

# HB1097



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1097

Introduced 02/07/11, by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/2

from Ch. 48, par. 138.2

Amends the Workers' Compensation Act. Provides that a subcontractor under contract to a general contractor may elect to be covered under any policy of workers' compensation insurance insuring the contractor upon written agreement of the contractor, by filing written notice of the election, on a form prescribed by the Illinois Workers' Compensation Commission.

LRB097 08011 AEK 48132 b

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 Workers' Compensation Act is amended by  
5 changing Section 2 as follows:

6 (820 ILCS 305/2) (from Ch. 48, par. 138.2)

7 Sec. 2. An employer in this State, who does not come within  
8 the classes enumerated by Section 3 of this Act, may elect to  
9 provide and pay compensation for accidental injuries sustained  
10 by himself or any employee, arising out of and in the course of  
11 the employment according to the provisions of this Act, and  
12 thereby relieve himself from any liability for the recovery of  
13 damages, except as herein provided. The State of Illinois  
14 hereby elects to provide and pay compensation according to the  
15 provisions of this Act.

16 (a) Election by any employer to provide and pay  
17 compensation according to the provisions of this Act shall be  
18 made by the employer filing notice of such election with the  
19 Commission, or by insuring his liability to pay compensation  
20 under this Act in some insurance carrier authorized, licensed  
21 or permitted to do such insurance business in this State.

22 (b) Every employer within the provisions of this Act who  
23 has elected to provide and pay compensation according to the

1 provisions of this Act by filing notice of such election with  
2 the Commission, shall be bound thereby as to all his employees  
3 until January 1st of the next succeeding year and for terms of  
4 each year thereafter.

5 Any such employer who may have once elected, may elect not  
6 to provide and pay the compensation herein provided for  
7 accidents resulting in either injury or death and occurring  
8 after the expiration of any such calendar year by filing notice  
9 of such election with the Commission at least 60 days prior to  
10 the expiration of any such calendar year, and by posting such  
11 notice at a conspicuous place in the plant, shop, office, room  
12 or place where such employee is employed, or by personal  
13 service, in written or printed form, upon such employees, at  
14 least 60 days prior to the expiration of any such calendar  
15 year.

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

23 (c) In the event any employer mentioned in this section,  
24 elects to provide and pay the compensation provided in this  
25 Act, then every employee of such employer, as a part of his  
26 contract of hiring or who may be employed at the time of the

1 taking effect of this Act and the acceptance of its provisions  
2 by such employer, shall be deemed to have accepted all the  
3 provisions of this Act and shall be bound thereby unless within  
4 30 days after such hiring or after the taking effect of this  
5 Act, and its acceptance by such employee, he shall file a  
6 notice to the contrary with the Commission, whose duty it shall  
7 be to immediately notify the employer, and until such notice to  
8 the contrary is given to the employer, the measure of liability  
9 of such employer shall be determined according to the  
10 compensation provisions of this Act.

11 However, any employee may withdraw from the operation of  
12 this Act, except those under Section 3, upon filing a written  
13 notice of withdrawal at least 10 days prior to January 1st of  
14 any year with the Commission, whose duty it shall be to  
15 immediately notify such employer by registered mail, and, until  
16 such notice to the contrary is given to such employer, the  
17 measure of liability of such employer shall be determined  
18 according to the compensation provisions of this Act.

19 (d) Any such employer or employee may, without prejudice to  
20 any existing right or claim withdraw his election to reject  
21 this Act by giving 30 days' written notice in such manner and  
22 form as may be provided by the Commission.

23 (e) A subcontractor under contract to a general contractor  
24 may elect to be covered under any policy of workers'  
25 compensation insurance insuring the contractor upon written  
26 agreement of the contractor, by filing written notice of the

1 election, on a form prescribed by the Commission. It is the  
2 responsibility of the general contractor to file the written  
3 notice with the Commission. Failure of the general contractor  
4 to file the written notice shall not operate to relieve or  
5 alter the obligation of an insurance company to provide  
6 coverage to a subcontractor when the subcontractor can produce  
7 evidence of payment of premiums to the insurance company for  
8 the coverage. The election shall in no way terminate or affect  
9 the independent contractor status of the subcontractor for any  
10 other purpose than to permit workers' compensation coverage.  
11 The election of coverage may be terminated by the subcontractor  
12 or general contractor by providing written notice of the  
13 termination to the Commission and to all other parties  
14 consenting to the prior election. The termination shall be  
15 effective 30 days from the date of the notice to all other  
16 parties consenting to the prior election and to the Commission.

17 (Source: P.A. 83-190.)