



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0022

Introduced 1/14/2009, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

705 ILCS 505/24  
820 ILCS 315/3

from Ch. 37, par. 439.24  
from Ch. 48, par. 283

Amends the Court of Claims Act and the Line of Duty Compensation Act. Provides that in any case for which benefits have not been paid within 6 months of the claim being filed in accordance with the Line of Duty Compensation Act, which is pending as of the effective date of the amendatory Act, and in which there are 2 or more beneficiaries, at least one of whom would receive at least a portion of the total benefit regardless of the manner in which the Court of Claims resolves the claim, the Court shall direct the Comptroller to pay the minimum amount of money which the determinate beneficiary would receive together with all interest payment penalties which have accrued on that portion of the award being paid within 30 days of the effective date of the amendatory Act.

LRB096 03129 RLC 13145 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Court of Claims Act is amended by changing  
5 Section 24 as follows:

6 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

7 Sec. 24. Payment of awards.

8 (1) From funds appropriated by the General Assembly for the  
9 purposes of this Section the Court may direct immediate payment  
10 of:

11 (a) All claims arising solely as a result of the  
12 lapsing of an appropriation out of which the obligation  
13 could have been paid.

14 (b) All claims pursuant to the Line of Duty  
15 Compensation Act.

16 (c) All claims pursuant to the "Illinois National  
17 Guardsman's and Naval Militiaman's Compensation Act",  
18 approved August 12, 1971, as amended.

19 (d) All claims pursuant to the "Crime Victims  
20 Compensation Act", approved August 23, 1973, as amended.

21 (e) All other claims wherein the amount of the award of  
22 the Court is less than \$5,000.

23 (2) The court may, from funds specifically appropriated

1 from the General Revenue Fund for this purpose, direct the  
2 payment of awards less than \$50,000 solely as a result of the  
3 lapsing of an appropriation originally made from any fund held  
4 by the State Treasurer. For any such award paid from the  
5 General Revenue Fund, the court shall thereafter seek an  
6 appropriation from the fund from which the liability originally  
7 accrued in reimbursement of the General Revenue Fund.

8 (3) In directing payment of a claim pursuant to the Line of  
9 Duty Compensation Act, the Court must direct the Comptroller to  
10 add an interest penalty if payment of a claim is not made  
11 within 6 months after a claim is filed in accordance with  
12 Section 3 of the Line of Duty Compensation Act and all  
13 information has been submitted as required under Section 4 of  
14 the Line of Duty Compensation Act. If payment is not issued  
15 within the 6-month period, an interest penalty of 1% of the  
16 amount of the award shall be added for each month or fraction  
17 thereof after the end of the 6-month period, until final  
18 payment is made. This interest penalty shall be added  
19 regardless of whether the payment is not issued within the  
20 6-month period because of the appropriation process, the  
21 consideration of the matter by the Court, or any other reason.

22 (3.5) The interest penalty payment provided for in  
23 subsection (3) shall be added to all claims for which benefits  
24 were not paid as of the effective date of P.A. 95-928. The  
25 interest penalty shall be calculated starting from the  
26 effective date of P.A. 95-928, provided that the effective date

1 of P.A. 95-928 is at least 6 months after the date on which the  
2 claim was filed in accordance with Section 3 of the Line of  
3 Duty Compensation Act. In the event that the date 6 months  
4 after the date on which the claim was filed is later than the  
5 effective date of P.A. 95-928, the Comptroller shall calculate  
6 the interest payment penalty starting from the date 6 months  
7 after the date on which the claim was filed in accordance with  
8 Section 3 of the Line of Duty Compensation Act. This subsection  
9 (3.5) of this amendatory Act of the 96th General Assembly is  
10 declarative of existing law.

11 (4) ~~(3)~~ From funds appropriated by the General Assembly for  
12 the purposes of paying claims under paragraph (c) of Section 8,  
13 the court must direct payment of each claim and the payment  
14 must be received by the claimant within 60 days after the date  
15 that the funds are appropriated for that purpose.

16 (Source: P.A. 95-928, eff. 8-26-08; 95-970, eff. 9-22-08;  
17 revised 10-14-08.)

18 Section 10. The Line of Duty Compensation Act is amended by  
19 changing Section 3 as follows:

20 (820 ILCS 315/3) (from Ch. 48, par. 283)

21 Sec. 3. Duty death benefit.

22 (a) If a claim therefor is made within one year of the date  
23 of death of a law enforcement officer, civil defense worker,  
24 civil air patrol member, paramedic, fireman, chaplain, or State

1 employee killed in the line of duty, or if a claim therefor is  
2 made within 2 years of the date of death of an Armed Forces  
3 member killed in the line of duty, compensation shall be paid  
4 to the person designated by the law enforcement officer, civil  
5 defense worker, civil air patrol member, paramedic, fireman,  
6 chaplain, State employee, or Armed Forces member. However, if  
7 the Armed Forces member was killed in the line of duty before  
8 October 18, 2004, the claim must be made within one year of  
9 October 18, 2004.

10 (b) The amount of compensation, except for an Armed Forces  
11 member, shall be \$10,000 if the death in the line of duty  
12 occurred prior to January 1, 1974; \$20,000 if such death  
13 occurred after December 31, 1973 and before July 1, 1983;  
14 \$50,000 if such death occurred on or after July 1, 1983 and  
15 before January 1, 1996; \$100,000 if the death occurred on or  
16 after January 1, 1996 and before May 18, 2001; \$118,000 if the  
17 death occurred on or after May 18, 2001 and before July 1,  
18 2002; and \$259,038 if the death occurred on or after July 1,  
19 2002 and before January 1, 2003. For an Armed Forces member  
20 killed in the line of duty (i) at any time before January 1,  
21 2005, the compensation is \$259,038 plus amounts equal to the  
22 increases for 2003 and 2004 determined under subsection (c) and  
23 (ii) on or after January 1, 2005, the compensation is the  
24 amount determined under item (i) plus the applicable increases  
25 for 2005 and thereafter determined under subsection (c).

26 (c) Except as provided in subsection (b), for deaths

1 occurring on or after January 1, 2003, the death compensation  
2 rate for death in the line of duty occurring in a particular  
3 calendar year shall be the death compensation rate for death  
4 occurring in the previous calendar year (or in the case of  
5 deaths occurring in 2003, the rate in effect on December 31,  
6 2002) increased by a percentage thereof equal to the percentage  
7 increase, if any, in the index known as the Consumer Price  
8 Index for All Urban Consumers: U.S. city average, unadjusted,  
9 for all items, as published by the United States Department of  
10 Labor, Bureau of Labor Statistics, for the 12 months ending  
11 with the month of June of that previous calendar year.

12 (d) If no beneficiary is designated or if no designated  
13 beneficiary survives at the death of the law enforcement  
14 officer, civil defense worker, civil air patrol member,  
15 paramedic, fireman, chaplain, or State employee killed in the  
16 line of duty, the compensation shall be paid in accordance with  
17 a legally binding will left by the law enforcement officer,  
18 civil defense worker, civil air patrol member, paramedic,  
19 fireman, chaplain, or State employee. If the law enforcement  
20 officer, civil defense worker, civil air patrol member,  
21 paramedic, fireman, chaplain, or State employee did not leave a  
22 legally binding will, the compensation shall be paid as  
23 follows:

24 (1) when there is a surviving spouse, the entire sum  
25 shall be paid to the spouse;

26 (2) when there is no surviving spouse, but a surviving

1 descendant of the decedent, the entire sum shall be paid to  
2 the decedent's descendants per stirpes;

3 (3) when there is neither a surviving spouse nor a  
4 surviving descendant, the entire sum shall be paid to the  
5 parents of the decedent in equal parts, allowing to the  
6 surviving parent, if one is dead, the entire sum; and

7 (4) when there is no surviving spouse, descendant or  
8 parent of the decedent, but there are surviving brothers or  
9 sisters, or descendants of a brother or sister, who were  
10 receiving their principal support from the decedent at his  
11 death, the entire sum shall be paid, in equal parts, to the  
12 dependent brothers or sisters or dependent descendant of a  
13 brother or sister. Dependency shall be determined by the  
14 Court of Claims based upon the investigation and report of  
15 the Attorney General.

16 The changes made to this subsection (d) by this amendatory Act  
17 of the 94th General Assembly apply to any pending case as long  
18 as compensation has not been paid to any party before the  
19 effective date of this amendatory Act of the 94th General  
20 Assembly.

21 (d-1) For purposes of subsection (d), in the case of a  
22 person killed in the line of duty who was born out of wedlock  
23 and was not an adoptive child at the time of the person's  
24 death, a person shall be deemed to be a parent of the person  
25 killed in the line of duty only if that person would be an  
26 eligible parent, as defined in Section 2-2 of the Probate Act

1 of 1975, of the person killed in the line of duty. This  
2 subsection (d-1) applies to any pending claim if compensation  
3 was not paid to the claimant of the pending claim before the  
4 effective date of this amendatory Act of the 94th General  
5 Assembly.

6 (d-2) If no beneficiary is designated or if no designated  
7 beneficiary survives at the death of the Armed Forces member  
8 killed in the line of duty, the compensation shall be paid in  
9 entirety according to the designation made on the most recent  
10 version of the Armed Forces member's Servicemembers' Group Life  
11 Insurance Election and Certificate ("SGLI").

12 If no SGLI form exists at the time of the Armed Forces  
13 member's death, the compensation shall be paid in accordance  
14 with a legally binding will left by the Armed Forces member.

15 If no SGLI form exists for the Armed Forces member and the  
16 Armed Forces member did not leave a legally binding will, the  
17 compensation shall be paid to the persons and in the priority  
18 as set forth in paragraphs (1) through (4) of subsection (d) of  
19 this Section.

20 This subsection (d-2) applies to any pending case as long  
21 as compensation has not been paid to any party before the  
22 effective date of this amendatory Act of the 94th General  
23 Assembly.

24 (e) If there is no beneficiary designated or if no  
25 designated beneficiary survives at the death of the law  
26 enforcement officer, civil defense worker, civil air patrol

1 member, paramedic, fireman, chaplain, State employee, or Armed  
2 Forces member killed in the line of duty and there is no other  
3 person or entity to whom compensation is payable under this  
4 Section, no compensation shall be payable under this Act.

5 (f) No part of such compensation may be paid to any other  
6 person for any efforts in securing such compensation.

7 (g) This amendatory Act of the 93rd General Assembly  
8 applies to claims made on or after October 18, 2004 with  
9 respect to an Armed Forces member killed in the line of duty.

10 (h) In any case for which benefits have not been paid  
11 within 6 months of the claim being filed in accordance with  
12 this Section, which is pending as of the effective date of this  
13 amendatory Act of the 96th General Assembly, and in which there  
14 are 2 or more beneficiaries, at least one of whom would receive  
15 at least a portion of the total benefit regardless of the  
16 manner in which the Court of Claims resolves the claim, the  
17 Court shall direct the Comptroller to pay the minimum amount of  
18 money which the determinate beneficiary would receive together  
19 with all interest payment penalties which have accrued on that  
20 portion of the award being paid within 30 days of the effective  
21 date of this amendatory Act of the 96th General Assembly. For  
22 purposes of this subsection (h), "determinate beneficiary"  
23 means the beneficiary who would receive any portion of the  
24 total benefit claimed regardless of the manner in which the  
25 Court of Claims adjudicates the claim.

26 (i) The Court of Claims shall ensure that all individuals

1 who have filed an application to claim the duty death benefit  
2 for a deceased member of the Armed Forces pursuant to this  
3 Section, or their designated representative, shall have  
4 access, on a timely basis and in an efficient manner, to all  
5 information related to the court's consideration, processing,  
6 or adjudication of the claim, including, but not limited to,  
7 the following:

8 (1) a reliable estimate of when the Court of Claims  
9 will adjudicate the claim, or if the Court cannot estimate  
10 when it will adjudicate the claim, a full written  
11 explanation of the reasons for this inability; and

12 (2) a reliable estimate, based upon consultation with  
13 the Comptroller, of when the benefit will be paid to the  
14 claimant.

15 (j) The Court of Claims shall send written notice to all  
16 claimants within 2 weeks of the initiation of a claim  
17 indicating whether or not the application is complete. For  
18 purposes of this subsection (j), an application is complete if  
19 a claimant has submitted to the Court of Claims all documents  
20 and information the Court requires for adjudicating and paying  
21 the benefit amount. For purposes of this subsection (j), a  
22 claim for the duty death benefit is initiated when a claimant  
23 submits any of the application materials required for  
24 adjudicating the claim to the Court of Claims. In the event a  
25 claimant's application is incomplete, the Court shall included  
26 in its written notice a list of the information or documents

1 which the claimant must submit in order for the application to  
2 be complete. In no case may the Court of Claims deny a claim  
3 and subsequently re-adjudicate the same claim for the purpose  
4 of evading or reducing the interest penalty payment amount  
5 payable to any claimant.

6 (Source: P.A. 94-843, eff. 6-8-06; 94-844, eff. 6-8-06; 95-928,  
7 eff. 8-26-08.)