

# STATE OF NEW YORK

359--A

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. JACOBSON, SIMON, GOTTFRIED, DeSTEFANO, SAYEGH, GLICK, STECK, ABINANTI, KIM, CUSICK -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law, in relation to requiring the workers' compensation board to appoint the uninsured employers' fund as the insurance carrier in cases when the identity of the responsible insurance carrier for the employer cannot be determined within ten days of the filing of a claim and to proceed with hearings and provide notices necessary to process such claim; and to make conforming technical changes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 26-a of the workers' compensation law is amended by  
2 adding a new subdivision 6-a to read as follows:

3 6-a. In the event that the board is unable to determine the identity  
4 of the responsible insurance carrier for the employer within ten days of  
5 the filing of a new claim, the board shall:

6 (a) appoint the uninsured employers' fund as the insurance carrier  
7 until such time as the identity of the responsible insurance carrier for  
8 the employer is determined. Upon such appointment, the uninsured employ-  
9 ers' fund shall immediately commence payments and provide medical care  
10 in accordance with the provisions of this chapter;

11 (b) schedule a hearing to determine the identity of the responsible  
12 insurance carrier for the employer and to determine such claim for  
13 compensation in accordance with the provisions of subdivision one of  
14 this section; and

15 (c) provide notice of such claim and hearing to the employer by certi-  
16 fied mail, return receipt requested, with a direction that the employer

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 provide proof of having insurance in effect as provided by section ten  
2 of this article.

3 § 2. Subdivision 2 of section 2 of the workers' compensation law, as  
4 amended by chapter 113 of the laws of 1946, is amended to read as  
5 follows:

6 2. "Department" means the department of labor of the state of New  
7 York;

8 "Chairman" means the chairman of the [~~workmen's~~] workers' compensation  
9 board of the state of New York;

10 "Commissioner" means the industrial commissioner of the state of New  
11 York;

12 "Board" means the [~~workmen's~~] workers' compensation board of the state  
13 of New York;

14 "Commissioners" means the commissioners of the state insurance fund of  
15 the department of labor of the state of New York.

16 § 3. Subdivisions 1 and 2 of section 201 of the workers' compensation  
17 law, as added by chapter 600 of the laws of 1949, are amended to read as  
18 follows:

19 1. "Board" means the [~~workmen's~~] workers' compensation board created  
20 under this chapter.

21 2. "Chairman" means the chairman of the [~~workmen's~~] workers' compen-  
22 sation board of the state of New York.

23 § 4. Section 302 of the workers' compensation law, as amended by chap-  
24 ter 788 of the laws of 1951, is amended to read as follows:

25 § 302. Definitions. Except as otherwise provided in this article,  
26 terms used in this article shall have the meaning given to such terms in  
27 articles one to eight, inclusive, of this chapter and in the state  
28 defense emergency act.

29 1. "Civil defense volunteers" shall include those members of the civil  
30 defense forces under the provisions of the state defense emergency act  
31 who are volunteer persons serving without compensation in the personnel  
32 of volunteer agencies.

33 2. "Authorized civil defense service" for the purposes of this article  
34 includes duties and services performed by an air raid warden during  
35 attack, actual or imminent, and subsequent to attack, but not during  
36 training or practice periods; and duties and services performed by a  
37 civil defense volunteer other than an air raid warden following actual  
38 attack, but not during training or practice periods or during attack,  
39 actual or imminent. For the purposes of this article, such services  
40 shall be those authorized by the local director of civil defense in  
41 accordance with regulations and orders of the commission or state direc-  
42 tor of civil defense.

43 3. "Injury" within the meaning of this article means only accidental  
44 injury arising in the course of authorized civil defense service during  
45 attack, actual or imminent, or subsequent to attack, and disease or  
46 infection that may be sustained or death incurred either as the natural  
47 and unavoidable result thereof or of exposure to radiation or to noxious  
48 gases or to germ warfare in the course of such authorized service.

49 4. "Commission" shall mean the state civil defense commission created  
50 by article three of the state defense emergency act, and "state direc-  
51 tor" shall mean the New York state director of civil defense appointed  
52 under the provisions of said act.

53 5. "Board" shall mean the [~~workmen's~~] workers' compensation board.

54 6. "Chairman" shall mean the chairman of the [~~workmen's~~] workers'  
55 compensation board.

1 § 5. Section 140 of the workers' compensation law, as amended by chap-  
2 ter 57 of the laws of 1951, is amended to read as follows:

3 § 140. [~~Workmen's~~ Workers' compensation board. The [~~workmen's~~ work-  
4 ers' compensation board in the department of labor is hereby continued.  
5 Such board shall consist of thirteen members, at least four of whom  
6 shall be attorneys and counsellors-at-law duly admitted to practice in  
7 this state. The members of the board shall be appointed by the governor,  
8 by and with the advice and consent of the senate. The members of the  
9 board in office, together with the additional members and the members  
10 appointed to fill vacancies, if any, at the time this section takes  
11 effect, shall continue, notwithstanding the appointment of any of the  
12 members for a term expiring on a different date, to hold office for  
13 terms to be assigned by the governor by and with the advice and consent  
14 of the senate; two such terms to expire on December thirty-first, nine-  
15 teen hundred fifty; two to expire on December thirty-first, nineteen  
16 hundred fifty-one; two to expire on December thirty-first, nineteen  
17 hundred fifty-two; two to expire on December thirty-first, nineteen  
18 hundred fifty-three; two to expire on December thirty-first, nineteen  
19 hundred fifty-four; two to expire on December thirty-first, nineteen  
20 hundred fifty-five; and one to expire on December thirty-first, nineteen  
21 hundred fifty-six. The members next appointed, except to fill a vacancy  
22 created otherwise than by expiration of term, shall be appointed for  
23 terms of seven years. The governor shall designate one of the members of  
24 the board as chairman and another as vice-chairman.

25 § 6. This act shall take effect on the sixtieth day after it shall  
26 have become a law and shall apply to all claims filed on and after such  
27 effective date. Effective immediately the addition, amendment and/or  
28 repeal of any rule or regulation necessary for the implementation of  
29 this act on its effective date are authorized to be made and completed  
30 on or before such date.