

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1031 Session of
1997

INTRODUCED BY MURPHY, JUNE 18, 1997

REFERRED TO LABOR AND INDUSTRY, JUNE 18, 1997

AN ACT

1 Providing for payments to certain workers' compensation
2 claimants who are not covered by the Self-Insurance Guaranty
3 Fund; establishing eligibility requirements for those
4 payments; providing for procedures for determining
5 eligibility; and making an appropriation.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Definitions.

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

12 "Claimant." An employee or a dependent of an employee of a
13 defaulted self-insurer who is entitled to benefits under the act
14 of June 2, 1915 (P.L.736, No.338), known as the Workers'
15 Compensation Act, or the act of June 21, 1939 (P.L.566, No.284),
16 known as The Pennsylvania Occupational Disease Act, as the
17 result of an injury or exposure to hazard of disease which
18 occurred prior to October 30, 1993.

19 "Defaulted self-insurer." An employer exempted by the

1 Department of Labor and Industry from the need to insure its
2 liability under section 305 of the act of June 2, 1915 (P.L.736,
3 No.338), known as the Workers' Compensation Act, or section 305
4 of act of June 21, 1939 (P.L.566, No.284), known as The
5 Pennsylvania Occupational Disease Act, for claims or injuries or
6 exposures to the hazard of disease which occurred prior to
7 October 30, 1993, and which has failed to pay its compensation
8 liability due to its financial inability or due to it filing for
9 bankruptcy or being declared bankrupt or insolvent.

10 "Department." The Department of Labor and Industry of the
11 Commonwealth.

12 "Loss of compensation payment." A one-time, lump sum payment
13 to a claimant as provided for under section 2.

14 "Occupational Disease Act." The act of June 21, 1939
15 (P.L.566, No.284), known as The Pennsylvania Occupational
16 Disease Act.

17 "Security." Surety bonds, cash, negotiable securities of the
18 United States or the Commonwealth or letters of credit posted by
19 a defaulted self-insurer to guaranty the payment of its workers'
20 compensation liability.

21 "Self-Insurance Guaranty Fund." The special fund established
22 by section 902 of the act of June 2, 1915 (P.L.736, No.338),
23 known as the Workers' Compensation Act.

24 "Workers' Compensation Act." The act of June 2, 1915
25 (P.L.736, No.338), known as the Workers' Compensation Act.

26 "Workmen's Compensation Administration Fund." The special
27 fund established by section 446 of the act of June 2, 1915
28 (P.L.736, No.338), known as the Workers' Compensation Act.

29 Section 2. Loss of compensation payment.

30 A claimant who is no longer receiving benefit payments under

1 the Workers' Compensation Act or the Occupational Disease Act
2 because the security posted by a defaulted self-insurer has been
3 exhausted and whose claim is not covered by the Self-Insurance
4 Guaranty Fund shall be eligible to receive a loss of
5 compensation payment in lieu of the workers' compensation the
6 claimant has not received or will not receive if the workers'
7 compensation is payable under an award from a petition or a
8 notice of compensation payable or agreement for compensation
9 which was filed with the department prior to January 1, 1996.

10 Section 3. Amount of loss of compensation payment.

11 The amount of a loss of compensation payment shall be equal
12 to the amount of workers' compensating benefits the claimant has
13 not received or is likely not to receive but shall not exceed
14 \$25,000 per claimant. A loss of compensation payment shall not
15 be considered as compensation under the Workers' Compensation
16 Act or the Occupational Disease Act.

17 Section 4. Application procedure.

18 A claimant shall file an application with the department to
19 request a loss of compensation payment. The application shall be
20 supported by, among other things, evidence of the existence of
21 an award, agreement or notice for compensation, evidence of the
22 loss of workers' compensation payments due to a default and the
23 exhaustion of security and a schedule of estimated future
24 installments of workers' compensation payable to the claimant.

25 Section 5. Eligibility determination.

26 The department shall render an administrative decision on
27 whether the claimant is eligible under this act for a loss of
28 compensation payment based on the facts and averments set forth
29 in the application.

30 Section 6. Source of payments.

1 Moneys from investment income of the Workmen's Compensation
2 Administration Fund shall be used to finance loss of
3 compensation payments on a first-come-first-served basis. If the
4 moneys from investment income of the Workmen's Compensation
5 Administration Fund are exhausted, payments will only be made to
6 the extent that additional investment income becomes available.
7 Payments from investment income of the Workmen's Compensation
8 Administration Fund for loss of compensation payments shall not
9 cause an increase to the amount assessed against insurers and
10 self-insurers under section 446(b) of the Workers' Compensation
11 Act.

12 Section 7. Appropriation from Workmen's Compensation
13 Administration Fund.

14 Moneys from investment income of the Workmen's Compensation
15 Administration Fund are hereby specifically appropriated on a
16 continuing basis to the Department of Labor and Industry for the
17 purposes of this act. The Secretary of Labor and Industry shall
18 have the power to dispense and disburse moneys from investment
19 income of the Workmen's Compensation Administration Fund for
20 loss of compensation payments made under this act.

21 Section 8. Rules and regulations.

22 The department may promulgate rules and regulations for the
23 administration of this act.

24 Section 9. Expiration.

25 This act shall expire 18 months after its enactment.

26 Section 10. Effective date.

27 This act shall take effect in 60 days.