

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 2738** Session of  
2006

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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,  
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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 AND BEYER, JUNE 7, 2006

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AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 12, 2006

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## 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, for  
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  
18 (P.L.736, No.338), known as the Workers' Compensation Act,  
19 reenacted and amended June 21, 1939 (P.L.520, No.281) and added

1 December 5, 1974 (P.L.782, No.263), is amended to read:

2 Section 306. The following schedule of compensation is  
3 hereby established:

4 \* \* \*

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

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

25 Section 401. The term "referee," when used in this act,  
26 shall mean a Workers' Compensation Judge of the Department of  
27 Labor and Industry, appointed by and subject to the general  
28 supervision of the Secretary of Labor and Industry for the  
29 purpose of conducting departmental hearings under this act. The  
30 secretary may establish different classes of these judges. Any

1 reference in any statute to a workmen's compensation referee  
2 shall be deemed to be a reference to a workers' compensation  
3 judge.

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

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

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

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

27 The term "resolution court," when used in this article, shall  
28 mean a court established in each district with the sole purpose  
29 of providing a vehicle to present a compromise and release to a  
30 judge in an expedited fashion.

1       The term "mediation," when used in this article, shall mean a  
2 conference conducted by a workers' compensation judge, but not  
3 necessarily the judge assigned to the actual case involving the  
4 parties, and shall require the attendance in person of all  
5 parties including the claimant and employer, and their  
6 respective counsel. The representative from the employer must  
7 have requisite authority to bring about settlement of the case  
8 or must have the ability to obtain said authority during the  
9 course of the mediation.

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

12       Section 401.1. The department shall, in fulfillment of its  
13 responsibilities under this act, enforce the time standards and  
14 other performance standards herein provided for the prompt  
15 processing of injury cases and payment of compensation when due  
16 by employers and insurers both upon petition by a party or on  
17 its own motion. In any case in which compensation has not been  
18 timely paid, or in which notice of denial of compensation has  
19 been given, the department shall hear and determine all claim  
20 petitions for compensation filed by employes or their  
21 dependents. The department shall also hear and determine all  
22 petitions by employers or insurers to suspend, terminate, reduce  
23 or otherwise modify compensation payments, awards, or agreements  
24 and petitions by employes or their dependents to increase,  
25 modify or reinstate compensation payments, awards, or  
26 agreements. Hearings shall be scheduled forthwith upon receipt  
27 of the claim petition or other petition, as the case may be, and  
28 determinations thereon shall be made promptly and in conformity  
29 with time standards herein or hereunder established. Such  
30 hearings shall be conducted by a [referee] workers' compensation

1 judge or other hearing officer designated by the secretary.

2 Each workers' compensation judge assigned to conduct hearings  
3 shall set forth a mandatory trial schedule at the first hearing.  
4 This trial schedule shall include specific deadlines for the  
5 presentation of evidence by the parties and dates for future  
6 hearings. Judges shall strictly enforce their schedules, and no  
7 party will be excused from honoring the schedule absent good  
8 cause shown. Every trial schedule shall include a specific date  
9 and time for a mediation conference. Mediations shall take place  
10 no later than thirty (30) days prior to the date set for filing  
11 proposed findings of fact and conclusions on law or legal briefs  
12 or memoranda, unless, upon good cause shown, the workers'  
13 compensation judge determines mediation would be futile. In the  
14 event that the parties reach a settlement on a case that is  
15 presently in litigation, the workers' compensation judge, upon  
16 being provided notice of a settlement, shall hold compromise and  
17 release hearing within fourteen (14) BUSINESS days of receipt of ←  
18 notice of the settlement.

19 Each district within the Commonwealth shall create a  
20 resolution court that will have the ability to hear compromise  
21 and release agreements in an expedited manner. The workers'  
22 compensation judge who is sitting in resolution court will not  
23 be required to have received formal assignment by the bureau of  
24 the compromise and release petition prior to conducting the  
25 settlement hearing. A workers' compensation judge shall render a  
26 decision within five (5) business days of the hearing.

27 Delays in hearings will be granted according to rules  
28 established by the department, and any party who unreasonably  
29 delays a hearing will be subject to a penalty as provided in  
30 section 435. Subject to the provisions of the act of July 31,

1 1968 (P.L.769, No.240), known as the "Commonwealth Documents  
2 Law," the department shall adopt such rules and regulations as  
3 it finds necessary or desirable for the enforcement of this act.

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

5 Section 401.2. (a) The Workers' Compensation Appeal Board  
6 shall consist of at least three, and not more than fifteen,  
7 appointed members, of whom the Governor shall designate one as  
8 chairman; the Governor may, on the recommendation of the  
9 Secretary of Labor and Industry, increase the number of  
10 appointed members on the board. An en banc board shall consist  
11 of all the appointed members on the board, a majority of which  
12 shall constitute a quorum, and no action of the board shall be  
13 valid unless it shall have the concurrence of such number of  
14 members and that number constitutes a majority of the votes  
15 cast. Where there are more than three appointed members, the  
16 board may sit in panels of three, a majority of the panel ALL ←  
17 THREE MEMBERS shall constitute a quorum and no action taken by a  
18 panel shall be valid unless it shall have the concurrence of a  
19 majority of the votes cast. PANEL MEMBERS. WHEN A MAJORITY OF ←  
20 ANY SUCH PANEL HAS REACHED A DECISION, THE CHAIR OF THE PANEL  
21 SHALL ASSIGN THE WRITING OF AN OPINION AND ORDER TO A PANEL  
22 MEMBER. THE PANEL MEMBER SHALL PREPARE A DRAFT OPINION AND AWARD  
23 AND TRANSMIT IT TO THE SECRETARY OF THE BOARD FOR CIRCULATION  
24 AND REVIEW TO ALL MEMBERS OF THE WORKERS' COMPENSATION APPEAL  
25 BOARD. EACH MEMBER OF THE WORKERS' COMPENSATION APPEAL BOARD  
26 SHALL BE ENTITLED TO A PERIOD OF THIRTY (30) DAYS FROM THE DATE  
27 A DRAFT OPINION ON BEHALF OF A MAJORITY OF A PANEL IS PLACED IN  
28 CIRCULATION BY THE SECRETARY OF THE BOARD IN WHICH TO CONCUR IN,  
29 COMMENT ON, OBJECT TO OR DISSENT FROM THE PROPOSED DRAFT OPINION  
30 AND AWARD. CONCURRENCES, COMMENTS, OBJECTIONS AND DISSENTS SHALL

1 BE TRANSMITTED TO THE CHAIRMAN OF THE BOARD, THE SECRETARY OF  
2 THE BOARD AND THE BOARD MEMBER RESPONSIBLE FOR WRITING THE DRAFT  
3 OPINION. A BOARD MEMBER WHO DOES NOT SUBMIT A WRITTEN RESPONSE  
4 TO A PROPOSED DRAFT OPINION AND ORDER CIRCULATED SHALL BE DEEMED  
5 TO CONCUR IN THE OPINION AND ORDER AS DRAFTED AND INITIALLY  
6 PLACED IN CIRCULATION IN CONFORMITY WITH THE PROCEDURE SET FORTH  
7 IN SUBSECTION (A). IF AT THE CONCLUSION OF THE THIRTY-DAY (30-  
8 DAY) PERIOD A MAJORITY OF THE MEMBERS OF THE BOARD HAVE FAILED  
9 TO CONCUR IN THE DRAFT OPINION AND ORDER AS CIRCULATED, THE  
10 CHAIRMAN OF THE WORKERS' COMPENSATION APPEAL BOARD, IN  
11 CONSULTATION WITH THE CHAIR OF THE PANEL THAT HEARD THE CASE IN  
12 QUESTION SHALL REASSIGN THE OPINION TO A BOARD MEMBER FOR THE  
13 PURPOSE OF REDRAFTING AND CIRCULATING A DRAFT OPINION AND ORDER  
14 IN CONFORMITY WITH THE PROCEDURES ARTICULATED IN THIS SUBSECTION  
15 (A). A vacancy on the board shall not impair the right of a  
16 quorum to exercise all the rights and perform all the duties of  
17 the board. The Secretary of Labor and Industry, with the  
18 approval of the Governor, shall appoint a secretary to the  
19 Workers' Compensation Appeal Board, who shall receive such  
20 salary as the Secretary of Labor and Industry, with the approval  
21 of the Governor, shall determine.

22 ~~(b) Members of the Workers' Compensation Appeal Board shall~~ <—  
23 ~~meet the following minimum requirements:~~

24 ~~(1) Be an attorney in good standing before the Supreme~~  
25 ~~Court.~~

26 ~~(2) Have five (5) years of workers' compensation practice~~  
27 ~~before administrative agencies or equivalent experience.~~

28 (B) MEMBERS OF THE BOARD SHALL BE REQUIRED TO ANNUALLY <—  
29 ATTEND AND PARTICIPATE IN A MINIMUM OF EIGHT (8) HOURS OF  
30 WORKERS' COMPENSATION RELATED EDUCATION APPROVED BY THE

1 PENNSYLVANIA SUPREME COURT CONTINUING LEGAL EDUCATION BOARD OR A  
2 SIMILAR REPUTABLE AGENCY APPROVED BY THE DEPARTMENT.

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

5 (1) Avoid impropriety and the appearance of impropriety in  
6 all activities.

7 (2) Perform duties impartially and diligently.

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

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

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

18 (6) Initiate appropriate disciplinary measures against  
19 department personnel subject to the member's direction and  
20 control for unethical conduct.

21 (7) Disqualify himself from proceedings in which  
22 impartiality may be reasonably questioned.

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

25 (9) Regulate outside activities to minimize the risk of  
26 conflict with official duties. A member may speak, write or  
27 lecture, and reimbursed expenses, honoraria, royalties or other  
28 money received in connection therewith shall be disclosed  
29 annually. A disclosure statement shall be filed with the  
30 secretary and the State Ethics Commission and shall be open to

1 inspection by the public during the normal business hours of the  
2 department and the commission during the tenure of the member.

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

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

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

13 (d) Individuals who are currently serving as members of the  
14 Workers' Compensation Appeal Board shall continue to serve,  
15 subject to the provisions of subsection (c).

16 (e) The secretary shall ensure that there are at least two  
17 opinion writers assigned to each member of the board. OPINION ←  
18 WRITERS EMPLOYED BY OR ON BEHALF OF THE BOARD WHOSE DUTIES  
19 INVOLVE, IN WHOLE OR IN PART, THE WRITING OR DRAFTING OF  
20 PROPOSED OPINIONS, DECISIONS OR ORDERS FOR THE BOARD OR ANY  
21 MEMBER OF THE BOARD SHALL BE REQUIRED TO ANNUALLY ATTEND AND  
22 PARTICIPATE IN A MINIMUM OF EIGHT (8) HOURS OF CONTINUING LEGAL  
23 EDUCATION IN THE FIELD OF WORKERS' COMPENSATION PRACTICE AND  
24 PROCEDURE IN COURSES APPROVED BY THE PENNSYLVANIA SUPREME COURT  
25 CONTINUING LEGAL EDUCATION BOARD.

26 Section 5. Section 414 of the act, amended February 8, 1972  
27 (P.L.25, No.12), is amended to read:

28 Section 414. Whenever a claim petition or other petition is  
29 presented to the department, the department shall, by general  
30 rules or special order, assign it to a [referee] WORKERS' ←

1 COMPENSATION JUDGE for hearing. When assigning petitions,  
2 INCLUDING THOSE OF THE RESOLUTION COURT, the department shall <—  
3 not assign to a particular referee WORKERS' COMPENSATION JUDGE <—  
4 more than seventy-five per centum of the petitions from a  
5 particular county.

6 The department shall serve upon each adverse party a copy of  
7 the petition, together with a notice that such petition will be  
8 heard by the referee to whom it has been assigned (giving his  
9 name and address) as the case may be, and, shall mail the  
10 original petition to such referee, together with copies of the  
11 notices served upon the adverse parties.

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

15 Section 426. The board, upon petition of any party and upon  
16 cause shown, may grant a rehearing of any petition upon which  
17 the board has made an award or disallowance of compensation or  
18 other order or ruling, or upon which the board has sustained or  
19 reversed any action of a referee; but such rehearing shall not  
20 be granted more than eighteen months after the board has made  
21 such award, disallowance, or other order or ruling, or has  
22 sustained or reversed any action of the referee: Provided,  
23 however, That nothing contained in this section shall limit or  
24 restrict the right of the board, or a referee to review, modify,  
25 set aside, reinstate, suspend, or terminate, an original or  
26 supplemental agreement, or an award in accordance with the  
27 provisions of section four hundred thirteen of this article. A  
28 rehearing shall be conducted by the board en banc.

29 Section 7. Section 442 of the act, amended June 24, 1996  
30 (P.L.350, No.57), is amended to read:

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

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

20 Section 8. Section 1401 of the act, added June 24, 1996  
21 (P.L.350, No.57), is amended to read:

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

24 (b) The secretary shall appoint as many qualified and  
25 competent workers' compensation judges as necessary to conduct  
26 matters under this act.

27 (c) The secretary shall set normal working hours for  
28 workers' compensation judges. During those hours, workers'  
29 compensation judges shall devote full time to their official  
30 duties and shall perform no work inconsistent with their duties

1 as workers' compensation judges. Workers' compensation judges  
2 shall not engage in any unapproved activities during normal  
3 working hours.

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

7 (e) Compensation for workers' compensation judges shall be  
8 established by the Executive Board. Compensation for workers'  
9 compensation judges shall be established by the executive board  
10 at a pay range not less than the pay range for administrative  
11 law judges appointed under section 212 of the act of April 12,  
12 1951 (P.L.90, No.21), known as the "Liquor Code," and 66 Pa.C.S.  
13 § 304 (relating to administrative law judges). A workers'  
14 compensation judge's step classification shall not be decreased  
15 upon reassignment of workers' compensation judges to a higher  
16 pay range.

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

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

28 (h) The secretary may adopt additional rules to establish  
29 standards and procedures for the evaluation, training, promotion  
30 and discipline of workers' compensation judges.

1 Section 9. The act is amended by adding an article to read:

2 ARTICLE XVI

3 UNINSURED EMPLOYERS GUARANTY FUND

4 Section 1601. Definitions.

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

8 "Compensation." Benefits paid pursuant to sections 306 and  
9 307.

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

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

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

22 "Secretary." The Secretary of Labor and Industry of the  
23 Commonwealth.

24 Section 1602. Fund.

25 (a) Establishment.--

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

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

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

2           (1) Appropriations made by the General Assembly.

3           (2) Reimbursements or restitution.

4           (3) Interest on money in the fund.

5       (c) Use.--The administrator shall establish and maintain the  
6 fund for the exclusive purpose of paying workers' compensation  
7 benefits to injured workers or their dependents for claims  
8 arising from injuries or deaths sustained while in the course  
9 and scope of employment with employers that failed to carry  
10 workers' compensation insurance coverage at the time the  
11 injuries took place.

12       (d) Administration.--The secretary shall be the  
13 administrator of the fund and shall have the power to collect  
14 money for and disburse money from the fund.

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

17 Section 1603. Claims.

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

21       (b) Time.--An injured worker shall notify the fund within 45  
22 days after the worker knew that the employer was uninsured or  
23 received confirmation of noninsurance from the rating bureau or  
24 any other agency charged with providing notice of a claim  
25 against the fund. The department shall have adequate time to  
26 monitor the claim and shall determine the obligations of the  
27 employer. No compensation shall be paid from this fund until  
28 notice is given and the department determines that the employer  
29 failed to voluntarily accept and pay the claim or subsequently  
30 defaulted on payments of compensation. No compensation shall be

1 due until notice is given.

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

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

7 Section 1604. Claim petition.

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

16 Section 1605. Department.

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

25 (b) Reimbursement.--The department shall, on behalf of the  
26 fund, exhaust all remedies at law against the uninsured employer  
27 in order to collect the amount of a voluntary payment or award,  
28 including voluntary payment or award itself and reimbursement of  
29 costs, interest, penalties, fees under section 440 and costs of  
30 the fund's attorney, which have been paid by the fund. The fund

1 shall also be reimbursed for costs or attorney fees which are  
2 incurred in seeking reimbursement under this subsection. The  
3 department is authorized to investigate violations of section  
4 305 for prosecution of the uninsured employer pursuant to  
5 section 305(b) and shall pursue such prosecutions through  
6 coordination with the appropriate prosecuting authority. Any  
7 restitution obtained shall be paid to the fund.

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

11 (d) Liens.--If payments of any nature have been made by the  
12 fund on behalf of an uninsured employer, the fund shall file a  
13 certified proof of payment with the prothonotary of a court of  
14 common pleas and the prothonotary shall enter the entire balance  
15 as a judgment against the employer. The judgment shall be a  
16 statutory lien against property of the employer, and execution  
17 may issue on it. The fund has the right to update the amount of  
18 the lien as payments are made.

19 Section 1606. Other remedies.

20 Nothing contained in this article shall serve to abrogate the  
21 provisions of section 305(d) allowing the claimant or dependents  
22 to bring a direct suit for damages at law as provided by Article  
23 II. The fund shall be entitled to assert rights to subrogation  
24 under section 319 for recovery made from the employer or any  
25 other third party.

26 Section 1607. Regulations.

27 The department may promulgate regulations for the  
28 administration and enforcement of this article.

29 Section 10. The sum of \$1,000,000, or as much thereof as may  
30 be necessary, is hereby appropriated to the Uninsured Employers

1 Guaranty Fund for the fiscal year July 1, 2006, to June 30,  
2 2007, to carry out the provisions of Article XVI of the act.

3 Section 11. Repeals are as follows:

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

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

10 Section 12. This act shall take effect in 60 days.