APPROVED AND SIGNED BY THE GOVERNOR

107:107

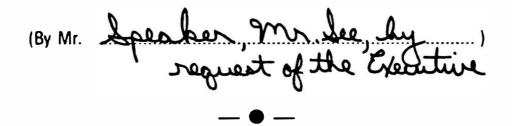
RECEIVED JUN 2 10 14 AM '83 OFFICE OF THE COVERNOR

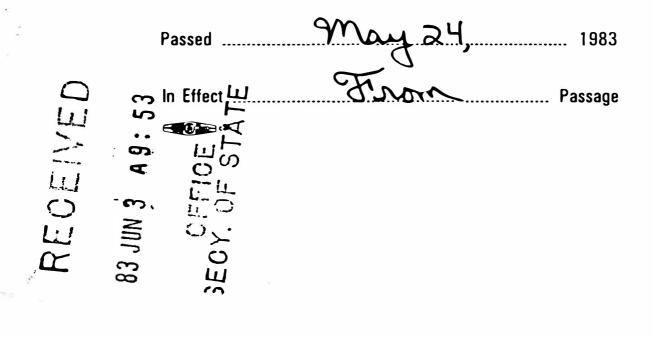
Date 6-2-83

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1983







ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 107

(By MR. SPEAKER, MR. SEE, by request of the Executive)

[Passed May 24, 1983; in effect from passage.]

AN ACT to amend article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-b, relating to liability of employers in default of payment to the workers' compensation fund; setting forth the legislative purpose; describing when employers in default for purposes of this section; providing for the application of settlement; establishing when employer is reinstated; the effect of reinstatement; setting forth the amount of settlement; limitation of time for settlement; authorizing the commissioner to agree on payment schedule; limitation on period for payment; when employer in default of settlement payment; effect of default of settlement payment; setting forth notice requirements of commissioner; and requiring commissioner to provide application forms.

Be it enacted by the Legislature of West Virginia:

That article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-b, to read as follows:

Enr. Com. Sub. for H. B. 107] 2

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; EXTRA TERRITORIAL COVERAGE.

§23-2-5b. Legislative purpose; application for settlement; reinstatement; amount of settlement; when settlement void; notification of rights.

1 The Legislature hereby declares that it is the purpose of this section to provide any employer who may, as of the effective 2 3 date of this section, be in default in any payment due under the 4 provisions of this chapter, an opportunity to settle the amount of the default in accordance with the provisions hereinafter 5 6 set forth. For purposes of this section, the term "default" shall 7 apply to any employer who has failed to subscribe or pay pre-8 miums to the workers' compensation fund in accordance with 9 the provisions of this chapter.

10 (a) On or before the first day of October, one thousand nine hundred eighty-three, any employer who may qualify un-11 der this section shall apply to the commissioner for a settlement 12 13 of the amount of default. Such application shall: (1) Be made on a form prescribed by the commissioner; (2) include the gross 14 payroll of the employer during the entire period of default, 15 which payroll information shall be verified by the employer or 16 17 its authorized agent; and (3) include a payment equal to one 18 half of one percent of the gross payroll during the period of default, or one hundred dollars, whichever amount shall be 19 20 greater.

21 (b) Notwithstanding other provisions of this chapter to the 22 contrary, upon timely receipt of the application prescribed in 23 subsection (a) of this section, the commissioner shall declare 24 the employer to be reinstated to the benefits and protections 25 of this chapter: Provided, That such reinstatement shall not 26 affect any cause of action which has accrued against the em-27 ployer as a result of an injury sustained during any period of 28 default: Provided, however, That the employer shall make the 29 quarterly premium payments as prescribed by this chapter, be-30 ginning with the premium due for the third quarter of the year 31 one thousand nine hundred eighty-three, and continuing there-32 after as the same shall become due.

33 (c) After the commissioner shall have received the appli-

3 [Enr. Com. Sub. for H. B. 107

34 cation of an employer as prescribed herein, the commissioner 35 and the employer or its authorized agent shall agree, in writ-36 ing, on or before the first day of July, one thousand nine hun-37 dred eighty-four, to settle the default in an amount which shall 38 include all delinquent premium payments, plus interest, com-39 pounded monthly, at the rate that would have been earned on 40 the premiums had they been timely paid. The commissioner 41 may authorize payment of the amount set forth in the agree-42 ment on a payment schedule, which period shall not exceed 43 three years from the date of the execution of the agreement. The agreement shall set forth that the employer shall be in 44 45 default if any payment shall not be received by the commis-46 sioner within fifteen days of the due date thereof.

(d) If the employer shall fail to pay current premiums in
accordance with the provisions of this chapter or if the employer shall default upon any payment set forth under the
terms of the agreement, such agreement shall be null, void
and of no effect and the commissioner shall have the authority
to proceed in accordance with the provisions of this chapter.

53 (e) The commissioner shall notify in writing, within fifteen 54 days of the effective date of this section, all employers who are 55 in default as indicated by the records of the commissioner, of the employer's right to apply for a settlement in accordance 56 57 with the provisions of this section. The commissioner may also 58 take additional steps, as deemed appropriate, to notify other 59 employers of the rights set forth herein. The written notice of 60 the commissioner shall include the form required for application and the commissioner shall make such form available to 61 62 other employers.

Enr. Com. Sub. for H. B. 107] 4

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman-Senate Committee Member Chairman House Committee

Originating in the House.

Takes effect from passage.

Will Jodd Clerk of the Senate Iona Clerk of the House of President of the Senate Speaker House of Delegates this the Z The within , 1983. day of Governor

C.641

RECEIVED 83 JUN 3 A 9: 53 OFFICE SECY. OF STATE •

· •

• . •'

.