

No. 1988-48

AN ACT

SB 1143

Amending the act of July 1, 1937 (P.L.2532, No.470), entitled "An act to establish funds to provide security for the payment of benefits in event of the insolvency of an insurance carrier authorized to write workmen's compensation insurance in this Commonwealth; and to provide for the administration thereof," extending the act to certain insurers under the Longshore and Harbor Workers' Compensation Act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act of July 1, 1937 (P.L.2532, No.470), known as the Workmen's Compensation Security Fund Act, is amended to read:

Section 1. Be it enacted, &c., That this act shall be known, and may be cited, as the [**Workmen's**] *Workers'* Compensation Security Fund Act."

Section 2. The definitions of "fund" and "Workmen's Compensation Law" in section 2 of the act, amended October 18, 1975 (P.L.419, No.117), are amended to read:

Section 2. As hereafter used in this act, unless the context or subject matter otherwise require—

"Fund" means the [**Workmen's**] *Workers'* Compensation Security Fund created by this act.

* * *

"Workmen's Compensation Law," means The Workmen's Compensation Act of 1915 or any supplement or amendment thereto or revision thereof [**and**], the Pennsylvania Occupational Disease Act of 1939 or any supplement or amendment thereto or revision thereof *and the Longshore and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. § 901 et seq.)*.

Section 3. Sections 3, 11 and 15.1 of the act, amended or added October 18, 1975 (P.L.419, No.117), are amended to read:

Section 3. There is hereby created a fund, to be known as "The [**Workmen's**] *Workers'* Compensation Security Fund," for the purpose of assuring to persons entitled thereto the compensation provided by the Workmen's Compensation Law for employments insured in insolvent stock companies; insolvent mutual carriers; insolvent reciprocal exchanges; or the State Workmen's Insurance Fund. Such fund shall be applicable to the payment of valid claims for compensation heretofore or hereafter made pursuant to the Workmen's Compensation Law and remaining unpaid, in whole or in part, by reason of the default, after the effective date of this act of an insolvent stock company; insolvent mutual carrier or insolvent reciprocal exchange or the insolvent State Workmen's Insurance Fund. Expenses of administration also shall be paid from the fund as herein provided. Such fund shall consist of all contributions received and paid into the fund by

stock companies, mutual carriers and reciprocal exchanges as herein defined, all property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys deposited or invested, as herein provided. The fund shall be administered by the commissioner in accordance with the provisions of this act.

Section 11. (1) A valid claim for compensation or installments thereof, heretofore or hereafter made pursuant to the Workmen's Compensation Law, *as defined herein*, which has remained or shall remain due and unpaid for sixty days by reason of default, after the effective date of this act, by an insolvent carrier, shall be paid from the fund in the manner provided in this act. Any person in interest may file with the commissioner an application for payment of compensation from the fund on a form to be prescribed and furnished by the commissioner. A certified copy of the award must accompany the application. The commissioner shall thereupon certify to the State Treasurer such award for payment according to the terms of the same, whereupon payment shall be made by the State Treasurer, on warrant of the Auditor General and on requisition of the commissioner. *Claimants receiving benefits from the fund by virtue of Longshore and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. § 901 et seq.) awards shall be subject to the provisions of this act.*

(1.1) The insolvency, bankruptcy, or dissolution of the insured shall effect a termination of security fund benefits provided hereunder for claims arising under the Longshore and Harbor Workers' Compensation Act.

(1.2) Payment of compensation pursuant to the Longshore and Harbor Workers' Compensation Act shall be made by the fund at the Federal benefit level or at the maximum State benefit level, whichever is lower.

(2) Payment of an award from the fund shall not give the commissioner of such fund any right of recovery against the employer.

(3) An employer may pay an award or a part thereof in advance of payment from the fund and shall thereupon be subrogated to the rights of the employe or other party in interest against such fund to the extent of the amount so paid.

(4) The commissioner shall be entitled to recover the sum of all liabilities of such insolvent carrier assumed by the fund from such carrier, its receiver, liquidator, rehabilitator, conservator or trustee in bankruptcy and all others, except employers, liable under any of the terms of the Workmen's Compensation Law, and may prosecute an action or other proceedings therefor. All moneys, recovered in any such action or proceedings, shall forthwith be placed to the credit of the fund which has assumed such liability by the State Treasurer, to reimburse the fund which has assumed such liability, to the extent of the moneys so recovered and paid. If and when all liabilities of all carriers for workmen's compensation losses in this Commonwealth shall have been fully liquidated, distribution shall be made to all contributing carriers of the remaining balance of such fund: Provided, however, That an insolvent carrier shall be entitled to share in the said distribution of the fund only to the extent that its distributive share of said fund is in excess of any losses paid out of said fund for its account by the treasurer, in accordance with the terms of this act.

Section 15.1. All assets, moneys, securities, reserves, surplus liabilities and the like presently in either the Stock Workmen's Compensation Security Fund or the Mutual Carrier and Reciprocal Exchange Workmen's Compensation Security Fund shall forthwith be transferred to the single **[Workmen's] Workers' Compensation Security Fund** created hereby.

Section 4. This act shall apply to all claims arising as a result of an insurer having been adjudged insolvent by entry of an order of liquidation on or after January 1, 1986.

Section 5. This act shall take effect immediately.

APPROVED—The 13th day of April, A. D. 1988.

ROBERT P. CASEY