
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2738

Session of
2006

INTRODUCED BY ALLEN, COHEN, PERZEL, EACHUS, PHILLIPS,
S. H. SMITH, BAKER, BALDWIN, BASTIAN, BENNINGHOFF, BIRMELIN,
BOYD, BUNT, BUXTON, CAPPELLI, CAUSER, CRAHALLA, DENLINGER,
FLEAGLE, GEORGE, GILLESPIE, GOOD, GOODMAN, HARRIS, HENNESSEY,
HERSHEY, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, KOTIK,
LEACH, MACKERETH, MARKOSEK, MCCALL, MCILHATTAN, METCALFE,
R. MILLER, MUSTIO, NICKOL, PICKETT, PYLE, REED, REICHLEY,
SABATINA, SATHER, SCAVELLO, SCHRODER, STEIL, STERN,
R. STEVENSON, TANGRETTI, E. Z. TAYLOR, TIGUE, TRUE, WALKO,
WANSACZ, WILT, ADOLPH, GERBER, DALLY, JOSEPHS, KENNEY,
SIPTROTH, GEIST, BEYER, GRELL, CLYMER AND GINGRICH,
JUNE 7, 2006

SENATOR WENGER, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, OCTOBER 16, 2006

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing penalties," further providing for schedule of
8 compensation, for definitions relating to procedure and for
9 enforcement of standards and processing of claims; providing
10 for the Workers' Compensation Appeal Board; further providing
11 for assignment of claims to referees, ~~for rehearings,~~ AND for ~~counsel fees and for the Office of Adjudication;~~ providing
12 ~~counsel fees and for the Office of Adjudication;~~ providing
13 for an Uninsured Employers Guaranty Fund; and making a
14 related repeal.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 306(h) of the act of June 2, 1915

1 (P.L.736, No.338), known as the Workers' Compensation Act,
2 reenacted and amended June 21, 1939 (P.L.520, No.281) and added
3 December 5, 1974 (P.L.782, No.263), is amended to read:

4 Section 306. The following schedule of compensation is
5 hereby established:

6 * * *

7 (h) Any person receiving compensation under sections 306(a),
8 [306(b), 306(c)(23), or section] 306(c)(23) or 307, as a result
9 of an [accident] injury which occurred prior to [the effective
10 date of the amendatory act of January 17, 1968 (P.L.6, No.4)
11 shall have the compensation rate adjusted to the level they
12 would have received had the injury occurred on the effective
13 date of the amendatory act of January 17, 1968 (P.L.6, No.4) and
14 had the injured employe been earning wages equal to ninety
15 dollars (\$90) per week.] August 31, 1993, shall, beginning July <—
16 1, 2006 JANUARY 1, 2007, receive a minimum amount of one hundred <—
17 dollars (\$100) per week. The additional compensation shall be
18 paid by the self-insured employer or insurance carrier making
19 payment and shall be reimbursed in advance by the Commonwealth
20 on a quarterly basis as provided in rules and regulations of the
21 department. The payment of additional compensation shall be made
22 by the carrier or self-insured employer only during those fiscal
23 years for which appropriations are made to cover reimbursement.

24 Section 2. Section 401 of the act, amended February 8, 1972
25 (P.L.25, No.12), July 2, 1993 (P.L.190, No.44) and June 24, 1996
26 (P.L.350, No.57), is amended to read:

27 Section 401. The term "referee," when used in this act,
28 shall mean a Workers' Compensation Judge of the Department of
29 Labor and Industry, appointed by and subject to the general
30 supervision of the Secretary of Labor and Industry for the

1 purpose of conducting departmental hearings under this act. The
2 secretary may establish different classes of these judges. Any
3 reference in any statute to a workmen's compensation referee
4 shall be deemed to be a reference to a workers' compensation
5 judge.

6 The term "board," when used in this article, shall mean the
7 Workers' Compensation Appeal Board, a departmental
8 administrative board as provided in sections 202, 207, 503 and
9 2208 of the act of April 9, 1929 (P.L.177), known as "The
10 Administrative Code of 1929," exercising its powers and
11 performing its duties as an appellate board independently of the
12 Secretary of Labor and Industry and any other official of the
13 department.

14 The term "fund," when used in this article, shall mean the
15 State Workmen's Insurance Fund of this Commonwealth, the State-
16 operated insurance carrier from which workmen's compensation
17 insurance policies may be purchased by employers to cover all
18 risks of liability under this act including those declined by
19 private carriers.

20 The terms "insurer" and "carrier," when used in this article,
21 shall mean the State Workmen's Insurance Fund or other insurance
22 carrier which has insured the employer's liability under this
23 act, or the employer in cases of self-insurance.

24 The term "employer," when used in this article, shall mean
25 the employer as defined in article one of this act, or his duly
26 authorized agent, or his insurer if such insurer has assumed the
27 employer's liability or the fund if the employer be insured
28 therein.

29 The term "resolution hearing," when used in this article,
30 shall mean a procedure established by the Office of Adjudication

1 with the sole purpose of providing a venue to present a
2 compromise and release to a WORKERS' COMPENSATION judge in an <—
3 expedited fashion.

4 The term "mediation," when used in this article, shall mean a
5 conference conducted by a workers' compensation judge, but not
6 necessarily the judge assigned to the actual case involving the
7 parties, and shall require the attendance in person OR BY <—
8 TELECONFERENCE of all parties including the claimant and
9 employer, and their respective counsel. The representative from <—
10 the employer must have requisite authority to bring about
11 settlement of the case or must have the ability to obtain said
12 authority during the course of the mediation., IF ANY. ALL <—
13 PARTIES SHALL HAVE REQUISITE AUTHORITY TO ACCEPT, MODIFY OR
14 REJECT SETTLEMENT PROPOSALS OFFERED AT A MEDIATION, EITHER AT
15 THE MEDIATION OR WITHIN A REASONABLE TIME PERIOD AFTER THE
16 MEDIATION AS ESTABLISHED BY THE WORKERS' COMPENSATION JUDGE.

17 Section 3. Section 401.1 of the act, added February 8, 1972
18 (P.L.25, No.12), is amended to read:

19 Section 401.1. The department shall, in fulfillment of its
20 responsibilities under this act, enforce the time standards and
21 other performance standards herein provided for the prompt
22 processing of injury cases and payment of compensation when due
23 by employers and insurers both upon petition by a party or on
24 its own motion. In any case in which compensation has not been
25 timely paid, or in which notice of denial of compensation has
26 been given, the department shall hear and determine all claim
27 petitions for compensation filed by employees or their
28 dependents. The department shall also hear and determine all
29 petitions by employers or insurers to suspend, terminate, reduce
30 or otherwise modify compensation payments, awards, or agreements

1 and petitions by employees or their dependents to increase,
2 modify or reinstate compensation payments, awards, or
3 agreements. Hearings shall be scheduled forthwith upon receipt
4 of the claim petition or other petition, as the case may be, and
5 determinations thereon shall be made promptly and in conformity
6 with time standards herein or hereunder established. Such
7 hearings shall be conducted by a [referee] workers' compensation
8 judge or other hearing officer designated by the secretary.

9 Each workers' compensation judge assigned to conduct hearings
10 shall set forth a mandatory trial schedule at the first hearing.
11 This trial schedule shall include specific deadlines for the
12 presentation of evidence by the parties and dates for future
13 hearings. Judges shall strictly enforce their schedules, and no
14 party will be excused from honoring the schedule absent good
15 cause shown. Every trial schedule shall include a specific date
16 and time for a mediation conference. Mediations shall take place
17 no later than thirty (30) days prior to the date set for filing
18 proposed findings of fact and conclusions of law or legal briefs
19 or memoranda, unless, upon good cause shown, the workers'
20 compensation judge determines mediation would be futile. Within
21 one hundred twenty (120) days of the effective date of this
22 paragraph, the Office of Adjudication shall create a resolution
23 hearing procedure to hear compromise and release agreements in
24 an expedited manner. The hearing shall be held within fourteen
25 (14) business days of notice of a commutation or compromise and
26 release.

27 The workers' compensation judge conducting a resolution
28 hearing will not be required to have received formal assignment
29 by the Workers' Compensation Bureau of the compromise and
30 release petition prior to conducting the resolution hearing. At

1 the time of hearing, the parties shall submit proof of filing a
2 petition to the workers' compensation judge hearing the
3 compromise and release matter. A workers' compensation judge
4 shall render a decision within five (5) business days of the
5 hearing.

6 Delays in hearings will be granted according to rules
7 established by the department, and any party who unreasonably
8 delays a hearing will be subject to a penalty as provided in
9 section 435. Subject to the provisions of the act of July 31,
10 1968 (P.L.769, No.240), known as the "Commonwealth Documents
11 Law," the department shall adopt such rules and regulations as
12 it finds necessary or desirable for the enforcement of this act.

13 Section 4. The act is amended by adding a section to read:

14 Section 401.2. (a) The Workers' Compensation Appeal Board
15 shall consist of at least three, and not more than fifteen,
16 ~~appointed members~~ MEMBERS APPOINTED BY THE GOVERNOR, of whom the <—
17 Governor shall designate one as chairman.; <—
18 ~~the recommendation of the Secretary of Labor and Industry,~~
19 ~~increase the number of appointed members on the board. An en~~
20 banc board shall consist of all the appointed members on the
21 board, a majority of which shall constitute a quorum, and no
22 action of the board shall be valid unless it shall have the
23 concurrence of such number of members and that number
24 constitutes a majority of the votes cast. Where there are more
25 than three appointed members, the board may sit in panels of
26 three, all three members shall constitute a quorum and no action
27 taken by a panel shall be valid unless it shall have the
28 concurrence of a majority of the panel members. When a majority
29 of any such panel has reached a decision, the chair of the panel
30 shall assign the writing of an opinion and order to a panel

1 member. The panel member shall prepare a draft opinion and award
2 and transmit it to the secretary of the board for circulation
3 and review to all members of the Workers' Compensation Appeal
4 Board. Each member of the Workers' Compensation Appeal Board
5 shall be entitled to a period of thirty (30) days from the date
6 a draft opinion on behalf of a majority of a panel is placed in
7 circulation by the secretary of the board in which to concur in,
8 comment on, object to or dissent from the proposed draft opinion
9 and award. Concurrences, comments, objections and dissents shall
10 be transmitted to the chairman of the board, the secretary of
11 the board and the board member responsible for writing the draft
12 opinion. A board member who does not submit a written response
13 to a proposed draft opinion and order circulated shall be deemed
14 to concur in the opinion and order as drafted and initially
15 placed in circulation in conformity with the procedure set forth
16 in subsection (a). If at the conclusion of the thirty-day (30-
17 day) period a majority of the members of the board have failed
18 to concur in the draft opinion and order as circulated, the
19 Chairman of the Workers' Compensation Appeal Board, in
20 consultation with the chair of the panel that heard the case in
21 question shall reassign the opinion to a board member for the
22 purpose of redrafting and circulating a draft opinion and order
23 in conformity with the procedures articulated in this subsection
24 (a). A vacancy on the board shall not impair the right of a
25 quorum to exercise all the rights and perform all the duties of
26 the board. The Secretary of Labor and Industry, with the
27 approval of the Governor, shall appoint a secretary to the
28 Workers' Compensation Appeal Board, who shall receive such
29 salary as the Secretary of Labor and Industry, with the approval
30 of the Governor, shall determine.

1 (b) Members of the board shall be required to annually
2 attend and participate in a minimum of eight (8) hours of
3 workers' compensation related education approved by the
4 Pennsylvania Supreme Court Continuing Legal Education Board or a
5 similar reputable agency approved by the department.

6 (c) A member of the Workers' Compensation Appeal Board shall
7 conform to the following code of ethics:

8 (1) Avoid impropriety and the appearance of impropriety in
9 all activities.

10 (2) Perform duties impartially and diligently.

11 (3) Avoid ex parte communications in any contested, on-the-
12 record matter pending before the department.

13 (4) Abstain from expressing publicly, except in
14 administrative disposition or adjudication, personal views on
15 the merits of an adjudication pending before the department and
16 require similar abstention on the part of department personnel
17 subject to the member's direction and control.

18 (5) Require staff and personnel subject to the member's
19 direction and control to observe the standards of fidelity and
20 diligence that apply to a member.

21 (6) Refer to the Secretary of Labor and Industry
22 disciplinary measures against department personnel subject to
23 the member's direction and control for unethical conduct.

24 (7) Disqualify himself from proceedings in which
25 impartiality may be reasonably questioned.

26 (8) Keep informed about the personal and fiduciary interests
27 of himself and his immediate family.

28 (9) Regulate outside activities to minimize the risk of
29 conflict with official duties. A member may speak, write or
30 lecture, and reimbursed expenses, honoraria, royalties or other

1 money received in connection therewith shall be disclosed
2 annually. A disclosure statement shall be filed with the
3 Secretary of Labor and Industry and the State Ethics Commission
4 and shall be open to inspection by the public during the normal
5 business hours of the department and the commission during the
6 tenure of the member.

7 (10) Refrain from direct or indirect solicitation of funds
8 for political, educational, religious, charitable, fraternal or
9 civic purposes: Provided, however, That a member may be an
10 officer, a director or a trustee of such organizations.

11 (11) Refrain from financial or business dealings which would
12 tend to reflect adversely on impartiality. A member may hold and
13 manage investments which are not incompatible with the duties of
14 office.

15 (12) Uphold the integrity and independence of the workers'
16 compensation system.

17 ~~(d) Individuals who are currently serving as members of the~~ <—
18 ~~Workers' Compensation Appeal Board shall continue to serve,~~
19 ~~subject to the provisions of subsection (c).~~

20 ~~(e)~~ (D) The secretary shall ensure that there are at least <—
21 two opinion writers assigned to each member of the board.
22 Opinion writers employed by or on behalf of the board whose
23 duties involve, in whole or in part, the writing or drafting of
24 proposed opinions, decisions or orders for the board or any
25 member of the board shall be required to annually attend and
26 participate in a minimum of eight (8) hours of continuing legal
27 education in the field of workers' compensation practice and
28 procedure in courses approved by the Pennsylvania Supreme Court
29 Continuing Legal Education Board.

30 Section 5. Section 414 of the act, amended February 8, 1972

1 (P.L.25, No.12), is amended to read:

2 Section 414. Whenever a claim petition or other petition is
3 presented to the department, the department shall, by general
4 rules or special order, assign it to a [referee] workers'
5 compensation judge for hearing. When assigning petitions,
6 including those for resolution hearings, the department shall
7 not assign to a particular workers' compensation judge more than
8 seventy-five per centum of the petitions from a particular
9 county.

10 The department shall serve upon each adverse party a copy of
11 the petition, together with a notice that such petition will be
12 heard by the [referee] WORKERS' COMPENSATION JUDGE to whom it <—
13 has been assigned (giving his name and address) as the case may
14 be, and, shall mail the original petition to such [referee] <—
15 WORKERS' COMPENSATION JUDGE, together with copies of the notices <—
16 served upon the adverse parties.

17 ~~Section 6. Section 426 of the act, amended February 8, 1972~~ <—
18 ~~(P.L.25, No.12) and repealed in part April 28, 1978 (P.L.202,~~
19 ~~No.53), is amended to read:~~

20 ~~Section 426. The board, upon petition of any party and upon~~
21 ~~cause shown, may grant a rehearing of any petition upon which~~
22 ~~the board has made an award or disallowance of compensation or~~
23 ~~other order or ruling, or upon which the board has sustained or~~
24 ~~reversed any action of a referee; but such rehearing shall not~~
25 ~~be granted more than eighteen months after the board has made~~
26 ~~such award, disallowance, or other order or ruling, or has~~
27 ~~sustained or reversed any action of the referee: Provided,~~
28 ~~however, That nothing contained in this section shall limit or~~
29 ~~restrict the right of the board, or a referee to review, modify,~~
30 ~~set aside, reinstate, suspend, or terminate, an original or~~

1 ~~supplemental agreement, or an award in accordance with the~~
2 ~~provisions of section four hundred thirteen of this article. A~~
3 ~~rehearing shall be conducted by the board en banc.~~

4 Section 7 6. Section 442 of the act, amended June 24, 1996 <—
5 (P.L.350, No.57), is amended to read:

6 Section 442. All counsel fees, agreed upon by claimant and
7 his attorneys, for services performed in matters before any
8 workers' compensation judge or the board, whether or not allowed
9 as part of a judgment, shall be approved by the workers'
10 compensation judge or board as the case may be, providing the
11 counsel fees do not exceed twenty per centum of the amount
12 awarded. [The official conducting any hearing, upon cause shown,
13 may allow a reasonable attorney fee exceeding twenty per centum
14 of the amount awarded at the discretion of the hearing
15 official.]

16 In cases where the efforts of claimant's counsel produce a
17 result favorable to the claimant but where no immediate award of
18 compensation is made such as in cases of termination or
19 suspension the hearing official shall allow or award reasonable
20 counsel fees, as agreed upon by claimant and his attorneys,
21 without regard to any per centum. In the case of compromise and
22 release settlement agreements, where there is no underlying <—
23 litigation, no counsel fees shall exceed twenty per centum of
24 the workers' compensation settlement amount.

25 Section 8. ~~Section 1401 of the act, added June 24, 1996~~ <—
26 ~~(P.L.350, No.57), is amended to read:~~

27 Section 1401. ~~(a) There is created within the department an~~
28 ~~office to be known as the Office of Adjudication.~~

29 ~~(b) The secretary shall appoint as many qualified and~~
30 ~~competent workers' compensation judges as necessary to conduct~~

1 ~~matters under this act.~~

2 ~~(c) The secretary shall set normal working hours for~~
3 ~~workers' compensation judges. During those hours, workers'~~
4 ~~compensation judges shall devote full time to their official~~
5 ~~duties and shall perform no work inconsistent with their duties~~
6 ~~as workers' compensation judges. Workers' compensation judges~~
7 ~~shall not engage in any unapproved activities during normal~~
8 ~~working hours.~~

9 ~~(d) Workers' compensation judges shall be afforded~~
10 ~~employment security as provided by the act of August 5, 1941~~
11 ~~(P.L.752, No.286), known as the "Civil Service Act."~~

12 ~~(e) Compensation for workers' compensation judges shall be~~
13 ~~established by the Executive Board. Compensation for workers'~~
14 ~~compensation judges shall be established by the executive board~~
15 ~~at a pay range not less than the pay range for administrative~~
16 ~~law judges appointed under section 212 of the act of April 12,~~
17 ~~1951 (P.L.90, No.21), known as the "Liquor Code," and 66 Pa.C.S.~~
18 ~~§ 304 (relating to administrative law judges).~~

19 ~~(f) The secretary shall develop and require all workers'~~
20 ~~compensation judges to complete a course of training and~~
21 ~~instruction in the duties of their respective offices and pass~~
22 ~~an examination prior to assuming office. The course of training~~
23 ~~and instruction shall not exceed four weeks in duration and~~
24 ~~shall consist of a minimum of forty hours of class instruction~~
25 ~~in medicine and law.~~

26 ~~(g) The secretary shall develop a continuing professional~~
27 ~~development plan for workers' compensation judges which shall~~
28 ~~require the annual completion of twenty hours of approved~~
29 ~~continuing professional development courses.~~

30 ~~(h) The secretary may adopt additional rules to establish~~

1 ~~standards and procedures for the evaluation, training, promotion~~
2 ~~and discipline of workers' compensation judges.~~

3 Section 9 7. The act is amended by adding an article to
4 read:

5 ARTICLE XVI

6 UNINSURED EMPLOYERS GUARANTY FUND

7 Section 1601. Definitions.

8 The following words and phrases when used in this article
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Compensation." Benefits paid pursuant to sections 306 and
12 307.

13 "Employer." Any employer as defined in section 103. The term
14 does not include a person that qualifies as a self-insured
15 employer under section 305.

16 "Fund." The Uninsured Employers Guaranty Fund established in
17 section 1602. The fund shall not be considered an insurer and
18 shall not be subject to penalties, unreasonable contest fees or
19 any reporting and liability requirements under section 440.

20 "Policyholder." A holder of a workers' compensation policy
21 issued by the State Workers' Insurance Fund, or an insurer that
22 is a domestic, foreign or alien mutual association or stock
23 company writing workers' compensation insurance on risks which
24 would be covered by this act.

25 "Secretary." The Secretary of Labor and Industry of the
26 Commonwealth.

27 Section 1602. Fund.

28 (a) Establishment.--

29 (1) There is established a special fund to be known as
30 the Uninsured Employers Guaranty Fund.

1 (2) The fund shall be maintained as a separate fund in
2 the State Treasury subject to the procedures and provisions
3 set forth in this article.

4 (b) Source.--The sources of the fund are:

5 (1) Assessments provided for under section 1607.

6 (2) Reimbursements or restitution.

7 (3) Interest on money in the fund.

8 (c) Use.--The administrator shall establish and maintain the
9 fund for the exclusive purpose of paying to any claimant or his
10 dependents workers' compensation benefits due and payable under
11 this act and the Occupational Disease Act and any costs
12 specifically associated therewith where the employer liable for
13 the payments failed to carry workers' compensation insurance <—
14 coverage INSURE OR SELF-INSURE ITS WORKERS' COMPENSATION <—
15 LIABILITY UNDER SECTION 305 at the time the injuries took place.

16 (d) Administration.--The secretary shall be the
17 administrator of the fund and shall have the power to collect
18 money for and disburse money from the fund.

19 (e) Status.--The fund shall have all of the same rights,
20 duties, responsibilities and obligations as an insurer.

21 Section 1603. Claims.

22 (a) Scope.--This section shall apply to claims for an injury
23 or a death which occurs on or after the effective date of this
24 article.

25 (b) Time.--An injured worker shall notify the fund within 45
26 days after the worker knew that the employer was uninsured. or <—
27 received confirmation of noninsurance from the rating bureau or
28 any other agency charged with providing notice of a claim
29 against the fund. The department shall have adequate time to
30 monitor the claim and shall determine the obligations of the

1 employer. No compensation shall be paid from this fund until
2 notice is given and the department determines that the employer
3 failed to voluntarily accept and pay the claim or subsequently
4 defaulted on payments of compensation. No compensation shall be
5 due until notice is given.

6 (c) Process.--After notice, the fund shall process the claim
7 in accordance with the provisions of this act.

8 (d) Petitions.--No claim petition may be filed against the
9 fund until at least 21 days after notice of the claim is made to
10 the fund.

11 Section 1604. Claim petition.

12 If a claim for compensation is filed under this article and
13 the claim is not voluntarily accepted as compensable, the
14 employee may file a claim petition naming both the employer and
15 the fund as defendants. A responsive pleading filed by the fund <—
16 to the claim petition shall serve as an answer on behalf of the
17 uninsured employer. Failure of the uninsured employer to answer
18 a claim petition shall not serve as an admission or otherwise
19 bind the fund under section 416.

20 Section 1605. Department.

21 (a) Insurance inquiry.--Within ten days of notice of a
22 claim, the fund shall demand from the employer proof of
23 applicable insurance coverage. Within 14 days from the date of
24 the fund's request, the employer must provide proof of
25 insurance. If the employer does not provide proof, there shall
26 be rebuttable presumption of uninsurance. and the fund shall <—
27 serve as the uninsured employer's insurer for purposes of the
28 claim in question.

29 (b) Reimbursement.--The department shall, on behalf of the
30 fund, exhaust all remedies at law against the uninsured employer

1 in order to collect the amount of a voluntary payment or award,
2 including voluntary payment or award itself and reimbursement of
3 costs, interest, penalties, fees under section 440 and costs of
4 the fund's attorney, which have been paid by the fund. The fund
5 shall also be reimbursed for costs or attorney fees which are
6 incurred in seeking reimbursement under this subsection. The
7 department is authorized to investigate violations of section
8 305 for prosecution of the uninsured employer pursuant to
9 section 305(b) and shall pursue such prosecutions through
10 coordination with the appropriate prosecuting authority. Any
11 restitution obtained shall be paid to the fund.

12 (c) Bankruptcy.--The department has the right to appear and
13 represent the fund as a creditor in a bankruptcy proceeding
14 involving the uninsured employer.

15 (d) Liens.--If payments of any nature have been made by the
16 fund on behalf of an uninsured employer, the fund shall file a
17 certified proof of payment with the prothonotary of a court of
18 common pleas and the prothonotary shall enter the entire balance
19 as a judgment against the employer. The judgment shall be a
20 statutory lien against property of the employer IN THE MANNER <—
21 SET FORTH IN SECTION 308.1 OF THE ACT OF DECEMBER 5, 1936 (2ND
22 SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT
23 COMPENSATION LAW, and execution may issue on it. The fund has
24 the right to update the amount of the lien as payments are made.
25 Section 1606. Other remedies.

26 Nothing contained in this article shall serve to abrogate the
27 provisions of section 305(d) allowing the claimant or dependents
28 to bring a direct suit for damages at law as provided by Article
29 II. The fund shall be entitled to assert rights to subrogation
30 under section 319 for recovery made from the employer or any

1 other third party.

2 Section 1607. Assessments.

3 For the purpose of establishing and maintaining the fund, on <—
4 the effective date of this section, and on or before January 31
5 of each year thereafter, the department shall calculate the
6 amount necessary to maintain the fund and shall assess insurers
7 and self-insured employers as, in the discretion of the
8 department, is necessary to provide an amount sufficient to pay
9 outstanding and anticipated claims in a timely manner and meet
10 the costs of the department to administer the fund. Assessments
11 to maintain the fund shall be imposed, collected and remitted in
12 the same manner as administration fund assessments under section
13 446, and the regulations promulgated thereunder. THE SUM OF <—
14 \$1,000,000 IS HEREBY TRANSFERRED FROM THE ADMINISTRATION FUND
15 ESTABLISHED UNDER SECTION 446 TO THE FUND FOR OPERATION OF THE
16 FUND FOR THE PERIOD COMMENCING ON THE EFFECTIVE DATE OF THIS
17 SECTION THROUGH JUNE 30, 2007. THE DEPARTMENT SHALL CALCULATE
18 THE AMOUNT NECESSARY TO MAINTAIN THE FUND AND SHALL ASSESS
19 INSURERS AND SELF-INSURED EMPLOYERS AS IS NECESSARY TO PROVIDE
20 AN AMOUNT SUFFICIENT TO PAY OUTSTANDING AND ANTICIPATED CLAIMS
21 IN THE FOLLOWING YEAR IN A TIMELY MANNER AND TO MEET THE COSTS
22 OF THE DEPARTMENT TO ADMINISTER THE FUND. THE FUND SHALL BE
23 MAINTAINED IN THE SAME MANNER AS THE WORKERS' COMPENSATION
24 ADMINISTRATIVE FUND UNDER SECTION 446 AND THE REGULATIONS
25 THEREUNDER. IN NO EVENT SHALL ANY ANNUAL ASSESSMENT EXCEED 0.1%
26 OF THE TOTAL COMPENSATION PAID BY ALL INSURERS OR SELF-INSURED
27 EMPLOYERS DURING THE PREVIOUS CALENDAR YEAR.

28 Section 1608. Regulations.

29 The department may promulgate regulations for the
30 administration and enforcement of this article.

Section ~~10~~ 8. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph 2 is necessary to effectuate the addition of section 401.2 of the act.

(2) Section 441 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

Section ~~11~~ 9. This act shall take effect as follows:

(1) The amendment of section 401.1 of the act shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.