

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 AND BEYER, JUNE 7, 2006

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

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

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

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

(2) Perform duties impartially and diligently.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 414. Whenever a claim petition or other petition is presented to the department, the department shall, by general 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.

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

ARTICLE XVI

UNINSURED EMPLOYERS GUARANTY FUND

Section 1601. Definitions.

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

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

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

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

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

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

Section 1602. Fund.

(a) Establishment.--

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

(2) The fund shall be maintained as a separate fund in the State Treasury subject to the procedures and provisions 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.