WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)
Act 317 of 1969

CHAPTER 6
SECURITY FOR COMPENSATION

418.601 Definitions.

Sec. 601. Whenever used in this act:

(a) "Insurer" means an organization that transacts the business of worker's compensation insurance within this state.

(b) "Self-insurer" means either of the following:

(*i*) An individual employer authorized to carry its own risk.

(*ii*) A group of employers who pool their liabilities under this act as a group fund in the manner provided in section 611.

(c) "Carrier" means a self-insurer or an insurer.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1992, Act 269, Imd. Eff. Dec. 15, 1992;—Am. 1993, Act 198, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 198 of 1993 provides as follows:

Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act.

Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act."

Popular name: Act 317

418.611 Methods of securing payment of compensation; agreement among employers to pool liabilities; qualification as self-insurers; security; "public employer" defined; employer's liability insurance; employers in same industry; determination; nonpublic health care facility employer as member of self-insurers' group; denial or termination of self-insured status; appeal; review; application to service self-insurance program.

Sec. 611. (1) Each employer under this act, subject to the approval of the director, shall secure the payment of compensation under this act by either of the following methods:

(a) By receiving authorization from the director to be a self-insurer. In the case of an individual employer, the director may grant that authorization upon a reasonable showing by the employer of the employer's solvency and financial ability to pay the compensation and benefits provided for in this act and to make payments directly to the employer's employees as the employees become entitled to receive the payment under the terms and conditions of this act and pursuant to R 408.43c of the Michigan administrative code. If the director determines it to be necessary, the director shall require the furnishing of a bond or other security in a reasonable form and amount. Such security as may be required by the director may be provided by furnishing specific excess insurance, aggregate excess insurance coverage through a carrier authorized to write in this state in an amount acceptable to the director, a surety bond, an irrevocable letter of credit in a format acceptable to the agency, and claims payment guarantees.

(b) By insuring against liability with an insurer authorized to transact the business of worker's compensation insurance within this state.

(2) Under procedures and conditions specifically determined by the director, 2 or more employers in the same industry with combined assets of $1,000,000.00 or more, or 2 or more public employers of the same type of unit, may be permitted by the director to enter into agreements to pool their liabilities under this act for the purpose of qualifying as self-insurers. Each of the employer members participating in a self-insurer group possesses ownership in its proportional share of the assets of the group in excess of the self-insurer group obligations. The trustees of a self-insurer group, acting in their fiduciary capacity, shall establish processes and procedures for the distribution of excess assets with the approval of the director. For purposes of this subsection, cities, townships, counties, and villages; or 1 or more of the agencies, instrumentalities, or other legal entities of cities, townships, counties, or villages or any combination thereof; or authorities of 1 or more of cities, townships, counties, or villages or any combination thereof created pursuant to law are considered public employers of the same type of unit. An employer member of the approved group is classified as a self-insurer. For purposes of this subsection, universities and colleges, community colleges, and local and intermediate school districts, are considered public employers of the same type of unit. The director may grant authorization to become a member of an approved group upon a reasonable showing by an employer of the employer's solvency and financial stability to meet the employer's obligations as a member of

the group. If the director determines it to be necessary, the director may require the furnishing of a surety bond, fidelity bond, or other security by the group in a reasonable form and amount. The security the director requires may be provided by furnishing specific excess insurance, aggregate excess insurance coverage through a carrier authorized to write in this state in an amount acceptable to the director. An irrevocable letter of credit or a surety bond may be furnished in place of aggregate excess insurance. The format of the irrevocable letter of credit used by the agency on December 15, 1992 is acceptable until the format of the irrevocable letter of credit is promulgated by agency rules. If an irrevocable letter of credit is proposed, the director may require an independent actuarial opinion from the group fund supporting the proposal and estimating the ultimate loss at 90% confidence level. Assets of the fund allocated for the payment of administrative expenses or set aside for claims payments shall not be used as collateral for the irrevocable letter of credit. Use of surplus assets as collateral must have prior agency approval. If the director determines it to be necessary, the director may obtain an independent review of the actuarial opinion submitted by the group fund at the expense of the group fund to determine the ability of the group fund to meet its obligation under this act. The group fund shall make available all documentation used for the actuarial report if requested by the director for an independent review. An employer, except a public employer, permitted to become a member of a self-insurers' group under this act shall execute a written agreement in which the employer agrees to jointly and severally assume and discharge, by payment, any lawful award entered by the agency against a member of the group. If the case is appealed by either party, the award must be upheld before a member of the group is liable. Any lawful award entered by the agency, and upheld if appealed, against a public employer that is a member of a group is a liability of the group jointly but not severally. If the group is unable to pay the award, the group or the agency shall individually assess those public employers who were members on the date of injury to the extent necessary to pay the award. An assessment is a contractual obligation of the public employer. As used in this subsection, "public employer" means a city, village, township, county, school district, or community college; or an agency, entity, or instrumentality thereof; or an authority comprising any combination of the foregoing. This subsection does not alter the obligation of either a group or an employer to comply with section 862. For purposes of this subsection, an authorized group self-insurer, in conjunction with providing security for the payment of compensation and benefits provided for in this act, may provide coverage customarily known as employer's liability insurance for members of the group.

(3) For the purpose of determining whether employers are in the same industry under subsection (2), the following apply:

(a) The forest industry includes those businesses engaged in the growing, harvesting, processing, or sale of forest products, except at the retail level, unless more than 80% of the income from the retailer comes from the growing, harvesting, processing, or wholesale sale of forest products, and any supplier or service companies that receive more than 80% of their income from these businesses.

(b) "Forest products" include Christmas trees, firewood, maple syrup, and all other products derived from wood or wood fiber that are manufactured with woodworking equipment including saws, planers, drills, chippers, lumber dry kilns, sanders, glue presses, nailers, notchers, shapers, lathes, molders, and other similar finishing processes.

(4) The director may permit a nonpublic health care facility employer to become a member of a self-insurers' group with public employers under subsection (2) if the principal service rendered by the nonpublic health care facility employer is the same type of service rendered by the public employers. If a nonpublic health care facility employer is permitted to become a member of the same self-insurers' group with public employers, any lawful award entered by the agency against that nonpublic health care facility employer, if the award is upheld on appeal, is a liability of the group and, if the group is unable to pay the award, the group or the agency shall individually assess those nonpublic health care facility employers who were members on the date of injury to the extent necessary to pay the award. The director may waive the requirement of the written agreement required of a nonpublic health care facility employer under subsection (2) as to any member of a group involving a combination of public and nonpublic health care facility employers. Except as otherwise provided in this subsection, subsection (2) is applicable to all self-insurers' groups and their individual employer members.

(5) The director may decline to approve an application for individual or group self-insurance or terminate the self-insured privilege if the self-insurer fails to demonstrate that the self-insurer will be able to meet all present and future obligations under this act or the self-insurer fails to maintain security requirements previously imposed as a condition for approval. Notice of intent to deny or terminate self-insured status shall be mailed to the self-insurer. The notice must include the grounds for denial or termination. The self-insurer may request a hearing before the director within 15 days after the mailing of the notice by the agency. If the recommendation for termination of self-insured status is based on the self-insurer's failure to maintain existing

security requirements such as excess insurance, letters of credit, guarantees, or surety bonds, the self-insurer shall reinstate the security requirements pending the hearing. Proof of the reinstatement shall accompany the request for hearing. If the self-insurer fails to reinstate existing security requirements, the director may make a final decision on the evidence before him or her without further hearing.

(6) If an appeal is taken from a decision of the director made under subsection (5), the director may require the self-insurer to post a surety bond, irrevocable letter of credit, or other security in a reasonable amount to guarantee that money will be available to pay worker's disability compensation benefits to injured employees covered by the self-insured program. The security must be filed with the director at the time an appeal is taken to the appellate commission and must be consistent with R 408.43a and R 408.43q of the Michigan administrative code. If the self-insurer is a group fund, the director shall review the assets and liabilities, claims experience history, and future claims potential of the group fund and recognize the ability of the group fund to assess its membership in making a decision on the need for additional security. A claim for review of the director's order or decision made pursuant to subsection (5) shall be filed with the Michigan compensation appellate commission within 15 days after the mailing date of the order or decision. If a claim for review is not filed within 15 days, the aggrieved party is considered to have waived the right to appeal. Within 15 days after service of a copy of the claim for review, unless the time is extended by order of the appellate commission, the agency shall file the original or certified copy of the entire record of the proceedings, unless parties to the proceedings for review stipulate that the record be shortened. A party who unreasonably refuses to so stipulate may be taxed by the appellate commission for the additional costs of preparation. If the self-insurer disputes the imposition of additional security at time of appeal, the dispute must be in the form of a motion directed to the appellate commission within 15 days after the filing of the record. The agency's reply to the motion shall be filed within 15 days after receipt of appellant's motion. The appellate commission shall act on the motion within 15 days after the agency files its reply to appellant's motion and shall notify the parties of interest of its decision. The appealing party's brief shall be filed with the appellate commission 15 days after the filing of the record and a copy shall be served upon the opposite party. The agency's reply brief shall be filed within 15 days after receipt of the appellant's brief. Oral argument may be requested by any party to the proceedings. The request must be in the form of a motion directed to the appellate commission within 15 days after the filing of the record. The appellate commission shall act on the motion within 15 days of filing the motion and shall notify the parties in interest of its decision. Otherwise, after 15 days, the appellate commission shall hear the case upon the record and shall consider the briefs that have been filed. The decision of the appellate commission shall be made within 30 days after the date of the oral argument or, if no oral argument, within 30 days after the date that the agency's brief is required to be filed. The appellate commission may remand the matter to the agency for purposes of supplying a complete record if it determines that the record is insufficient for purposes of review. Proceedings under this section do not operate as a stay of the agency's order, including any additional security imposed by the director, unless stayed by order of the appellate commission. The commission-ordered stay is subject to any conditions that the appellate commission imposes. The appellate commission has jurisdiction to affirm, modify, or set aside the order or decision of the director. A final order the appellate commission enters relating to a decision or order of the director to deny an application for self-insurance or to terminate the self-insured privilege under subsection (5) may be appealed by filing an application for leave to appeal to the court of appeals within 30 days after the order.

(7) The director may review and alter a decision approving the election of an employer to adopt any 1 of the methods permitted by subsection (1), (2), or (4) if, in the director's judgment, that action is necessary or desirable for any reason.

(8) Under procedures and conditions specifically determined by the director, an individual, partnership, or corporation desiring to engage in the business of servicing an approved worker's compensation self-insurance program for an individual or group of employers shall apply to the director before entering into a contract with the individual or group of employers and shall satisfy the director that the individual, partnership, or corporation has adequate facilities and competent personnel to service a self-insurance program in a manner that will fulfill the employer's obligations under this act.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1974, Act 45, Imd. Eff. Mar. 19, 1974;—Am. 1976, Act 404, Imd. Eff. Jan. 5, 1977;—Am. 1978, Act 35, Imd. Eff. Feb. 24, 1978;—Am. 1978, Act 245, Imd. Eff. June 20, 1978;—Am. 1980, Act 494, Imd. Eff. Jan. 21, 1981;—Am. 1982, Act 32, Imd. Eff. Mar. 10, 1982;—Am. 1988, Act 386, Eff. Mar. 30, 1989;—Am. 1992, Act 269, Imd. Eff. Dec. 15, 1992;—Am. 1993, Act 198, Eff. Dec. 28, 1994;—Am. 2015, Act 195, Eff. Feb. 14, 2016.

Compiler's note: Section 3 of Act 198 of 1993 provides as follows:

"Section 3. (1) Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee

pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act.

"(2) Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act."

For the abolishment of the Michigan compensation appellate commission and establishment of the new workers' disability compensation appeals commission within the workers' disability compensation agency in the department of labor and economic opportunity and the transfer of certain powers and duties of the Michigan compensation appellate commission to the workers' disability compensation appeals commission, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: Act 317

418.613 Misclassification of services; penalties or interest.

Sec. 613. If the agency determines that services are covered employment under section 161(1)(n) and the agency received the request on or after the effective date of the amendatory act that added this subsection and before January 1, 2013, the employer shall not be subject to penalties or interest on underpayments or other violations before the date of the determination arising from the misclassification of those services.

History: Add. 2011, Act 266, Imd. Eff. Dec. 19, 2011.

Compiler's note: Enacting section 2 of Act 266 of 2011 provides:
"Enacting section 2. This amendatory act applies to injuries incurred on or after its effective date."
In this section, the word "subsection" evidently should read "section."

Popular name: Act 317

418.615 Report by employer not self-insurer; failure to file.

Sec. 615. Upon written request of the director, every employer who has not been exempted by the director from insuring his compensation risk shall report to him in writing the number of employees, the nature of their work, the name of the insurer with whom he has insured his liability under this act and the number and date of expiration of such policy. Failure to furnish the report within 10 days from the making of a request by registered mail constitutes presumptive evidence that the delinquent employer is violating the provisions of section 611.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.621 Insurance contracts subject to act; separate policy for certain employees; construction site; required provisions; form; applicability of section to State Accident Fund.

Sec. 621. (1) Every contract for the insurance of the compensation provided in this act for or against liability therefore, shall be subject to the provisions of this act and provisions inconsistent with this act are void.

(2) The state accident fund and each insurer issuing an insurance policy to cover any employer not permitted to be a self-insurer under section 611 shall insure, cover, and protect in the same insurance policy, all the businesses, employees, enterprises, and activities of the employer.

(3) Under procedures and conditions specifically determined by the director, a separate insurance policy may be issued to cover employers performing work at a specified construction site if the director finds that the liability under this act of each employer to all his or her employees would at all times be fully secured and the cost of construction at the site, not including the cost of land acquisition, will exceed $65,000,000.00, and the contemplated completion period for the construction will be 5 years or less.

Each construction site shall have an appointed construction safety and health director employed by the owner, construction manager, general contractor of the construction site, or insurance carrier for the project. The safety and health director shall have experience in the field of construction safety and health. The construction safety and health director shall be a full-time director with job duties limited to occupational safety and health related issues. The safety and health director shall be located at and work from the construction site, whenever construction activity takes place on the site. The owner, construction manager, or general contractor shall designate an alternate construction safety and health director with experience in the field of construction safety and health during multiple shifts and temporary absences of the construction safety and health director. The alternate construction safety and health director shall exercise the same responsibilities and authority as the construction safety and health director and report to the safety and health director on the activities at the site during the safety and health director's absence. The safety and health director shall be responsible for coordination among all employers at the construction site to provide a safe and healthful worksite. The construction safety and health director shall be the final authority for resolution of all disputes related to construction safety and health at the worksite. All construction contractors at the construction site shall accept the services of the education and training personnel from the departments of labor or public health, or both, who provide such services pursuant to the Michigan occupational safety and

health act, Act No. 154 of the Public Acts of 1974, being sections 408.1001 to 408.1094 of the Michigan Compiled Laws. The construction safety and health director shall assist all contractors at the construction site in developing comprehensive accident prevention programs as required by R 408.40114 of the Michigan administrative code.

A notice of issuance of insurance policy shall be filed on a form provided by the bureau for each employer working on the specific construction site. The notice of issuance shall conform to the requirements of section 625.

(4) Except as modified by the director as provided for herein, each policy of insurance covering worker's compensation in this state shall contain the following provisions:

"Notwithstanding any language elsewhere contained in this contract or policy of insurance, the insurer issuing this policy hereby contracts and agrees with the insured employer:

Compensation.

(a) That it will pay to the persons that may become entitled thereto all worker's compensation for which the insured employer may become liable under the provisions of the Michigan worker's disability compensation act for all compensable injuries or compensable occupational diseases happening to his or her employees during the life of this contract or policy;

Medical services.

(b) That it will furnish or cause to be furnished to all employees of the employer, all reasonable medical, surgical, and hospital services and medicines when they are needed which the employer may be obligated to furnish or cause to be furnished to his or her employees under the provisions of the Michigan worker's disability compensation act and that it will pay to the persons entitled thereto for all such services and medicines when they are needed for all compensable injuries or compensable occupational diseases happening to his or her employees during the life of this contract or policy;

Rehabilitation services.

(c) That it will furnish or cause to be furnished such rehabilitation services for which the insured employer may become liable to furnish or cause to be furnished under the provisions of the Michigan worker's disability compensation act for all compensable injuries or compensable occupational diseases happening to his or her employees during the life of this contract or policy;

Funeral expenses.

(d) That it will pay or cause to be paid the reasonable expense of the last sickness and burial of all employees whose deaths are caused by compensable injuries or compensable occupational diseases happening during the life of this contract or policy and arising out of and in the course of their employment with the employer, which the employer may be obligated to pay under the provisions of the Michigan worker's disability compensation act;

Scope of contract.

(e) That this insurance contract or policy shall for all purposes be held and deemed to cover all the businesses the said employer is engaged in at the time of the issuance of this contract or policy and all other businesses, if any, the employer may engage in during the life of this contract or policy, and all employees the employer may employ in any of his or her businesses during the period covered by this policy;

Obligations assumed.

(f) That it hereby assumes all obligations imposed upon the employer by his or her acceptance of the Michigan worker's disability compensation act, as far as the payment of compensation, death benefits, medical surgical, hospital care or medicine and rehabilitation services is concerned;

Termination notice.

(g) That it will file with the bureau of workmen's compensation at Lansing, Michigan, at least 20 days before the taking effect of any termination or cancellation of this contract or policy, a notice giving the date at which it is proposed to terminate or cancel this contract or policy; and that any termination of this policy shall not be effective as far as the employees of the insured employer are concerned until 20 days after notice of proposed termination or cancellation is received by the bureau of workmen's compensation;

Conflicting provisions.

(h) That all the provisions of this contract, if any, which are not in harmony with this paragraph are to be construed as modified hereby, and all conditions and limitations in the policy, if any conflicting herewith are hereby made null and void."

(5) The provisions shall be printed upon or conspicuously attached to every insurance contract or policy issued by the state accident fund or insurer in type size not smaller than 10-point and shall constitute a separate paragraph of the policy. Any provision of the policy inconsistent with the undertakings and agreements of the state accident fund or insurer contained in such provisions shall be null and void.

(6) This section applies to the state accident fund until the state administrative board certifies in writing to

the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1973, Act 117, Imd. Eff. Aug. 21, 1973;—Am. 1993, Act 198, Eff. Dec. 28, 1994;—Am. 1994, Act 271, Imd. Eff. July 11, 1994.

Compiler's note: Section 3 of Act 198 of 1993 provides as follows:

Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act.

Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act."

Popular name: Act 317

418.625 Insurance policy's notice of issuance; contents; refusal to accept coverage.

Sec. 625. Each insurer mentioned in section 611 issuing an insurance policy covering worker's compensation in this state shall file with the director, within 30 days after the effective date of the policy, a notice of the issuance of the policy and its effective date. A notice of issuance of insurance, a notice of termination of insurance, or a notice of employer name change may be submitted in writing or by using agency-approved electronic filing and transaction standards and may be submitted by the insurer directly or by the compensation advisory organization of Michigan on behalf of the insurer. Payment shall not be required by the agency or any third party for the use of agency-approved electronic record layout and transaction standards under this act. Time requirements for notices under this act apply whether filed by the insurer or the compensation advisory organization of Michigan. If the policy covers persons who would otherwise be exempted from this act by section 115, the notice shall contain a specific statement to that effect. A notice is not required of any insurer if the policy issued is a renewal of the preceding policy. The insurer, if it refuses to accept any coverage under this act, shall do so in writing.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1993, Act 117, Eff. Apr. 1, 1994;—Am. 1995, Act 271, Imd. Eff. Jan. 8, 1996;—Am. 2002, Act 626, Imd. Eff. Dec. 23, 2002;—Am. 2011, Act 266, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 83, Imd. Eff. Apr. 11, 2012.

Compiler's note: Enacting section 2 of Act 266 of 2011 provides:

"Enacting section 2. This amendatory act applies to injuries incurred on or after its effective date."

Popular name: Act 317

418.631 Claim payments; filing reports.

Sec. 631. (1) If any insurer licensed to transact the business of workmen's compensation insurance within this state repeatedly or unreasonably fails to pay promptly claims for compensation for which it shall become liable or if it repeatedly fails to make reports to the director as provided in this act, the director may recommend to the commissioner of insurance that the license of the company be revoked, setting forth in detail the reasons for his recommendation. The commissioner shall thereupon furnish a copy of the report to the insurer and shall set a date for a hearing, at which both the insurer and the director shall be afforded an opportunity to present evidence. If after the hearing the commissioner is satisfied that the insurer has failed to live up to all of its obligations under this act, he shall promptly revoke its license otherwise he shall dismiss the complaint.

(2) If any employer who is subject to this act as an approved self-insurer repeatedly or unreasonably fails to pay promptly claims for compensation for which it shall become liable or if it repeatedly fails to make reports to the director as provided in this act, the director may revoke the privilege granted to the employer to carry its own risk and require it to insure its liability. Such action shall not be taken by the director against any employer until the employer has been notified in writing of the charges made against it by the director and has been given an opportunity to be heard before the director in answer to the charges.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.641 Noncompliance as misdemeanor; penalty; separate offenses; damages for violation of MCL 418.171 or MCL 418.611; recovery from uninsured employer; disposition of fines; director as party; injuries to which subsections (3), (4), and (5) applicable.

Sec. 641. (1) An employer who fails to comply with the provisions of section 611 is guilty of a misdemeanor and may be fined not more than $1,000.00, or imprisoned for not more than 6 months, or both. Each day's failure is a separate offense. An individual employee of an employer who refuses to provide

information requested by the fund trustees under section 532(10) is guilty of a misdemeanor and may be fined not more than $1,000.00, or imprisoned for not more than 6 months, or both.

(2) The employee of an employer who violates the provisions of section 171 or 611 shall be entitled to recover damages from the employer in a civil action because of an injury that arose out of and in the course of employment notwithstanding the provisions of section 131.

(3) The director of the bureau shall have the right and obligation to recover on behalf of the workplace health and safety fund from an uninsured employer in a civil action the amounts provided in section 723. If the employer is a corporation, the officers and directors of the corporation shall be individually and jointly and severally liable for any portion of the obligation and expenses that are not satisfied by the corporation.

(4) Any amounts collected pursuant to subsection (3) shall be paid to the uninsured employer's security account within the workplace health and safety fund established in sections 722 and 723.

(5) For the purposes of this section, the director shall be considered a party as described in section 863.

(6) Subsections (3), (4), and (5) shall apply to injuries that occur on or after June 29, 1990.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1990, Act 157, Imd. Eff. June 29, 1990;—Am. 1993, Act 118, Imd. Eff. July 20, 1993;—Am. 1996, Act 357, Imd. Eff. July 1, 1996.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Popular name: Act 317

418.645 Complaint; order to show cause; injunction; civil fine; limitation; collection and payment.

Sec. 645. (1) The director may file a complaint in the circuit court for the county in which the employer is located, or in the circuit court for Ingham county, requesting the relief permitted by this section against an employer that has failed, at any time within the immediately preceding 3 years, to comply with section 611.

(2) If the director's complaint alleges that the employer's liability is currently uninsured, there shall immediately be served on the employer an order to show cause why the employer should not be restrained from employing any person in his or her business pending the proceedings or until the employer shall have satisfied the court that the employer has complied with the provisions of section 171 or 611. The order to show cause shall be returnable before the court at a time to be fixed in the order not less than 24 hours nor more than 7 days after its issuance.

(3) Upon a complaint filed pursuant to subsection (1), an injunction shall be issued unless the employer proves that he or she is not subject to the provisions of this act or furnishes a surety company bond in an amount to secure all of the liability of the employer under this act. An injunction issued against an employer under this subsection shall perpetually enjoin the employer from employing any person in his or her business at any time the employer is not complying with section 171 or 611.

(4) The director's complaint may seek a civil fine of not more than $1,000.00 per day against an employer who has failed, at any time within the immediately preceding 3 years, to comply with section 611, whether or not the employer is currently in noncompliance. A civil fine shall be assessed by the court of not more than $1,000.00 for each day the court finds the employer not to have been in compliance with section 611.

(5) A civil fine collected pursuant to this section shall be paid to the worker's compensation administrative revolving fund established by section 835a.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1993, Act 118, Imd. Eff. July 20, 1993.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Popular name: Act 317

418.647 Failure of employer to comply with MCL 418.611; liability of employer as corporation, limited liability company, or limited liability partnership.

Sec. 647. (1) If compensation is awarded under this act against any employer who at the time of the injury has not complied with section 611, the employer shall not be entitled as to any judgment entered upon the award, to any of the exemptions of property from seizure and sale on execution allowed by statute.

(2) If the employer is a corporation, the officers and directors of the corporation shall be individually and jointly and severally liable for any portion of the judgment returned unsatisfied after execution against the corporation. If the employer is a limited liability company, the managers who are also members shall be individually and jointly and severally liable for any portion of the judgment returned unsatisfied after execution against the company. If the employer is a limited liability partnership, the partners shall be individually and jointly and severally liable for any portion of the judgment returned unsatisfied after execution against the partnership.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1995, Act 206, Imd. Eff. Nov. 29, 1995.

Popular name: Act 317

418.651 Existing contracts unaffected; rights and liabilities.

Sec. 651. Nothing in this act shall affect any existing contract for employers' liability insurance or affect the organization of any mutual or other insurance company or any arrangement now existing between employers and employees, providing for the payment to the employees, their families, dependents or representatives, sick, accident or death benefits, in addition to the compensation provided for by this act. Liability for compensation under this act shall not be reduced or affected by any insurance, contribution or other benefit whatsoever, due to or received by the person entitled to such compensation. The person so entitled, irrespective of any insurance or other contract, shall have the right to recover the same directly from the employer; and in addition the right to enforce in his or her own name in the manner provided in this act the liability of any insurance company who may have insured, in whole or in part, the liability for such compensation. Payment in whole or in part of such compensation by either the employer or the insurance company carrying the risk shall be a bar, to the extent of the payment, to recovery against the other of the amount so paid.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1993, Act 198, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 198 of 1993 provides as follows:

Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act.

Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act."

Popular name: Act 317

418.655 Relief from liability.

Sec. 655. Any employer against whom liability may exist for compensation under this act, with the approval of the director, may be relieved therefrom by:

(a) Depositing the present value of the total unpaid compensation for which such liability exists, assuming interest at 3% per annum, with a trust company of this state designated by the employee, or by his dependents, in case of his death and such liability exists in their favor, or in default of such designation, after 10 days notice in writing from the employer, with a trust company of this state designated by the director.

(b) Purchasing an annuity, within the limitations provided by law, in any insurance company granting annuities and licensed in this state, which may be designated by the employee, his dependents or the director, as provided in subdivision (a).

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.657 Public employers; operating expense; tax levy.

Sec. 657. Incorporated public boards and commissions shall treat the cost of benefits payable pursuant to the provisions of this act or the cost of insuring their liability for such benefits as part of their necessary operating expense and such sums shall be separately budgeted in any requisition authorized by law to be made on any other public corporation, body or officer. If the incorporated public board or commission is authorized by law to require the levying of taxes through any other public corporation or officer for its use, the expense, separately itemized, may be made a part of the tax levy.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.659 Dissolution of certain authorities; payment of claims.

Sec. 659. (1) If the suburban mobility authority regional transportation authority created pursuant to the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, an authority created by interlocal agreement pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, an authority created pursuant to the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479, a metropolitan council established pursuant to the metropolitan councils act, 1989 PA 292, MCL 124.651 to 124.729, an authority or a municipal corporation that has entered into an intergovernmental contract to provide transportation services pursuant to 1951 PA 35, MCL 124.1 to 124.13, or 1963 PA 55, MCL 124.351 to 124.359, or an authority created pursuant to 1969 PA 55, MCL 124.351 to 124.359, ceases to operate or is dissolved, and a successor agency is not created to assume its assets,

liabilities, and perform its functions, and if the authority is authorized to secure the payment of compensation under section 611(1)(a), then the state hereby guarantees the payment of claims for benefits arising under this act against the authority. Payment of claims by the state under this section shall be made from the general fund. The director of the department of technology, management, and budget shall designate a third party administrator to handle claims under this section until the assignment under subsection (3) occurs.

(2) Except as otherwise provided in subsection (3), the third party administrator shall determine in detail as the director of the department of technology, management, and budget may require the amount necessary to pay the claims for benefits for which the state is responsible pursuant to subsection (1). The third party administrator shall be responsible for the processing of these claims and shall be compensated for its services in the same manner as a carrier is compensated for processing the claims of state employees.

(3) The Michigan worker's compensation placement facility shall randomly assign a carrier licensed to write worker's disability compensation insurance to determine in detail as the director of the department of technology, management, and budget may require the amount necessary to pay the claims for benefits for which the state is responsible pursuant to subsection (1). The carrier so assigned is responsible for processing these claims and shall be compensated for its services in the same manner as for processing the claims of state employees.

(4) The state is entitled to a lien that takes precedence over all other liens on its portion of the assets of the authority in satisfaction of the payment of claims for benefits under this section.

(5) This section shall not be construed to permit the use of state funds for the payment of private obligations. Therefore, if an authority created pursuant to 1987 PA 204, MCL 124.401 to 124.426; 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1986 PA 196, MCL 124.451 to 124.479; a metropolitan council established pursuant to 1989 PA 292, MCL 124.651 to 124.685; an authority or a municipal corporation that has entered into an intergovernmental contract to provide transportation services pursuant to 1951 PA 35, MCL 124.1 to 124.13; or 1963 PA 55, MCL 124.351 to 124.359, delegates to a private employer or contracts with a private employer for the performance of any of the functions permitted under its enabling statute, the director shall not permit the private employer performing these functions to be included under the authorization granted by the director to the authority or other agency to self-insure pursuant to section 611(1)(a).

History: Add. 2011, Act 266, Imd. Eff. Dec. 19, 2011.

Compiler's note: Enacting section 2 of Act 266 of 2011 provides:
"Enacting section 2. This amendatory act applies to injuries incurred on or after its effective date."

Popular name: Act 317