BUSINESS & LABOR
EXHIBIT NO. 2
DATE 3-5-09
BILL NO. HB 119

Amendments to House Bill No. 119
3rd Reading Copy

Requested by Representative Chuck Hunter

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 5, 2009 (9:20am)

1. Title, page 1, line 12.
Following: "~~EMPLOYER;~~"
Insert: "CLARIFYING CERTAIN PROCEDURES USED BY THE UNINSURED EMPLOYERS' FUND;"

2. Title, page 1, line 19.
Following: "FUND;"
Insert: "CLARIFYING THE JURISDICTION OF THE WORKERS' COMPENSATION COURT;"

3. Title, page 1, line 20.
Following: "~~39-71-501,~~"
Insert: "39-71-501, 39-71-506,"

4. Title, page 1, line 21.
Following: "39-71-2339,"
Insert: "39-71-2905,"

5. Title, page 1, line 22.
Following: "DATES"
Insert: "AND A RETROACTIVE APPLICABILITY DATE"

6. Page 2.
Following: line 15
Insert: "NEW SECTION. **Section 3. Uninsured employer as party to benefits disputes -- indemnification by uninsured employer for benefits paid -- lien for payment -- levy and execution.** (1) An uninsured employer or an employer alleged to be uninsured is a party to all disputes concerning any benefits for which the employer may become obligated to indemnify the department pursuant to 39-71-504(1)(b).

(2) (a) After mediation pursuant to department rules, an uninsured employer or an employer alleged to be uninsured is joined as a party when a dispute over benefits is brought before the workers' compensation judge pursuant to 39-71-2905.

(b) The workers' compensation judge may enter a judgment, including a default judgment, requiring an uninsured employer to indemnify the department with respect to any benefits paid or ordered payable by the department in relation to the claim.

(c) If a judgment ordered under subsection (2)(b) includes a specific amount paid or ordered payable, the department may issue to the uninsured employer a certificate listing the amount of payment due and directing the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. The judgment becomes a lien on all real property of the uninsured employer from the time of being entered on the docket.

(3) (a) An uninsured employer is obligated to make claim reimbursements as provided in 39-71-504(1)(b), plus the interest and other charges assessed on the claim reimbursement as provided in 39-71-504(2), when demand for those payments is made to the uninsured employer.

(b) If the uninsured employer does not make the payments and does not dispute the obligation in the manner provided by 39-71-520, the department may issue a certificate listing the amount of payment due and directing the clerk of the district court of any county in the state to enter the certificate as a judgment on the docket pursuant to 25-9-301. The judgment becomes a lien on all real property of the uninsured employer from the time of being entered on the docket.

(4) A judgment lien filed pursuant to this section may be renewed for another 10-year period upon motion of the lienholder or by a judgment for that purpose."

Renumber: subsequent sections

7. Page 19.

Following: line 28

Insert: "Section 8. Section 39-71-501, MCA, is amended to read:

"39-71-501. Definition of uninsured employer. For the purposes of 39-71-501, 39-71-503 through 39-71-511, ~~and~~ 39-71-515 through 39-71-520, and [section 3], "uninsured employer" means an employer who has not properly complied with the provisions of 39-71-401."

{*Internal References to 39-71-501:*
39-8-207 x *39-71-201a* *39-71-501 a* *39-71-508x*
39-71-517 x *39-71-519 x*}"

Insert: "Section 9. Section 39-71-506, MCA, is amended to read:

"39-71-506. Lien for payment of unpaid penalties, fees, and interest~~, and claims~~ -- levy and execution. (1) (a) If, upon demand of the department, an uninsured employer refuses to make the payments to the fund that are provided for in 39-71-504(1)(a), (1)(c), and (2), the unpaid penalties, fees, and interest~~, and claims~~ have the effect of a judgment against the employer at the time the payments become due. After issuing an order to the uninsured employer requiring payment of penalties, fees, and interest and after the due process requirements of 39-71-2401(2) and (3) are satisfied, the department may issue a certificate setting forth the amount of payment due and direct the clerk of the district court of any county in the state to

enter the certificate as a judgment on the docket pursuant to 25-9-301. From the time the judgment is ~~docketed~~ entered on the docket, it becomes a lien upon all real property of the uninsured employer. ~~After satisfying any due process requirements, the~~ The department may enforce the judgment at any time within 10 years of creation of the lien.

(b) A judgment lien filed pursuant to this section may be renewed for another 10-year period upon motion of the lienholder or by a judgment for that purpose.

(2) The department may settle through compromise with an uninsured employer the amount due the fund under ~~39-71-504~~ subsection (1)."

{*Internal References to 39-71-506:*
39-71-419 x *39-71-501* a* *39-71-507 x* *39-71-517*x*
39-71-519 x*}"

Renumber: subsequent sections

8. Page 33.
Following: line 21
Insert: "Section 21. Section 39-71-2905, MCA, is amended to read:

"39-71-2905. Petition to workers' compensation judge -- time limit on filing. (1) ~~A~~ If a claimant, ~~or~~ an insurer ~~who~~, an employer alleged to be an uninsured employer, or the uninsured employers' fund has a dispute concerning any benefits under this chapter, ~~71 of this title~~ it may petition the workers' compensation judge for a determination of the dispute after satisfying dispute resolution requirements otherwise provided in this chapter. In addition, the district court that has jurisdiction over a pending action under 39-71-515 may request the workers' compensation judge to determine the amount of recoverable damages due to the employee. The judge, after a hearing, shall make a determination of the dispute in accordance with the law as set forth in this chapter ~~71 of this title~~. If the dispute relates to benefits due to a claimant under this chapter ~~71~~, the judge shall fix and determine any benefits to be paid and specify the manner of payment. After parties have satisfied dispute resolution requirements provided elsewhere in this chapter, the workers' compensation judge has exclusive jurisdiction to make determinations concerning disputes under this chapter ~~71~~, except as provided in 39-71-317 and 39-71-516. The penalties and assessments allowed against an insurer under this chapter ~~71~~ are the exclusive penalties and assessments that can be assessed by the workers' compensation judge against an insurer for disputes arising under this chapter ~~71~~.

(2) A petition for a hearing before the workers' compensation judge must be filed within 2 years after benefits are denied."

{*Internal References to 39-71-2905:*
39-71-415 x}"

Renumber: subsequent sections

9. Page 34.
Following: line 11
Insert: "(3) [Section 3] is intended to be codified as an integral part of Title 39, chapter 71, part 5, and the provisions of Title 39, chapter 71, part 5, apply to [section 3]."

10. Page 34, line 13.
Strike: "[This act]"
Insert: "Except as provided in [section 27], [this act]"

11. Page 34, line 18.
Following: "~~24~~"
Strike: "9, 10," through "21"
Insert: "3, 8, 9, 12, 13, 21, 23 through 25, and 27"

12. Page 34.
Following: line 19
Insert: "NEW SECTION. **Section 27. {standard} Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to liens filed by the department of labor and industry on judgments issued against uninsured employers prior to [the effective date of this act] and to actions pending within the department of labor and industry and the workers' compensation court on [the effective date of this act] regarding benefit disputes and penalty disputes as provided in [sections 3, 9, and 21]."

- END -