

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-205—HB 6474

Judiciary Committee

AN ACT CONCERNING THE RESOLUTION OF LIENS IN WORKERS' COMPENSATION CASES

SUMMARY: This act reduces an employer's claim for reimbursement of workers' compensation benefits paid to an employee when the employee sues someone who is liable for the injury and the employer does not join the suit. But the reduction does not apply if reimbursement is to the (1) state or a political subdivision, including a local public agency, as the employer or (2) Second Injury Fund administrator.

By law, the employee or employer or Second Injury Fund administrator paying benefits can bring such a lawsuit. The individual bringing the suit must immediately notify the others in writing and the others can join the suit. Under prior law, if the others did not join the suit within 30 days, their right of action against the party in question abates. The act provides that the right of action does not abate if the employer, insurer, or administrator fails to join the lawsuit but gives written notice of a lien. By law, an employer, its insurance carrier, or the Second Injury Fund paying benefits to an injured employee has a lien on any judgment or settlement the employee receives if they provide notice of the lien before judgment or settlement.

EFFECTIVE DATE: July 1, 2011

EMPLOYER'S REDUCED CLAIM

By law, an injured employee eligible for workers' compensation benefits can sue someone who is liable for damages for the injury, except for an employer who complies with the workers' compensation law or another employee. An employer who has paid or is obligated to pay workers' compensation benefits to the employee can also sue or join an employee's lawsuit in order to be reimbursed for benefits paid.

By law, if the employer and employee are both plaintiffs and recover damages, these are apportioned so that the employer's claim takes precedence, after deductions for reasonable and necessary expenses, including attorneys' fees incurred by the employee. Under the act, if the employee brings the action, the employer's claim is reduced by one-third of the amount to be reimbursed to the employer unless the parties agree otherwise. The reduction amount is solely for the employee's benefit. But the reduction does not apply if reimbursement is to the (1) state or a political subdivision, including a local public agency, as the employer or (2) Second Injury Fund administrator.

BACKGROUND

OLR PUBLIC ACT SUMMARY

Second Injury Fund

This fund provides workers' compensation insurance coverage to workers whose employers failed to provide it. By law, the fund's administrator can also sue or join an employee's lawsuit.

OLR Tracking: CR:JM:JL:df