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APPROVED AND SIGNED BY THE GOVERNOR

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1983

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ENROLLED

Com. Sub. for
HOUSE BILL No. 107

(By Mr. Speaker, Mr. Lee, by
request of the Executive)

— ● —

Passed May 24, 1983

In Effect From Passage

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OFFICE OF
SECY. OF STATE

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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:

**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
2 section to provide any employer who may, as of the effective
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
5 of the default in accordance with the provisions hereinafter
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
11 hundred eighty-three, any employer who may qualify un-
12 der this section shall apply to the commissioner for a settlement
13 of the amount of default. Such application shall: (1) Be made
14 on a form prescribed by the commissioner; (2) include the gross
15 payroll of the employer during the entire period of default,
16 which payroll information shall be verified by the employer or
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
19 default, or one hundred dollars, whichever amount shall be
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-

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.
44 The agreement shall set forth that the employer shall be in
45 default if any payment shall not be received by the commis-
46 sioner within fifteen days of the due date thereof.

47 (d) If the employer shall fail to pay current premiums in
48 accordance with the provisions of this chapter or if the em-
49 ployer shall default upon any payment set forth under the
50 terms of the agreement, such agreement shall be null, void
51 and of no effect and the commissioner shall have the authority
52 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
56 the employer's right to apply for a settlement in accordance
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 applica-
61 tion and the commissioner shall make such form available to
62 other employers.

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

[Handwritten Signature]
Chairman Senate Committee
Member

[Handwritten Signature]
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Handwritten Signature]
Clerk of the Senate

[Handwritten Signature]
Clerk of the House of Delegates

[Handwritten Signature]
President of the Senate

[Handwritten Signature]
Speaker House of Delegates

The within *is approved* this the *2*
day of *June*, 1983.

[Handwritten Signature]
Governor

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