

SECOND REGULAR SESSION

HOUSE BILL NO. 1621

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time January 10, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4222L.011

AN ACT

To repeal section 537.675, RSMo, and to enact in lieu thereof one new section relating to the tort victims' compensation fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.675, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.675, to read as follows:

537.675. 1. As used in sections 537.675 [through] **to** 537.693, the following terms mean:

(1) "Annual claims", that period of time commencing on the first day of January of every year [after December 31, 2002,] and ending on the last day of that calendar year;

(2) "Commission", the labor and industrial relations commission;

(3) "Division", the division of workers' compensation;

(4) "Initial claims period", that period commencing on August 28, 2001, and ending on December 31, 2002;

(5) "Punitive damage final judgment", an award for punitive damages excluding interest that is no longer subject to review by courts of this state or of the United States;

(6) "Uncompensated tort victim", a person who:

(a) Is a party in a personal injury or wrongful death lawsuit; or is a tort victim whose claim against the tort-feasor has been settled for the policy limits of insurance covering the liability of such tort-feasor and such policy limits are inadequate in light of the nature and extent of damages due to the personal injury or wrongful death;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 16 (b) Unless described in paragraph (a) of this subdivision:
17 a. Has obtained a final monetary judgment in that lawsuit described in paragraph (a) of
18 this subdivision against a tort-feasor for personal injuries, or wrongful death in a case in which
19 all appeals are final;
20 b. Has exercised due diligence in enforcing the judgment; and
21 c. Has not collected the full amount of the judgment;
22 (c) Is not a corporation, company, partnership or other incorporated or unincorporated
23 commercial entity;
24 (d) Is not any entity claiming a right of subrogation;
25 (e) Was not on house arrest and was not confined in any federal, state, regional, county
26 or municipal jail, prison or other correctional facility at the time he or she sustained injury from
27 the tort-feasor;
28 (f) Has not pleaded guilty to or been found guilty of two or more felonies, where such
29 two or more felonies occurred within ten years of the occurrence of the tort in question, and
30 where either of such felonies involved a controlled substance or an act of violence; and
31 (g) Is a resident of the state of Missouri or sustained personal injury or death by a tort
32 which occurred in the state of Missouri.
- 33 2. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the
34 fund shall not lapse at the end of the biennium as provided in section 33.080, RSMo.
- 35 3. Any party receiving a judgment final for purposes of appeal for punitive damages in
36 any case filed in any division of any circuit court of the state of Missouri shall notify the attorney
37 general of the state of Missouri of such award, except for actions claiming improper health care
38 pursuant to chapter 538, RSMo. The state of Missouri shall have a lien for deposit into the tort
39 victims' compensation fund to the extent of fifty percent of the punitive damage final judgment
40 which shall attach in any such case after deducting attorney's fees and expenses. In each case,
41 the attorney general shall serve a lien notice by certified mail or registered mail upon the party
42 or parties against whom the state has a claim for collection of its share of a punitive damage final
43 judgment. On a petition filed by the state, the court, on written notice to all interested parties,
44 shall adjudicate the rights of the parties and enforce the lien. The lien shall not be satisfied out
45 of any recovery until the attorney's claim for fees and expenses is paid. The state can file its lien
46 in all cases where punitive damages are awarded upon the entry of the judgment final for
47 purposes of appeal. The state cannot enforce its lien until there is a punitive damage final
48 judgment. Cases resolved by arbitration, mediation or compromise settlement prior to a punitive
49 damage final judgment are exempt from the provisions of this section. Nothing in this section
50 shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to
51 compromise or settle such claim or litigation on any terms and at any time the parties desire.

52 4. The state of Missouri shall have no interest in or right to intervene at any stage of any
53 judicial proceeding pursuant to this section, except to enforce its lien rights as provided in
54 subsection 3 of this section.

55 5. [There is hereby established in the state treasury the "Legal Services for Low-Income
56 People Fund", which shall consist of twenty-six percent of all payments received into the tort
57 victims' compensation fund and all interest accruing on the principal, regardless of source or
58 designation including twenty-six percent of the money that upon August 28, 2001, is in the tort
59 victims' compensation fund. Moneys, funds or payments paid to the credit of the legal services
60 for low-income people fund shall, at least as often as annually, upon appropriation, be distributed
61 to the legal services organizations in Missouri which are recipients of federal Legal Services
62 Corporation funding and shall be used for no other purpose than as authorized pursuant to
63 sections 537.675 to 537.693. The funds so distributed shall be used by legal services
64 organizations in Missouri solely to provide legal services to its low-income population. Funds
65 shall be allocated according to the most recent official census data from the Bureau of Census,
66 United States Department of Commerce for people in poverty residing in Missouri.
67 Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the legal
68 services for low-income people fund at the end of any biennium shall not be transferred to
69 general revenue, but shall remain in the fund and be distributed in accordance with the provisions
70 of this section.] **Twenty-six percent of all payments deposited into the tort victims'**
71 **compensation fund, all interest accruing on the principal regardless of source or**
72 **designation, and any moneys remaining in the legal services for low-income people fund**
73 **as of August 28, 2008, shall be transferred to the basic civil legal services fund established**
74 **in section 477.650, RSMo.** Moneys in the tort victims' compensation fund shall not be used to
75 pay any portion of a refund mandated by article X, section 18 of the constitution.

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