that notice of intent to file for review in Circuit Court has been given in writing to the Secretary or Assistant Secretary of the Commission.

(2) No such summons shall issue unless the one against whom the Commission shall have rendered an award for the payment of money shall upon the filing of his written request for such summons file with the clerk of the court a bond conditioned that if he shall not successfully prosecute the review, he will pay the award and the costs of the proceedings in the court. The amount of the bond shall be fixed by any member of the Commission and the surety or sureties of the bond shall be approved by the clerk of the court. The acceptance of the bond by the clerk of the court shall constitute evidence of his approval of the bond.

Every county, city, town, township, incorporated

village, school district, body politic or municipal corporation having a population of 500,000 or more against whom the Commission shall have rendered an award for the payment of money shall not be required to file a bond to secure the payment of the award and the costs of the proceedings in the court to authorize the court to issue such summons.

The court may confirm or set aside the decision of the Commission. If the decision is set aside and the facts found in the proceedings before the Commission are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Commission for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper. Appeals shall be taken to the Appellate Court in accordance with Supreme Court Rules 22(g) and 303. Appeals shall be taken from the Appellate Court to the Supreme Court in accordance with Supreme Court Rule 315.

It shall be the duty of the clerk of any court rendering a decision affecting or affirming an award of the Commission to promptly furnish the Commission with a copy of such decision, without charge.

The decision of a majority of the members of the panel of the Commission, shall be considered the decision of the Commission.

(g) Except in the case of a claim against the State of Illinois, either party may present a certified copy of the award of the Arbitrator, or a certified copy of the decision of the Commission when the same has become final, when no proceedings for review are pending, providing for the payment of compensation according to this Act, to the Circuit Court of the county in which such exposure occurred or either of the parties are residents, whereupon the court shall enter a judgment in accordance therewith. In case where the employer refuses to pay compensation according to such final award or such final decision upon which such judgment is entered, the court shall in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment for the person in whose favor the judgment is entered, which judgment and costs taxed as herein provided shall, until and unless set aside, have the same effect as though duly entered in an action duly tried and determined by the court, and shall with like effect, be entered and docketed. The Circuit Court shall have power at any time upon application to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

Judgment shall not be entered until 15 days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the Commission, which Commission shall, in case it has on file the address of the employer or the name and address of its agent upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent.

(h) An agreement or award under this Act providing for compensation in installments, may at any time within 18 months after such agreement or award be reviewed by the Commission at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

However, as to disablements occurring subsequently to July

1, 1955, which are covered by any agreement or award under this Act providing for compensation in installments made as a result of such disablement, such agreement or award may at any time within 30 months after such agreement or award be reviewed by the Commission at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

On such review compensation payments may be re-established, increased, diminished or ended. The Commission shall give 15 days' notice to the parties of the hearing for review. Any employee, upon any petition for such review being filed by the employer, shall be entitled to one day's notice for each 100 miles necessary to be traveled by him in attending the hearing of the Commission upon the petition, and 3 days in addition thereto. Such employee shall, at the discretion of the Commission, also be entitled to 5 cents per mile necessarily traveled by him within the State of Illinois in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the Commission as costs and deposited with the petition of the employer.

When compensation which is payable in accordance with an award or settlement contract approved by the Commission, is ordered paid in a lump sum by the Commission, no review shall be had as in this paragraph mentioned.

(i) Each party, upon taking any proceedings or steps whatsoever before any Arbitrator, Commission or court, shall file with the Commission his address, or the name and address of any agent upon whom all notices to be given to such party shall be served, either personally or by registered mail, addressed to such party or agent at the last address so filed with the Commission. In the event such party has not filed his address, or the name and address of an agent as above provided, service of any notice may be had by filing such notice with the Commission.

(j) Whenever in any proceeding testimony has been taken or a final decision has been rendered, and after the taking of such testimony or after such decision has become final, the employee dies, then in any subsequent proceeding brought by the personal representative or beneficiaries of the deceased employee, such testimony in the former proceeding may be introduced with the same force and effect as though the witness having so testified were present in person in such subsequent proceedings and such final decision, if any, shall be taken as final adjudication of any of the issues which are the same in both proceedings.

(k) In any case where there has been any unreasonable or vexatious delay of payment or intentional underpayment of compensation, or proceedings have been instituted or carried on by one liable to pay the compensation, which do not present a real controversy, but are merely frivolous or for delay, then the Commission may award compensation additional to that otherwise payable under this Act equal to 50% of the amount payable at the time of such award. Failure to pay compensation in accordance with the provisions of Section 8, paragraph (b) of this Act, shall be considered unreasonable delay.

When determining whether this subsection (k) shall apply, the Commission shall consider whether an arbitrator has determined that the claim is not compensable or whether the employer has made payments under Section 8(j) of the Workers' Compensation Act.

(k-1) If the employee has made written demand for payment of benefits under Section 8(a) or Section 8(b) of the Workers' Compensation Act, the employer shall have 14 days after receipt

of the demand to set forth in writing the reason for the delay. In the case of demand for payment of medical benefits under Section 8(a) of the Workers' Compensation Act, the time for the employer to respond shall not commence until the expiration of the allotted 60 days specified under Section 8.2(d) of the Workers' Compensation Act. In case the employer or his or her insurance carrier shall without good and just cause fail, neglect, refuse, or unreasonably delay the payment of benefits under Section 8(a) or Section 8(b) of the Workers' Compensation Act, the Arbitrator or the Commission shall allow to the employee additional compensation in the sum of \$30 per day for each day that the benefits under Section 8(a) or Section 8(b) of the Workers' Compensation Act have been so withheld or refused, not to exceed \$10,000. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay.

(l) By the 15th day of each month each insurer providing coverage for losses under this Act shall notify each insured employer of any compensable claim incurred during the preceding month and the amounts paid or reserved on the claim including a summary of the claim and a brief statement of the reasons for compensability. A cumulative report of all claims incurred during a calendar year or continued from the previous year shall be furnished to the insured employer by the insurer within 30 days after the end of that calendar year.

The insured employer may challenge, in proceeding before the Commission, payments made by the insurer without arbitration and payments made after a case is determined to be noncompensable. If the Commission finds that the case was not compensable, the insurer shall purge its records as to that employer of any loss or expense associated with the claim, reimburse the employer for attorneys fee arising from the challenge and for any payment required of the employer to the Rate Adjustment Fund or the Second Injury Fund, and may not effect the loss or expense for rate making purposes. The employee shall not be required to refund the challenged payment. The decision of the Commission may be reviewed in the same manner as in arbitrated cases. No challenge may be initiated under this paragraph more than 3 years after the payment is made. An employer may waive the right of challenge under this paragraph on a case by case basis.

(m) After filing an application for adjustment of claim but prior to the hearing on arbitration the parties may voluntarily agree to submit such application for adjustment of claim for decision by an arbitrator under this subsection (m) where such application for adjustment of claim raises only a dispute over temporary total disability, permanent partial disability or medical expenses. Such agreement shall be in writing in such form as provided by the Commission. Applications for adjustment of claim submitted for decision by an arbitrator under this subsection (m) shall proceed according to rule as established by the Commission. The Commission shall promulgate rules including, but not limited to, rules to ensure that the parties are adequately informed of their rights under this subsection (m) and of the voluntary nature of proceedings under this subsection (m). The findings of fact made by an arbitrator acting within his or her powers under this subsection (m) in the absence of fraud shall be conclusive. However, the arbitrator may on his own motion, or the motion of either party, correct any clerical errors or errors in computation within 15 days after the date of receipt of such award of the arbitrator and shall have the power to recall the original award on arbitration, and issue in lieu thereof such corrected award. The decision of the arbitrator under this subsection (m) shall be considered the decision of

the Commission and proceedings for review of questions of law arising from the decision may be commenced by either party pursuant to subsection (f) of Section 19. The Advisory Board established under Section 13.1 of the Workers' Compensation Act shall compile a list of certified Commission arbitrators, each of whom shall be approved by at least 7 members of the Advisory Board. The chairman shall select 5 persons from such list to serve as arbitrators under this subsection (m). By agreement, the parties shall select one arbitrator from among the 5 persons selected by the chairman except, that if the parties do not agree on an arbitrator from among the 5 persons, the parties may, by agreement, select an arbitrator of the American Arbitration Association, whose fee shall be paid by the State in accordance with rules promulgated by the Commission. Arbitration under this subsection (m) shall be voluntary.

(Source: P.A. 98-40, eff. 6-28-13.)

(820 ILCS 310/19.1) (from Ch. 48, par. 172.54a)

Sec. 19.1. The time within which any act is required to be performed under the provisions of this Act shall be computed by excluding the first day and including the last, unless the last day is Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then such days shall also be excluded. If the day succeeding such holiday is also a holiday then such succeeding day shall also be excluded.

(Source: Laws 1959, p. 1706.)

(820 ILCS 310/19a) (from Ch. 48, par. 172.54b)

Sec. 19a. Money received by the Commission pursuant to subsection (f) of Section 19 of this Act shall be paid into a trust fund outside the State Treasury and shall be held in such fund until completion of the record for which the payment was made. The Secretary of the Commission shall be ex-officio custodian of such trust fund which shall be used only for the purpose specified in this section. Upon completion of the record the Secretary shall pay the amount so held to the person entitled thereto for preparation of the record. Within 60 days after the effective date of this amendatory Act of the 98th General Assembly, the Secretary of the Commission shall transfer all remaining funds to the Injured Workers' Benefit Fund for the purpose of paying claims from injured employees who have received a final award for benefits from the Commission against the employer in Fiscal Year 2013.

(Source: P.A. 98-40, eff. 6-28-13.)

(820 ILCS 310/19.5) (from Ch. 48, par. 172.54-1)

Sec. 19.5. If the Commission shall, before or after any hearing, proceeding, or review to any court, be satisfied that the employee is a poor person, and unable to pay the costs and expenses provided for by this Act, the Commission shall permit such poor person to have all the rights and remedies provided by this Act, including the issuance and service of subpoenas; a transcript of testimony and the record of proceedings, including photostatic copies of exhibits, at hearings before an Arbitrator or the Commission; the right to the filing of a written request for summons; and the right to the issuance of summons, without the filing of a bond for costs and without the payment of any of the costs provided for by this Act. If an award is granted to

such employee, or settlement is made, the costs and expenses chargeable to the employee as provided for by this Act shall be paid by the employer out of the award herein granted, or settlement, before any of the balance of the award or settlement is paid to the employee.

(Source: P.A. 98-40, eff. 6-28-13.)

(820 ILCS 310/20) (from Ch. 48, par. 172.55)

Sec. 20. Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this Act, on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, or any other person charged with the duty of administering or enforcing the provisions of this Act, shall be deemed a petty offense.

(Source: P.A. 77-2431.)

(820 ILCS 310/21) (from Ch. 48, par. 172.56)

Sec. 21. No payment, claim, award or decision under this Act shall be assignable or subject to any lien, attachment or garnishment, or be held liable in any way for any lien, debt, penalty or damages. The compensation allowed by any award or decision of the Commission shall be entitled to a preference over the unsecured debts of the employer, wages excepted, contracted after the date of the disablement of an employee. A decision or award of the Commission against an employer for compensation under this Act, or a written agreement by any employer to pay such compensation shall, upon the filing of a certified copy of the decision or the agreement, as the case may be, with the recorder of the county, constitute a lien upon all property of the employer within said county, paramount to all other claims or liens, except mortgages, trust deeds, or for wages or taxes. Such liens may be enforced in the manner provided for the foreclosure of mortgages under the laws of this State.

(Source: P.A. 83-358.)

(820 ILCS 310/23) (from Ch. 48, par. 172.58)

Sec. 23. No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this Act in regard to the amount of compensation which may be payable to such employee, personal representative or beneficiary hereunder except after approval by the Commission, and any employer, individually, or by his agent, service company, or insurance carrier who shall enter into an agreement purporting to compromise or settle the compensation rights of an employee, personal representative or beneficiary without first obtaining the approval of the Illinois Workers' Compensation Commission as aforesaid shall be barred from raising the defense of limitation in any proceedings subsequently brought by such employee, personal representative or beneficiary.

A minor death beneficiary, by parent or grandparent as next friend, may compromise disputes and may enter into and submit a settlement contract or lump sum petition, and upon approval by the Illinois Workers' Compensation Commission such settlement contract or lump sum order shall have the same force and effect as though such minor had been an adult.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/24) (from Ch. 48, par. 172.59)

Sec. 24. (a) The invalidity of any portion of this Act shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part.

(b) Any election of an employer to be bound by the provisions of any Act that is repealed here, which election is existing at the time this Act becomes effective, is an election to be bound by the provisions of this Act to pay compensation for occupational diseases and for death resulting therefrom.

(c) Any of the provisions of this Act that are the same as or substantially the same as any of the provisions of the Acts that are repealed herein shall be construed as a continuation of such prior provisions and not as a new enactment.

(d) If in any other statute reference is made to any Act or section of any Act herein repealed, such reference shall be construed to refer to this Act or a substantially similar provision of this Act.

(Source: Laws 1951, p. 1095.)

(820 ILCS 310/25) (from Ch. 48, par. 172.60)

Sec. 25. "An Act to promote the general welfare of the people of this state by providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment; providing for enforcement and administration thereof, and to repeal an act and a part of a certain act herein named," approved March 16, 1936, as amended, is repealed.

(Source: Laws 1951, p. 1095.)

(820 ILCS 310/26) (from Ch. 48, par. 172.61)

Sec. 26. No repeal of any Act or part thereof herein contained shall extinguish or in any way affect any right of action thereunder, existing at the time this Act takes effect. No employer shall be liable for compensation or damages under this Act in any case in which the disablement on which claim is predicated shall have occurred prior to the date this Act becomes effective. Any claims, disagreement or controversy existing or arising under "An Act to promote the general welfare of the people of this state by providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment; providing for enforcement and administration thereof, and to repeal an Act and a part of a certain Act herein named", approved March 16, 1936, as amended, shall be adjusted in accordance with the provisions of said Act, notwithstanding the repeal thereof, or may by agreement of the parties be adjusted in accordance with the method of procedure provided in this Act for the adjustment of differences, jurisdiction to adjust such differences so submitted by the parties being hereby conferred upon the Commission. Nothing in this section shall affect any case in which exposure as defined in this Act shall have taken place after the effective date of this Act.

The Attorney General and the State's Attorney of each county, upon request of the Illinois Workers' Compensation Commission, shall enforce any penalties set forth in this Act.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/27) (from Ch. 48, par. 172.62)

Sec. 27. This Act shall apply to all occupational diseases incurred and deaths occurring on or after July 1, 1951.
(Source: P.A. 86-1413.)