



General Assembly

February Session, 2016

***Raised Bill No. 5449***

LCO No. 2087



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:  
(LAB)

***AN ACT CONCERNING LIABILITY FOR UNFAIR INSURANCE  
PRACTICES IN WORKERS' COMPENSATION CLAIMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-300 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) As soon as may be after the conclusion of any hearing, but no  
4 later than one hundred twenty days after such conclusion, the  
5 commissioner shall send to each party a written copy of the  
6 commissioner's findings and award. The commissioner shall, as part of  
7 the written award, inform the employee or the employee's dependent,  
8 as the case may be, of any rights the individual may have to an annual  
9 cost-of-living adjustment or to participate in a rehabilitation program  
10 administered by the Department of Rehabilitation Services under the  
11 provisions of this chapter. The commissioner shall retain the original  
12 findings and award in said commissioner's office. If no appeal from the  
13 decision is taken by either party within twenty days thereafter, such  
14 award shall be final and may be enforced in the same manner as a  
15 judgment of the Superior Court. The court may issue execution upon

16 any uncontested or final award of a commissioner in the same manner  
17 as in cases of judgments rendered in the Superior Court; and, upon the  
18 filing of an application to the court for an execution, the commissioner  
19 in whose office the award is on file shall, upon the request of the clerk  
20 of said court, send to the clerk a certified copy of such findings and  
21 award. In cases where, through the fault or neglect of the employer or  
22 insurer, adjustments of compensation have been unduly delayed, or  
23 where through such fault or neglect, payments have been unduly  
24 delayed, the commissioner may include in the award interest at the  
25 rate prescribed in section 37-3a and a reasonable attorney's fee in the  
26 case of undue delay in adjustments of compensation and may include  
27 in the award in the case of undue delay in payments of compensation,  
28 interest at twelve per cent per annum and a reasonable attorney's fee.  
29 Payments not commenced within thirty-five days after the filing of a  
30 written notice of claim shall be presumed to be unduly delayed unless  
31 a notice to contest the claim is filed in accordance with section 31-297.  
32 In cases where there has been delay in either adjustment or payment,  
33 which delay has not been due to the fault or neglect of the employer or  
34 insurer, whether such delay was caused by appeals or otherwise, the  
35 commissioner may allow interest at such rate, not to exceed the rate  
36 prescribed in section 37-3a, as may be fair and reasonable, taking into  
37 account whatever advantage the employer or insurer, as the case may  
38 be, may have had from the use of the money, the burden of showing  
39 that the rate in such case should be less than the rate prescribed in  
40 section 37-3a to be upon the employer or insurer. In cases where the  
41 claimant prevails and the commissioner finds that the employer or  
42 insurer has unreasonably contested liability, the commissioner may  
43 allow to the claimant a reasonable attorney's fee. No employer or  
44 insurer shall discontinue or reduce payment on account of total or  
45 partial incapacity under any such award, if it is claimed by or on  
46 behalf of the injured person that such person's incapacity still  
47 continues, unless such employer or insurer notifies the commissioner  
48 and the employee of such proposed discontinuance or reduction in the  
49 manner prescribed in section 31-296 and the commissioner specifically

50 approves such discontinuance or reduction in writing. The  
51 commissioner shall render the decision within fourteen days of receipt  
52 of such notice and shall forward to all parties to the claim a copy of the  
53 decision not later than seven days after the decision has been rendered.  
54 If the decision of the commissioner finds for the employer or insurer,  
55 the injured person shall return any wrongful payments received from  
56 the day designated by the commissioner as the effective date for the  
57 discontinuance or reduction of benefits. Any employee whose benefits  
58 for total incapacity are discontinued under the provisions of this  
59 section and who is entitled to receive benefits for partial incapacity as a  
60 result of an award, shall receive those benefits commencing the day  
61 following the designated effective date for the discontinuance of  
62 benefits for total incapacity. In any case where the commissioner finds  
63 that the employer or insurer has discontinued or reduced any such  
64 payment without having given such notice and without the  
65 commissioner having approved such discontinuance or reduction in  
66 writing, the commissioner shall allow the claimant a reasonable  
67 attorney's fee together with interest at the rate prescribed in section 37-  
68 3a on the discontinued or reduced payments.

69 (b) Notwithstanding the provisions of subsection (a) of this section,  
70 in cases where (1) the employer or insurer has unreasonably contested  
71 liability, or (2) payments or adjustments of compensation have been  
72 unreasonably delayed through the fault or neglect of the employer or  
73 insurer, a claimant may bring an action against such employer or  
74 insurer for damages, including, but not limited to, demonstrable  
75 economic damages, damages for mental or physical injury or pain and  
76 suffering, and reasonable attorney's fees on account of a breach of the  
77 covenant of good faith and fair dealing or an unfair practice, as defined  
78 in section 38a-816, or unfair trade practice, as described in chapter  
79 735a. A claimant may bring such action prior to exhausting the  
80 administrative remedies of chapter 568, except any damages or  
81 benefits awarded by the commissioner pursuant to said chapter shall  
82 be credited against any damages or benefits awarded pursuant to such

83 action. In cases where the claimant does not prevail in such action, the  
84 court may award the employer or insurer reasonable attorney's fees  
85 not to exceed five thousand dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	31-300

**Statement of Purpose:**

To allow individuals seeking compensation for a workers' compensation claim to bring an action against an employer or insurer that has unreasonably contested liability or unreasonably delayed payments or adjustments of such compensation.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*