

**98TH GENERAL ASSEMBLY****State of Illinois****2013 and 2014****SB1873**

Introduced 2/15/2013, by Sen. John G. Mulroe

**SYNOPSIS AS INTRODUCED:**

See Index

Amends the Illinois Insurance Code. Makes changes concerning the provisions of the Code to which group workers' compensation pools are subject. Deletes certain provisions concerning the Group Workers' Compensation Pool Insolvency Fund. Provides that all qualified group workers' compensation pools shall be a member company, as defined in the Code. Provides that beginning in 2013, the maximum amount all qualified group workers' compensation pools may be assessed as a member company shall be 0.5% of that member company's net direct written premium on the kinds of insurance in the account for the calendar year preceding the assessment; thereafter, until 2016, the maximum amount all qualified group workers' compensation pools may be assessed as a member company shall annually increase by 0.5% of that member company's net direct written premium on the kinds of insurance in the account for the calendar year preceding the assessment until the maximum assessment amount is equal to 2% of that member company's net direct written premium. Provides that after 2016, all qualified group workers' compensation pools shall be assessed at the same percentage as any other member company. Provides that on the effective date of the amendatory Act, all moneys in the Group Workers' Compensation Pool Insolvency Fund shall be transferred into the Illinois Insurance Guaranty Fund. Provides that all liabilities whenever occurred of the Group Workers' Compensation Pool Insolvency Fund are to be assumed by the Illinois Insurance Guaranty Fund. Provides that no group workers' compensation pool shall be issued a certificate of authority after the effective date of the amendatory Act. Repeals provisions concerning the standards for issuing and maintaining pool certificates of authority and group workers' compensation pools assessments. Makes other changes. Effective immediately.

LRB098 03416 RPM 39986 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning regulation.

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 Sections 107a.04, 107a.05, 107a.13, and 534.4 and by  
6 adding Section 107a.16 as follows:

7 (215 ILCS 5/107a.04)

8 Sec. 107a.04. Organization under the Illinois Insurance  
9 Code.

10 (a) After December 31, 2000, group workers' compensation  
11 pools shall for the purpose of this Article, and this Article  
12 only, be considered as though they were assessable domestic  
13 mutual insurance companies and subject to the following:

14 (1) Article XII 1/2, Article XIII, Article XIII 1/2,  
15 Article XXIV, Article XXXIV; and

16 (2) Sections 126.2, 126.4, 126.7, 132, 132.1 through  
17 132.7, 133, 134, 137, 139, 140, 141.1, 141.2, 142, 143,  
18 143c, 147, 148, 149, 154.5, 154.6, 154.7, 154.8, 155.01,  
19 155.04, 173.1, 173.2, 173.3, 173.4, 173.5, 174, 174.1, 175,  
20 176, 178, 179b, 186.1, 187, 221.1, 378, 379.1, 401, 408,  
21 408.3, 449, 456, 457, ~~and~~ 458, and 532, subsections A, B,  
22 C, and E of Section 126.5, subsection A of Section 126.6,  
23 and subsections (1) and (7) of Section 412 of this Code.

1 (b) If there is a conflict between any Section of this  
2 Article and any other Section of this Code, then the provisions  
3 of this Article shall apply.

4 (c) No other provision of this Code shall be applicable to  
5 any qualified workers' compensation group workers'  
6 compensation pool except as provided in this Article.

7 (d) A certificate of authority that is in effect on the  
8 effective date of this amendatory Act of the 91st General  
9 Assembly and that was issued pursuant to Section 4a of the  
10 Workers' Compensation Act or Section 4a of the Workers'  
11 Occupational Diseases Act to a group self-insurer shall remain  
12 in effect under this Article. Such group self-insurer shall  
13 then be deemed to be a qualified group workers' compensation  
14 pool and shall be subject to this Article.

15 (Source: P.A. 91-757, eff. 1-1-01.)

16 (215 ILCS 5/107a.05)

17 Sec. 107a.05. Definitions and interchangeable terms.

18 (a) Unless otherwise provided, the following definitions  
19 shall apply:

20 "Authorized insurer" means an insurer licensed in this  
21 State to transact business as described in Clauses (c) and (d)  
22 of Class 2 of Section 4 of this Code.

23 "Calendar Quarter" means the 3-month periods ending March  
24 31, June 30, September 30, and December 31.

25 "Director" means the Director of Insurance.

1 "Engaged actively in the business" means a bona fide  
2 business concern having conducted commerce, trade, or industry  
3 in this State for a specified period of time. Any and all  
4 records relating to this requirement shall be open to  
5 inspection by the Director or his designee during normal  
6 business hours.

7 "Gross annual payroll" means payroll for the preceding  
8 fiscal year.

9 "Independent actuarial opinion" means an opinion expressed  
10 by a member of the American Academy of Actuaries or Casualty  
11 Actuarial Society.

12 "Independent CPA" means an independent certified public  
13 accountant or independent certified public accounting firm in  
14 good standing and licensed to practice by the Department of  
15 Professional Regulation.

16 "Net direct written premium" means direct gross premium or  
17 contribution, without regard to how it is labeled, written in  
18 this State on pooling agreements to which Article XXXIV of this  
19 Code applies, less return premiums thereon and dividends paid  
20 or credited to members of a group workers' compensation pool on  
21 such direct business.

22 "Pool" means a qualified group workers' compensation pool  
23 as authorized by this Article.

24 "Qualified group workers' compensation pool" means a group  
25 workers' compensation pool that has received a certificate of  
26 authority pursuant to this Article.

1 (b) For purposes of incorporating the provisions of this  
2 Code designated in paragraphs (1) and (2) of subsection (a) of  
3 Section 107a.04 into this Article, the following terms shall be  
4 interchangeable:

5 "Contribution" shall be considered premium.

6 "Pooling agreement" shall be considered a policy of  
7 insurance.

8 "Trustees of a group workers' compensation pool" shall be  
9 considered as though they were directors of a domestic mutual  
10 insurance company.

11 (Source: P.A. 91-757, eff. 1-1-01.)

12 (215 ILCS 5/107a.13)

13 Sec. 107a.13. Group Workers' Compensation Pool Insolvency  
14 Fund and the Illinois Insurance Guaranty Fund.

15 (a) All qualified group workers' compensation pools shall  
16 be a member company, as defined in Section 534.5 of this Code.  
17 Beginning in 2013, the maximum amount all qualified group  
18 workers' compensation pools may be assessed as a member company  
19 shall be 0.5% of that member company's net direct written  
20 premium on the kinds of insurance in the account as described  
21 in item (b) of Section 535 of this Code for the calendar year  
22 preceding the assessment. Thereafter, until 2016, the maximum  
23 amount all qualified group workers' compensation pools may be  
24 assessed as a member company shall annually increase by 0.5% of  
25 that member company's net direct written premium on the kinds

1 of insurance in the account as described in item (b) of Section  
2 535 of this Code for the calendar year preceding the assessment  
3 until the maximum assessment amount is equal to 2% of that  
4 member company's net direct written premium. After 2016, all  
5 qualified group workers' compensation pools shall be assessed  
6 at the same percentage as any other member company. Nothing in  
7 this Section shall limit the General Assembly's ability to  
8 increase the amount or percentage of the assessment that member  
9 companies shall pay. On the effective date of this amendatory  
10 Act of the 98th General Assembly, all moneys in the Group  
11 Workers' Compensation Pool Insolvency Fund shall be  
12 transferred into the Illinois Insurance Guaranty Fund. All  
13 liabilities whenever occurred of the Group Workers'  
14 Compensation Pool Insolvency Fund are to be assumed by the  
15 Illinois Insurance Guaranty Fund. ~~pay a sum equal to 0.5% of~~  
16 ~~all compensation and medical service payments made under either~~  
17 ~~the Workers' Compensation Act or the Workers' Occupational~~  
18 ~~Diseases Act during the 6 months immediately preceding the date~~  
19 ~~of payment, into the Group Workers' Compensation Pool~~  
20 ~~Insolvency Fund, the successor fund to the Group Self-Insurers'~~  
21 ~~Insolvency Fund. On the effective date of this amendatory Act~~  
22 ~~of the 91st General Assembly, all moneys in the Group~~  
23 ~~Self-Insurers' Insolvency Fund shall be transferred into the~~  
24 ~~Group Workers' Compensation Pool Insolvency Fund.~~

25 (b) (Blank). ~~The State Treasurer is ex officio custodian of~~  
26 ~~the Group Workers' Compensation Pool Insolvency Fund. Moneys in~~

1 ~~the Fund shall be deposited the same as are State funds and any~~  
2 ~~interest accruing on moneys in the Fund shall be added to the~~  
3 ~~Fund every 6 months. The Fund shall be subject to audit the~~  
4 ~~same as State funds and accounts and shall be protected by the~~  
5 ~~general bond given by the State Treasurer. The Fund shall be~~  
6 ~~considered always appropriated for the purposes of~~  
7 ~~compensating employees who are eligible to receive benefits~~  
8 ~~from their employers pursuant to the provisions of the Workers'~~  
9 ~~Compensation Act or Workers' Occupational Diseases Act when~~  
10 ~~their employer is a member of a qualified group workers'~~  
11 ~~compensation pool and the qualified group workers'~~  
12 ~~compensation pool has become unable to pay compensation and~~  
13 ~~medical service payments due to financial insolvency either~~  
14 ~~prior to or following the date of award. Moneys in the Fund may~~  
15 ~~be used to compensate any type of injury or occupational~~  
16 ~~disease that is compensable under either the Workers'~~  
17 ~~Compensation Act or the Workers' Occupational Diseases Act. The~~  
18 ~~State Treasurer shall be joined with the qualified group~~  
19 ~~workers' compensation pool as party respondent in any claim or~~  
20 ~~application for adjustment of claim filed against a qualified~~  
21 ~~group workers' compensation pool whenever the compensation and~~  
22 ~~medical services provided pursuant to this Article may be~~  
23 ~~unpaid by reason of default of an insolvent qualified group~~  
24 ~~workers' compensation pool.~~

25 (c) (Blank). ~~Payment shall be made out of the Group~~  
26 ~~Workers' Compensation Pool Insolvency Fund only upon order of~~

1 ~~the Director and only after the penal sum of the fidelity bond~~  
2 ~~and securities, if any, has been exhausted. It shall be the~~  
3 ~~obligation of a qualified group workers' compensation pool or~~  
4 ~~its successor to make arrangements to repay the Group Workers'~~  
5 ~~Compensation Pool Insolvency Fund for all moneys paid out in~~  
6 ~~its behalf. The Director is authorized to make arrangements~~  
7 ~~with the qualified group workers' compensation pool as to terms~~  
8 ~~of repayment. The obligations of qualified group workers'~~  
9 ~~compensation pools to make contributions to the Group Workers'~~  
10 ~~Compensation Pool Insolvency Fund shall be waived on any~~  
11 ~~January 1 or July 1, if the Fund has a positive balance of at~~  
12 ~~least \$2,000,000 on the date one month prior to the date of~~  
13 ~~payment.~~

14 (Source: P.A. 91-757, eff. 1-1-01.)

15 (215 ILCS 5/107a.16 new)

16 Sec. 107a.16. New group workers' compensation pool  
17 prohibited. No group workers' compensation pool shall be issued  
18 a certificate of authority by the Director after the effective  
19 date of this amendatory Act of the 98th General Assembly.

20 (215 ILCS 5/534.4) (from Ch. 73, par. 1065.84-4)

21 Sec. 534.4. "Insolvent company" means a company organized  
22 as a stock company, mutual company, reciprocal, qualified group  
23 workers' compensation pool, or Lloyds (a) which holds a  
24 certificate of authority to transact insurance in this State



1 either at the time the policy was issued or when the insured  
2 event occurred, or any company which has assumed such policy  
3 obligation through merger, consolidation or reinsurance,  
4 whether or not such assuming company held a certificate of  
5 authority to transact insurance in this State at the time such  
6 policy was issued or when the insured event occurred; and (b)  
7 against which a final Order of Liquidation with a finding of  
8 insolvency to which there is no further right of appeal has  
9 been entered by a court of competent jurisdiction in the  
10 company's State of domicile after the effective date of this  
11 Article.

12 (Source: P.A. 90-499, eff. 8-19-97.)

13 (215 ILCS 5/107a.07 rep.)

14 (215 ILCS 5/107a.14 rep.)

15 Section 10. The Illinois Insurance Code is amended by  
16 repealing Sections 107a.07 and 107a.14.

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/107a.04

4 215 ILCS 5/107a.05

5 215 ILCS 5/107a.13

6 215 ILCS 5/107a.16 new

7 215 ILCS 5/534.4 from Ch. 73, par. 1065.84-4

8 215 ILCS 5/107a.07 rep.

9 215 ILCS 5/107a.14 rep.