

HB5549



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5549

by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

820 ILCS 305/16a

from Ch. 48, par. 138.16a

Amends the Workers' Compensation Act. Provides that an attorney's claim for compensation for services rendered in connection with the defense of a claim may not exceed 20% of the amount sought by the claimant or 20% of the amount saved for the employer or insurer, whichever is less. Effective immediately.

LRB100 18982 JLS 34234 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 16a as follows:

6 (820 ILCS 305/16a) (from Ch. 48, par. 138.16a)

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

14 (B) With respect to any and all proceedings in connection
15 with any initial or original claim under this Act, no claim of
16 any attorney for services rendered in connection with the
17 securing of compensation for an employee or his dependents,
18 whether secured by agreement, order, award or a judgment in any
19 court shall exceed 20% of the amount of compensation recovered
20 and paid, unless further fees shall be allowed to the attorney
21 upon a hearing by the Commission fixing fees, and subject to
22 the other provisions of this Section. With respect to any and
23 all proceedings on or after the effective date of this

1 amendatory Act of the 100th General Assembly in connection with
2 any initial or original claim under this Act, no claim of any
3 attorney for services rendered in connection with the defense
4 of a claim for compensation from an employee or his or her
5 dependents, whether secured by agreement, order, award, or a
6 judgment in any court, shall exceed 20% of the amount sought by
7 the claimant or 20% of the amount saved for the employer or
8 insurer, whichever is less. However, except as hereinafter
9 provided in this Section, in death cases, total disability
10 cases and partial disability cases, the amount of an attorney's
11 fees shall not exceed 20% of the sum which would be due under
12 this Act for 364 weeks of permanent total disability based upon
13 the employee's average gross weekly wage prior to the date of
14 the accident and subject to the maximum weekly benefits
15 provided in this Act unless further fees shall be allowed to
16 the attorney upon a hearing by the Commission fixing fees.

17 (C) All attorneys' fees in connection with the initial or
18 original claim for compensation shall be fixed pursuant to a
19 written contract on forms prescribed by the Commission between
20 the attorney and the employee or his dependents, and every
21 attorney, whether the disposition of the original claim is by
22 agreement, settlement, award, judgment or otherwise, shall
23 file his contract with the Chairman of the Commission who shall
24 approve the contract only if it is in accordance with all
25 provisions of this Section.

26 (D) No attorneys' fees shall be charged with respect to

1 compensation for undisputed medical expenses.

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

9 (F) In the following cases in which there is no dispute
10 between the parties as to the liability of the respondent to
11 pay compensation in a timely manner or in the proper amount and
12 there is no dispute that the accident has resulted in:

- 13 (1) the death of the employee; or
14 (2) a statutory permanent disability; or
15 (3) the amputation of a finger, toe, or member; or
16 (4) the removal of a testicle; or
17 (5) the enucleation of or 100% loss of vision of an
18 eye;

19 the legal fees, if any, for services rendered are to be fixed
20 by the Illinois Workers' Compensation Commission at a nominal
21 amount, not exceeding \$100.

22 (G) In the following cases in which there is no dispute
23 between the parties as to the liability of the respondent to
24 pay compensation and there is no dispute that the accident has
25 resulted in:

- 26 (1) a fracture of one or more vertebrae; or

- 1 (2) a skull fracture; or
2 (3) a fracture of one or more spinous or transverse
3 processes; or
4 (4) a fracture of one or more facial bones; or
5 (5) the removal of a kidney, spleen or lung;

6 the legal fees, if any, for services rendered are to be fixed
7 by the Illinois Workers' Compensation Commission at a nominal
8 amount, not exceeding \$100, provided that the employee is
9 awarded the minimum amount for the above injuries as specified
10 in Section 8(d)2.

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

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

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

1 parties and attorneys.

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

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.