WEST VIRGINIA CODE: §23-2C-19

§23-2C-19. Premium payment; employer default; special provisions as to employer default collection.

(a) Each employer who is required to purchase and maintain workers' compensation insurance or who elects to purchase workers' compensation insurance shall pay a premium to a private carrier. Each carrier shall notify its policyholders of the mandated premium payment methodology and under what circumstances a policyholder will be found to be in policy default.

(b) An employer who is required to purchase and maintain workers' compensation insurance but fails to do so or otherwise enters policy default shall be deprived of the benefits and protection afforded by this chapter, including §23-2-6 of this code, and the employer is liable as provided in §23-2-8 of this code: The policy defaulted employer's liability under these sections is retroactive to the day the policy default occurs: The private carrier shall notify the policy defaulted employer of the method by which the employer may be reinstated with the private carrier.

(c) In addition to any other liabilities provided in this section, the Insurance Commissioner may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by this chapter.

(d) Every agency shall, upon notification of employer default by the Insurance Commissioner, immediately begin the process to revoke or terminate any contract, license, permit, certificate, or other authority to conduct a trade, profession, or business in this state and shall refuse to issue, grant, or renew any such contract, license, permit, certificate, or authority.

(1) The term "employer default" means having an outstanding balance or liability to the Old Fund or to the Uninsured Employers' Fund or being in policy default, as defined in §23-2C-2 of this code, or failure to maintain mandatory workers' compensation coverage. An employer is not in default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

(2) The term "agency" includes any unit of state government such as officers, agencies, divisions, departments, boards, commissions, authorities, or public corporations.

(e) Any amounts owed by an employer to the state as a result of an employer default is a personal liability of the employer, its officers, owners, partners, and directors and is immediately due and owing and shall, in addition, be a lien enforceable against all the property of the employer, its officers, owners, partners, and directors: *Provided*, That the lien shall not be enforceable as against a purchaser, including a lien creditor, of real estate

WV Legislature

or personal property for a valuable consideration without notice, unless docketed as provided in §38-10C-1 of this code: *Provided, however*, That the lien may be enforced as other judgment liens are enforced through the provisions of chapter 38 of this code and the same is considered by the circuit court to be a judgment lien for this purpose.

(f) The Insurance Commissioner shall propose rules for adoption by the industrial council to effectuate the purposes of this section including the conditions under which agencies shall comply with the provisions of §23-2C-19(d) of this code and specifying how notice of default shall be given by the Insurance Commissioner.

WV Legislature