

**Q. But shouldn't everyone have the right to go to court?**

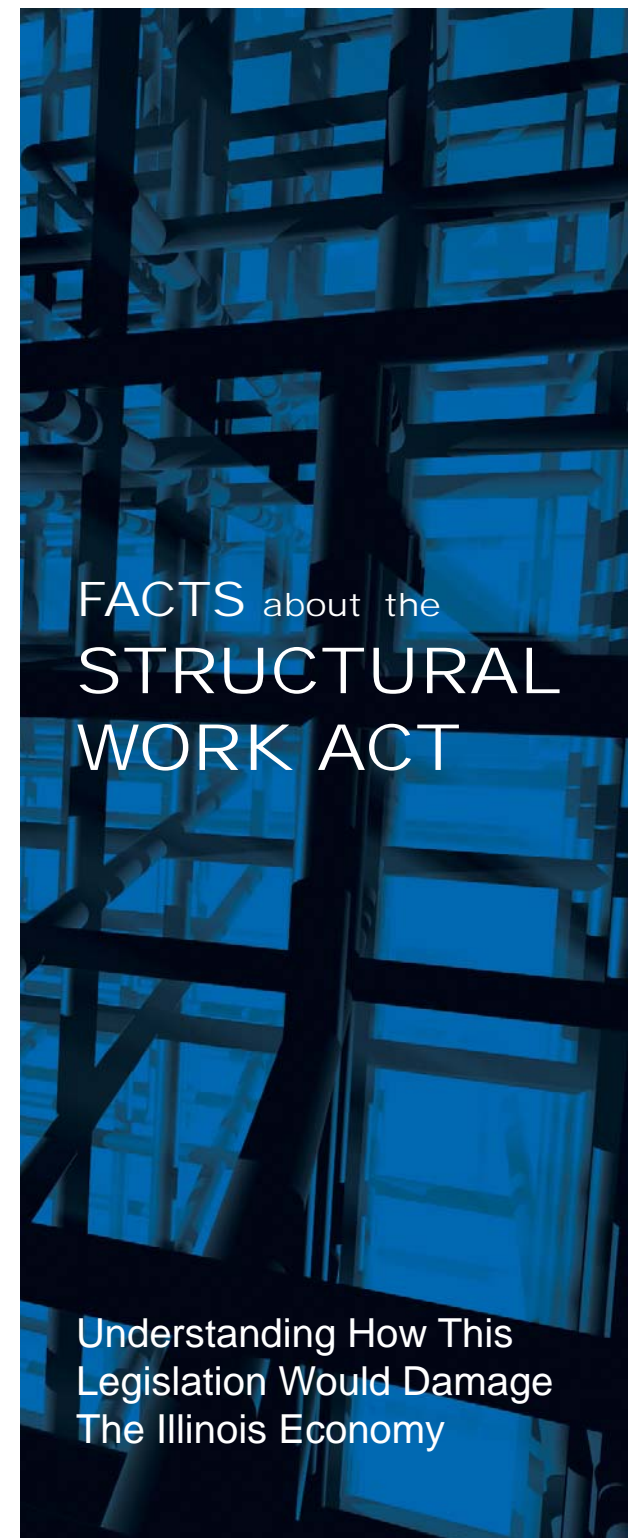
A. Repealing the Structural Work Act has not prevented the worker from going to court against other employers on the job site. It has simply made it necessary for the worker to establish liability, thus reducing the number of "fishing trips" wherein trial lawyers, because of the way SWA was written, would encourage the worker to sue everyone in sight.

**Q. If the Structural Work Act was re-instated, what would be the probable effect on the construction industry?**

A. It would be substantial – a contractor might well expect his or her general liability/umbrella insurance to go up by 20 – 30%, if carriers are willing to cover it! Not to mention increased insurance costs to general contractors and architects. But the point is that this cost has to be passed along to the owner! One 1998 estimate was that this could cost an individual building a new home in the Chicagoland area \$300 - \$400. And for a large company such as General Motors the cost could be in the hundreds of thousands of dollars. Indeed, prior to the repeal of the SWA, General Motors chose not to build their Saturn plant in Illinois, and one of the major factors was insurance costs. How many more potential jobs will be lost due to companies locating right across the border in Wisconsin or Indiana?

**In summary, the Structural Work Act is a costly, unnecessary relic. If it is re-instated, Illinois would be one of two states in the union to have this anti-business, anti-jobs legislation with which to deal. Especially in this economic climate, Illinois cannot afford anything that would drive away potential jobs and tax revenue.**

Associated Steel Erectors of Chicago  
Association of Licensed Architects  
Association of Subcontractors & Affiliates, Chicago  
Chicago Roofing Contractors Association  
Chicagoland Association of Wall and Ceiling Contractors  
Chicagoland Sheet Metal Contractors Association  
Construction Employers' Association  
Electrical Contractors Association of Chicago  
Federation of Women Contractors  
Finishing Contractors Association of Illinois  
Gypsum Drywall Contractors of Northern Illinois  
Hispanic American Construction Industry Association  
Illinois Environmental Contractors Association  
Iron League of Chicago/Architectural Iron Industry  
Lake County Contractors Association  
Lake/McHenry Plumbing, Heating & Cooling Contractors Association  
Mechanical Contractors Association of Chicago  
Middle States Electrical Contractors Association  
National Electrical Contractors Association, Northeastern Illinois Chapter  
Northeastern Illinois Sheet Metal Contractors Association  
Plumbing & Mechanical Contractors Association of Northern Illinois  
Plumbing and Mechanical Contractors Association, Joliet  
Plumbing Contractors Association of Chicago & Cook County  
Residential Construction Employers Council  
Structural Engineers Association of Illinois  
Underground Contractors Association  
Chicago Area Scaffolding Association



FACTS about the  
**STRUCTURAL  
WORK ACT**

**Understanding How This  
Legislation Would Damage  
The Illinois Economy**

# FACTS ABOUT THE STRUCTURAL WORK ACT

## Q. What is the Structural Work Act?

A. The Structural Work Act (also known as the "Scaffold Act") became law on June 3, 1907. Construction sites were far less safe then than they are now, and injured workers had very little recourse if injured. This act was a first attempt to provide some legal protection. As its name implies, it was primarily meant to apply to workers injured in falls from scaffolding.

## Q. Don't we want to protect workers on scaffolds!?

A. Of course! But on June 28, 1913, the Workers' Compensation Acts came into effect. This legislation was intended to supercede the Scaffold Act by covering all types of injuries incurred on the job. Workers' Compensation was designed as "no fault." As long as the employer was paying into the system, the employee would receive benefits (without the need to go to court) and the employer had no additional liability.

## Q. So what's the problem?

A. Although the General Assembly clearly meant for Workers' Compensation to replace the Structural Work Act, the Act was never actually repealed. In 1952, an Illinois court struck down that section of the Acts that prohibited third party lawsuits. From that point forward, until its repeal in 1995, a worker could collect under his employer's Worker Compensation coverage, then sue the general contractor, every other sub-contractor on the job site, as well as the property owner and the architect!

## Q. If the Structural Work Act only covered falling off a scaffold, how many cases could their be!?!?

A. Unfortunately, between 1952 and 1995, the courts expanded the legal meaning of "scaffold" to cover almost anything on a construction site, including scaffolds, trenches, the building itself, the floors of buildings and ladders.

## Q. Just how large was the impact of the Structural Work Act on Illinois businesses prior to its repeal?

A. In a study done by the Watson-Wyatt group in 1998, it was conservatively estimated that SWA cost Illinois employers some \$170,000,000 a year in insurance costs alone. This does not count the cost of legal fees related to defending third-party suits (it can often cost an uninvolved party more than \$10,000 in legal fees just to be removed from the case). Moreover, it was widely known that many companies chose to locate in neighboring states rather than Illinois due to the additional insurance costs related to SWA – costing the State of Illinois tax revenue, jobs, and economic growth.

## Q. Are there other states with a "Structural Work Act?"

A. One. New York. An article on the topic in Engineering News Record states, "Insurers have been cutting back or abandoning New York State contractors more rapidly than in other states because of state law dating back to the early 1900s that shifts all liability in "gravity-related" construction accidents to contractors, industry sources say.... As a result insurers continue to raise prices and sharply curtail coverage, say contractors."

## Q. Supporters of the Structural Work Act say that having it makes the job site safer. Is this true?

A. No! The number of construction-related fall deaths has fallen as a percentage of construction workers – see the chart above. Even though we had nearly 75,000 more construction workers in 2006 than in 1992, the number of fall-related deaths in 2006 was 14 compared to 20 in 1992.

## Structural Work Act Safety

Year	Illinois Construction Fall Fatalities	Construction Employment	Percentage of Construction Related Deaths
1992	20	201,700	0.0099%
1993	11	203,100	0.0054%
1994	20	215,100	0.0093%
1995	28	222,900	0.0126%
1996	16	229,100	0.0070%
1997	16	235,400	0.0068%
1998	17	244,700	0.0069%
1999	14	255,800	0.0055%
2000	14	269,700	0.0052%
2001	16	277,300	0.0058%
2002	16	277,600	0.0058%
2003	24	274,800	0.0087%
2004	16	270,100	0.0059%
2005	11	268,500	0.0041%
2006	14	275,300	0.0051%

## Q. So what does make contractors concern themselves with safety?

A. Besides the fact that many employers came through the trades themselves, and are personal friends with their employees, there are two main "drivers" of concern for safety: government regulation; and the cost of insurance. Under OSHA, the Federal program to protect workers, contractors can not only be fined but actually go to prison for having unsafe working conditions. Under Workers' Compensation, every employer has an Experience Modification Ratio (EMR) which is determined by the number of accidents reported by the employer's employees in the previous three years. The EMR is considered a fairly accurate reflector of a company's safety record, and is a major component of premium cost. 1.00 is considered "average." Throughout the 1990's, the average EMR of most companies has steadily dropped. In fact, in the Chicago area many large owners will not even allow a contractor to bid work if the contractor's EMR is not below one. Thus, there are very strong legal and economic incentives for a contractor to provide a safe working environment.

What impact will it have on Illinois?