

FILED

2015 MAR 24 P 5:08

WEST VIRGINIA LEGISLATURE WEST VIRGINIA
EIGHTY-SECOND LEGISLATURE SECRETARY OF STATE

REGULAR SESSION, 2015



ENROLLED

Senate Bill No. 578

(BY SENATORS TRUMP, CARMICHAEL, FERNS, GAUNCH, D. HALL,
KARNES, LEONHARDT, MAYNARD, NOHE AND WILLIAMS)

[PASSED MARCH 10, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 578

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(BY SENATORS TRUMP, CARMICHAEL, FERNS, GAUNCH, D. HALL,
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[Passed March 10, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §23-4-8d of the Code of West Virginia, 1931, as amended; and to amend and reenact §23-5-7 of said code, all relating to authorization of compromise and settlement of occupational disease claims; permitting final settlement of medical benefits for nonorthopedic occupational disease claims; and requiring claimant be represented by legal counsel in these claims.

Be it enacted by the Legislature of West Virginia:

That §23-4-8d of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §23-5-7 of said code be amended and reenacted, all to read as follows:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-8d. Occupational pneumoconiosis claims never closed for medical benefits with exception of settled claims.

1 Notwithstanding the provisions of subdivision (4),
2 subsection (a), section sixteen of this article, with the
3 exception of claims settled pursuant to article five, section

4 seven of this chapter, a request for medical services, durable
5 medical goods or other medical supplies in an occupational
6 pneumoconiosis claim may be made at any time.

ARTICLE 5. REVIEW.

§23-5-7. Compromise and settlement.

1 (a) The claimant, the employer and the Workers'
2 Compensation Commission, the successor to the commission,
3 other private insurance carriers and self-insured employers,
4 whichever is applicable, may negotiate a final settlement of
5 any and all issues in a claim wherever the claim is in the
6 administrative or appellate processes: *Provided*, That in the
7 settlement of medical benefits for nonorthopedic occupational
8 disease claims, the claimant shall be represented by legal
9 counsel. If the employer is not active in the claim, the
10 commission, the successor to the commission, other private
11 insurance carriers and self-insured employers, whichever is
12 applicable, may negotiate a final settlement with the claimant
13 and the settlement shall be made a part of the claim record.
14 Except in cases of fraud, no issue that is the subject of an
15 approved settlement agreement may be reopened by any
16 party, including the commission, the successor to the
17 commission, other private insurance carriers and self-insured
18 employers, whichever is applicable. Any settlement
19 agreement may provide for a lump-sum payment or a
20 structured payment plan, or any combination thereof, or any
21 other basis as the parties may agree. If a self-insured
22 employer later fails to make the agreed-upon payment, the
23 commission shall assume the obligation to make the
24 payments and shall recover the amounts paid or to be paid
25 from the self-insurer employer and its sureties or guarantors
26 or both as provided in sections five and five-a, article two of
27 this chapter.

28 **(b) Each settlement agreement shall provide the toll-free**
29 **number of the West Virginia State Bar Association and shall**
30 **provide the injured worker with five business days to revoke**
31 **the executed agreement. The Insurance Commissioner may**
32 **void settlement agreements entered into by an unrepresented**
33 **injured worker which are determined to be unconscionable**
34 **pursuant to criteria established by rule of the commissioner.**

35 **(c) The amendments to this section enacted during the**
36 **regular session of the Legislature in the year 2015 apply to all**
37 **settlement agreements executed after the effective date.**

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

Paul R. Mansel
.....
Chairman Senate Committee

John B. McCall
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark B. Bermeo
.....
Clerk of the Senate

Robert D. Harrison
.....
Clerk of the House of Delegates

William P. ...
.....
President of the Senate

Charles ...
.....
Speaker of the House of Delegates

The within *is approved* this the *24th*
Day of *March*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 16 2015

Time 10:46 AM