



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4401

Introduced 02/03/04, by David R. Leitch

SYNOPSIS AS INTRODUCED:

215 ILCS 5/416

Amends the Illinois Insurance Code. Provides that the Industrial Commission Operations Fund Surcharge shall not imposed on and after July 1, 2004, and that this does not affect the powers and duties of the Director of Insurance with regard to any payments due before July 1, 2004 and any delinquencies, penalties, and overpayments with respect to those payments. Effective July 1, 2004.

LRB093 17791 SAS 43471 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

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

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 416 as follows:

6 (215 ILCS 5/416)

7 Sec. 416. Industrial Commission Operations Fund Surcharge.

8 (a) As of the effective date of this amendatory Act of the
9 93rd General Assembly, every company licensed or authorized by
10 the Illinois Department of Insurance and insuring employers'
11 liabilities arising under the Workers' Compensation Act or the
12 Workers' Occupational Diseases Act shall remit to the Director
13 a surcharge based upon the annual direct written premium, as
14 reported under Section 136 of this Act, of the company in the
15 manner provided in this Section. Such proceeds shall be
16 deposited into the Industrial Commission Operations Fund as
17 established in the Workers' Compensation Act. If a company
18 survives or was formed by a merger, consolidation,
19 reorganization, or reincorporation, the direct written
20 premiums of all companies party to the merger, consolidation,
21 reorganization, or reincorporation shall, for purposes of
22 determining the amount of the fee imposed by this Section, be
23 regarded as those of the surviving or new company.

24 (b) (1) ~~(Blank) Except as provided in subsection (b) (2) of~~
25 ~~this Section, beginning on July 1, 2004 and each year~~
26 ~~thereafter, the Director shall charge an annual Industrial~~
27 ~~Commission Operations Fund Surcharge from every company~~
28 ~~subject to subsection (a) of this Section equal to 1.5% of its~~
29 ~~direct written premium for insuring employers' liabilities~~
30 ~~arising under the Workers' Compensation Act or Workers'~~
31 ~~Occupational Diseases Act as reported in each company's annual~~
32 ~~statement filed for the previous year as required by Section~~

1 ~~136. The Industrial Commission Operations Fund Surcharge shall~~
2 ~~be collected by companies subject to subsection (a) of this~~
3 ~~Section as a separately stated surcharge on insured employers~~
4 ~~at the rate of 1.5% of direct written premium. All sums~~
5 ~~collected by the Department of Insurance under the provisions~~
6 ~~of this Section shall be paid promptly after the receipt of the~~
7 ~~same, accompanied by a detailed statement thereof, into the~~
8 ~~Industrial Commission Operations Fund in the State treasury.~~

9 (b) (2) Prior to July 1, 2004, the Director shall charge and
10 collect the surcharge set forth in subparagraph (b) (1) of this
11 Section on or before September 1, 2003, December 1, 2003, March
12 1, 2004 and June 1, 2004. For purposes of this subsection
13 (b) (2), the company shall remit the amounts to the Director
14 based on estimated direct premium for each quarter beginning on
15 July 1, 2003, together with a sworn statement attesting to the
16 reasonableness of the estimate, and the estimated amount of
17 direct premium written forming the bases of the remittance.

18 (c) In addition to the authority specifically granted under
19 Article XXV of this Code, the Director shall have such
20 authority to adopt rules or establish forms as may be
21 reasonably necessary for purposes of enforcing this Section.
22 The Director shall also have authority to defer, waive, or
23 abate the surcharge or any penalties imposed by this Section if
24 in the Director's opinion the company's solvency and ability to
25 meet its insured obligations would be immediately threatened by
26 payment of the surcharge due.

27 (d) When a company fails to pay the full amount of any
28 annual Industrial Commission Operations Fund Surcharge of \$100
29 or more due under this Section, there shall be added to the
30 amount due as a penalty the greater of \$1,000 or an amount
31 equal to 5% of the deficiency for each month or part of a month
32 that the deficiency remains unpaid.

33 (e) The Department of Insurance may enforce the collection
34 of any delinquent payment, penalty, or portion thereof by legal
35 action or in any other manner by which the collection of debts
36 due the State of Illinois may be enforced under the laws of

1 this State.

2 (f) Whenever it appears to the satisfaction of the Director
3 that a company has paid pursuant to this Act an Industrial
4 Commission Operations Fund Surcharge in an amount in excess of
5 the amount legally collectable from the company, the Director
6 shall issue a credit memorandum for an amount equal to the
7 amount of such overpayment. A credit memorandum may be applied
8 for the 2-year period from the date of issuance, against the
9 payment of any amount due during that period under the
10 surcharge imposed by this Section or, subject to reasonable
11 rule of the Department of Insurance including requirement of
12 notification, may be assigned to any other company subject to
13 regulation under this Act. Any application of credit memoranda
14 after the period provided for in this Section is void.

15 (g) Annually, the Governor may direct a transfer of up to
16 2% of all moneys collected under this Section to the Insurance
17 Financial Regulation Fund.

18 (h) Notwithstanding any other provision of this Section,
19 the Industrial Commission Operations Fund Surcharge shall not
20 be imposed on and after July 1, 2004. This subsection (h) does
21 not affect the powers and duties of the Director under this
22 Section with regard to payments due under subsection (b) (2) and
23 any delinquencies, penalties, and overpayments with respect to
24 payments due under subsection (b) (2).

25 (Source: P.A. 93-32, eff. 6-20-03.)

26 Section 99. Effective date. This Act takes effect on July
27 1, 2004.