

**SUBSTITUTE FOR
HOUSE BILL NO. 5487**

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 551 (MCL 418.551), as amended by 2002 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 551. (1) As soon as practicable after January 1 of each
2 year, the director shall assess pursuant to subsection (3) a sum
3 that in total is equal to 175% of the total disbursements made from
4 the second injury fund during the preceding calendar year, less the
5 amount of net assets in excess of \$200,000.00 in that fund as of
6 December 31 of the preceding calendar year.

7 (2) As soon as practicable after January 1 of each year, the
8 director shall assess pursuant to subsection (3) a sum that in
9 total is equal to 175% of the total disbursements made from the
10 silicosis, dust disease, and logging industry compensation fund

1 during the preceding calendar year, less the amount of net assets
2 in excess of \$200,000.00 in that fund as of December 31 of the
3 preceding calendar year.

4 (3) The portion of the total assessment amounts under
5 subsections (1) and (2) allocated to self-insurers shall be equal
6 to a percentage determined as follows: The total paid losses of all
7 self-insurers for the preceding calendar year divided by the total
8 paid losses of all carriers during the preceding calendar year. The
9 portion of the total assessment amounts under subsections (1) and
10 (2) allocated to insurers shall be equal to a percentage determined
11 as follows: The total paid losses of all insurers for the preceding
12 calendar year divided by the total paid losses of all carriers
13 during the preceding calendar year. The portion of the total
14 assessments allocated to self-insurers that shall be collected from
15 each self-insurer shall be equal to a percentage determined as
16 follows: The total paid losses of ~~each~~**THAT** self-insurer divided by
17 the total paid losses of all self-insurers during the preceding
18 calendar year. The portion of the total assessment allocated to
19 insurers that shall be collected from each insurer shall be equal
20 to a percentage determined as follows: The amount of total direct
21 premiums written as reported by ~~each~~**THAT** insurer divided by the
22 amount of total direct premiums written as reported by all insurers
23 during the preceding calendar year. As used in this subsection:

24 (a) "Direct premiums written" means standard written Michigan
25 workers' compensation premium prior to the application of
26 deductible credits, as reported to the designated advisory
27 organization, through policy declarations and unit statistical

1 reports compiled pursuant to the authority in section 2407 of the
2 insurance code of 1956, 1956 PA 218, MCL 500.2407. For the purposes
3 of determining assessments under this section, the reported data
4 for the most recent full calendar year on file with the designated
5 advisory organization shall be used.

6 (b) "Total paid losses" means total compensation benefits paid
7 under this act, exclusive of payments made pursuant to sections
8 315, 319, and 345.

9 (4) The director, upon the advice of the trustee representing
10 the self-insurers, may make additional assessments upon private
11 self-insurers as the trustee considers necessary to keep the self-
12 insurers' security fund solvent. **AFTER DECEMBER 31, 2019, THE**
13 **DIRECTOR SHALL NOT ASSESS PRIVATE EMPLOYER GROUP SELF-INSURERS ON**
14 **BEHALF OF THE SELF-INSURERS' SECURITY FUND.** The assessment **FOR THE**
15 **2015 CALENDAR YEAR AND EACH CALENDAR YEAR THEREAFTER SHALL BE**
16 **CALCULATED BASED EXCLUSIVELY ON CLAIMS PAYMENTS AND ADMINISTRATIVE**
17 **EXPENSE OF THE SELF-INSURERS' SECURITY FUND FOR THE IMMEDIATELY**
18 **PRECEDING CALENDAR YEAR AND THE ESTIMATE OF FUTURE LIABILITY FOR**
19 **THE CURRENT CALENDAR YEAR AS REPORTED IN THE ANNUAL FINANCIAL**
20 **REPORT REQUIRED UNDER SUBSECTION (10), AND shall not exceed 3% in**
21 **any calendar year exclusive of payments made pursuant to sections**
22 **315, 319, and 345. EFFECTIVE JANUARY 1, 2015 THROUGH DECEMBER 31,**
23 **2019, THE ASSESSMENT LIMIT UNDER THIS SUBSECTION IS INCREASED TO A**
24 **PERCENTAGE NOT TO EXCEED 3.5%, IF THE PROCEEDS OF ANY ASSESSMENT**
25 **ABOVE 3% ARE USED EXCLUSIVELY FOR CLAIMS AGAINST THE SELF-INSURERS'**
26 **SECURITY FUND BY DISABLED EMPLOYEES OR DEPENDENTS, AS DESCRIBED IN**
27 **SECTION 331, OF DELPHI CORPORATION OR DELPHI AUTOMOTIVE SYSTEMS**

1 CORPORATION THAT ARISE OUT OF EMPLOYMENT DURING THE PERIOD FROM MAY
2 28, 1999 TO OCTOBER 7, 2009. HOWEVER, ANY TEMPORARY INCREASE THAT
3 RAISES THE ASSESSMENT ABOVE 3.0% SHALL NOT BE ASSESSED UNLESS ALL
4 OF THE FOLLOWING REQUIREMENTS ARE MET:

5 (A) AN APPROPRIATION OF \$15,000,000.00 OR MORE IS MADE AND
6 PLACED IN A RESTRICTED ACCOUNT FOR THE SOLE PURPOSE OF PAYING
7 CLAIMS DESCRIBED IN THIS SUBSECTION, WHICH APPROPRIATION DOES NOT
8 LAPSE AT THE END OF A FISCAL YEAR.

9 (B) AN ACTUARIAL ANALYSIS HAS CONFIRMED THAT THE SOURCES OF
10 FUNDING DESCRIBED IN SUBDIVISION (C) WILL BE INSUFFICIENT TO PAY
11 THE EXPECTED CLAIMS.

12 (C) THE CLAIMS THE SELF-INSURERS' SECURITY FUND RECEIVES THAT
13 MAY BE PAID FROM THE TEMPORARY ADDITIONAL ASSESSMENT EXCEED THE
14 AMOUNT THAT WILL BE RAISED FROM THE CURRENT ASSESSMENT PLUS
15 \$8,000,000.00 OF THE APPROPRIATION UNDER SUBDIVISION (A).

16 (D) CLAIMS ARE FIRST PAID FROM THE 2 SOURCES IDENTIFIED IN
17 SUBDIVISION (C) BEFORE AMOUNTS ATTRIBUTED TO THE TEMPORARY
18 ASSESSMENT INCREASE OR MONEY FROM THE APPROPRIATION ABOVE THE
19 \$8,000,000.00 IDENTIFIED IN SUBDIVISION (C) ARE USED TO PAY CLAIMS.

20 (E) AFTER SUBTRACTING THE \$8,000,000.00 FROM THE APPROPRIATION
21 FOR USE AS PROVIDED IN SUBDIVISION (D), AN AMOUNT EQUAL TO 20% OF
22 THE BALANCE OF THE APPROPRIATION UNDER SUBDIVISION (A) IS THE
23 MAXIMUM THAT MAY BE EXPENDED FROM THE REMAINDER OF THE
24 APPROPRIATION IN ANY FISCAL YEAR.

25 (5) Notice of the assessments shall be sent by the director by
26 ~~first class~~ **FIRST-CLASS** mail to each carrier. ~~Payment of~~
27 ~~assessments shall be made so as to be received in the Lansing~~

~~office of the bureau on or before a date specified uniformly in the notice, but not less than 90 days after the date of mailing.~~THE

NOTICE SHALL STATE THAT THE ASSESSMENT MUST BE RECEIVED BY THE AGENCY AT THE ADDRESS INDICATED IN THE NOTICE BY 90 DAYS AFTER THE NOTICE MAILING DATE AND THAT INTEREST AND PENALTIES WILL ACCRUE AT THE FOLLOWING RATES:

(A) SUBJECT TO SUBDIVISION (C), FOR AN ASSESSMENT THAT IS UNPAID 90 DAYS AFTER THE NOTICE MAILING DATE, INTEREST ACCRUES ON THE UNPAID BALANCE BEGINNING THE NINETY-FIRST DAY AND IS CALCULATED IN THE SAME MANNER AS INTEREST ON A MONEY JUDGMENT IN A CIVIL ACTION UNDER SECTION 6013(8) OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.6013.

(B) SUBJECT TO SUBDIVISION (C), IN ADDITION TO THE INTEREST UNDER SUBDIVISION (A), A PENALTY OF 1% PER MONTH FOR EACH MONTH AN ASSESSMENT IS UNPAID BEGINNING 181 DAYS AFTER THE NOTICE MAILING DATE.

(C) IF A CARRIER'S DELINQUENT ASSESSMENTS AND ANY APPLICABLE INTEREST AND PENALTIES TOTAL \$25.00 OR LESS FOR ALL FUNDS IN A SINGLE ASSESSMENT YEAR, THE DIRECTOR MAY WAIVE THE ASSESSMENTS, INTEREST, AND PENALTIES.

(6) All assessments constitute elements of loss for the purpose of establishing rates for worker's compensation insurance.

(7) An employer who has stopped being a self-insurer shall continue to be liable for a second injury fund; silicosis, dust disease, and logging industry compensation fund; or self-insurers' security fund assessment on account of any compensation benefits, exclusive of payments made pursuant to sections 315, 319, and 345,

1 paid by the employer during the previous calendar year.

2 (8) The director shall certify to the trustees the collection
3 and receipt of all money from assessments, **INCLUDING INTEREST AND**
4 **PENALTIES**, noting any delinquencies. The trustees shall immediately
5 notify delinquent carriers, including private self-insurers, of
6 their delinquency in writing by certified mail, return receipt
7 requested. The trustees shall take action as in their judgment is
8 proper to effect collection of any delinquent assessment. All money
9 received from assessments, **INCLUDING INTEREST AND PENALTIES**, under
10 this section shall be turned over to the state treasurer who shall
11 be the custodian of the self-insurers' security fund; **THE PRIVATE**
12 **EMPLOYER GROUP SELF-INSURERS SECURITY FUND**; the second injury fund;
13 and the silicosis, dust disease, and logging industry compensation
14 fund. The treasurer may make those investments as in the
15 treasurer's judgment are in the best interest of the funds. The
16 earnings from the investment of the money from the funds shall be
17 credited to the funds. The state treasurer, at the end of each
18 fiscal year, shall determine ~~what~~**THE** amount **THAT** represents a pro
19 rata earnings share due to each fund, shall credit the pro rata
20 earning share to each fund, and shall notify the trustee of the
21 amount credited and the balance of the respective fund as of
22 September 30. The trustees shall make separate annual reports and
23 accountings for each fund, which reports shall be included in the
24 annual report of the ~~bureau~~**AGENCY**.

25 (9) **IF, AFTER AN ANNUAL REVIEW, THE TRUSTEE REPRESENTING THE**
26 **SELF-INSURERS DETERMINES THAT THE REMAINING BALANCE, EXCLUSIVE OF**
27 **FUNDS DERIVED FROM AN APPROPRIATION FROM THE GENERAL FUND, EXCEEDS**

1 THE AMOUNT NECESSARY TO PAY THE KNOWN CLAIMS, THE TRUSTEE
2 REPRESENTING THE SELF-INSURERS SHALL RECOMMEND TO THE DIRECTOR THAT
3 THE SURPLUS DERIVED FROM THE TEMPORARY ASSESSMENT INCREASE UNDER
4 SUBSECTION (4) BE RETURNED, PRO RATA, TO THE SELF-INSURERS THAT
5 PAID THE ASSESSMENT INCREASE.

6 (10) NOT LATER THAN MARCH 31, 2015 AND EACH YEAR THEREAFTER,
7 THE DIRECTOR SHALL MAKE AVAILABLE TO THE PUBLIC AND INCLUDE IN THE
8 AGENCY'S ANNUAL REPORT AN ANNUAL FINANCIAL REPORT OF THE ACCOUNTS
9 AND RECORDS OF THE SELF-INSURERS' SECURITY FUND COVERING THE
10 IMMEDIATELY PRECEDING CALENDAR YEAR. THE ANNUAL FINANCIAL REPORT
11 SHALL BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
12 PRINCIPLES AND SHALL CONTAIN CERTIFICATES OF EXAMINATION BY AN
13 INDEPENDENT AUDITOR BASED ON GENERALLY ACCEPTED ACCOUNTING
14 PRINCIPLES AND GENERALLY ACCEPTED AUDITING STANDARDS, AND SUPPORTED
15 BY ACTUARIAL REVIEW AND OPINION OF THE FUTURE CONTINGENT
16 LIABILITIES. THE DIRECTOR MAY REQUIRE A SPECIAL AUDIT TO BE MADE AT
17 OTHER TIMES IF THE FINANCIAL STABILITY OF THE FUND OR THE ADEQUACY
18 OF ITS MONETARY RESERVES IS IN QUESTION. AN AUDITED FINANCIAL
19 STATEMENT INCLUDED IN THE ANNUAL FINANCIAL REPORT SHALL INCLUDE,
20 BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

21 (A) A DETAILED STATEMENT OF ASSETS, LIABILITIES, AND NET
22 ASSETS.

23 (B) A DETAILED STATEMENT OF REVENUES AND EXPENSES.

24 (C) A DETAILED STATEMENT OF CASH FLOW.

25 (D) ANY RELATED INFORMATION RELEVANT TO THE FINANCIAL
26 ACCOUNTING AND OPERATIONS OF THE SELF-INSURERS' SECURITY FUND.

27 (E) AN ESTIMATE OF FUTURE LIABILITY OF THE SELF-INSURERS'

1 SECURITY FUND FOR PAYMENT OF CLAIMS MADE AGAINST A PRIVATE SELF-
2 INSURER BASED ON COMPUTATIONS THAT REFLECT THE PROBABLE TOTAL
3 FUTURE COST OF COMPENSATION AND MEDICAL BENEFITS DUE, OR THAT CAN
4 REASONABLY BE EXPECTED TO BE DUE, OVER THE LIFE OF THE CLAIM.

5 (F) A REPORT OF EACH LIABILITY ASSUMED FOR PAYMENT OF CLAIMS
6 MADE AGAINST A PRIVATE SELF-INSURER.

7 (11) NOT LATER THAN MARCH 31, 2015 AND EACH YEAR THEREAFTER,
8 THE DIRECTOR SHALL MAKE AVAILABLE TO THE PUBLIC AND INCLUDE IN THE
9 AGENCY'S ANNUAL REPORT A REPORT DETAILING INFORMATION REGARDING THE
10 SELF-INSURERS' SECURITY FUND'S MANAGEMENT OF CLAIMS. THE REPORT
11 SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

12 (A) TOTAL COST PER CLAIM.

13 (B) COST PER ACTIVE CLAIM AND COST PER CLOSED CLAIM.

14 (C) INDEMNITY COST PER CLAIM.

15 (D) MEDICAL COST FOR INDEMNITY CLAIMS.

16 (E) MEDICAL COSTS FOR MEDICAL-ONLY CLAIMS.

17 (F) AVERAGE REDEMPTION.

18 (G) AVERAGE PAID CLAIM AMOUNT.

19 (H) AVERAGE LOSS ADJUSTMENT EXPENSE.

20 (I) METHODS UTILIZED TO INCREASE EFFICIENCY AND PROVIDE
21 QUALITY CONTROL IN CLAIMS MANAGEMENT.

22 (12) A REPORT PREPARED UNDER SUBSECTION (10) OR (11) SHALL NOT
23 INCLUDE ANY PERSONALLY IDENTIFIABLE INFORMATION.

24 Enacting section 1. This amendatory act does not take effect
25 unless House Bill No. 5489 of the 97th Legislature is enacted into
26 law.