



General Assembly

January Session, 2019

**Committee Bill No. 6916**

LCO No. 6224



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:  
(LAB)

**AN ACT EXPANDING REMEDIES AND POTENTIAL LIABILITY FOR  
UNREASONABLY CONTESTED OR DELAYED 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 Section 31-300 of the general statutes is repealed and the  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, 2019*):

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

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

70 (b) The provisions of subsection (a) of section 31-284 with respect to  
71 the exclusivity of remedy between the employee and the employer  
72 shall not apply to an action by an employee against an insurer or third-  
73 party administrator for breach of the covenant of good faith and fair  
74 dealing in the handling of claims under this chapter or for a violation  
75 of chapter 704 or 735a or section 38a-815 or 42-110b. A claimant for  
76 benefits under this chapter is a third-party beneficiary of a contract of  
77 insurance for an employer's liability for benefits under this chapter and  
78 of a contract for a third-party administration of claims for benefits  
79 under this chapter, and such insurer or third-party administrator owes  
80 to such a claimant a duty of good faith and fair dealing and a duty not  
81 to contest benefits unreasonably nor to delay benefits unreasonably.  
82 The provisions of chapters 704 and 735a do not preempt a common-  
83 law action for breach of this covenant of good faith and fair dealing

84 and exhaustion of administrative remedies under this chapter is not  
85 required prior to the filing of such action, provided benefits awarded  
86 or penalties imposed pursuant to chapter 568 shall be credited against  
87 any duplicative damages awarded pursuant to such action. Damages  
88 in successful actions against an insurer or third-party administrator  
89 under this subsection may include, but need not be limited to,  
90 demonstrable economic damages, damages for mental or physical  
91 injury, pain or suffering arising from the misconduct of the insurer or  
92 third-party administrator and attorneys' fees.

93 (c) No insurer, third-party administrator or organization authorized  
94 to handle workers' compensation claims pursuant to chapter 568 shall  
95 be allowed to seek indemnification from any employer or organization  
96 as a result of a claim brought pursuant to this section.

97 (d) No insurer, third-party administrator or organization authorized  
98 to handle workers' compensation claims pursuant to chapter 568 shall  
99 seek increases in premium or agreed-upon compensation due to any  
100 claim brought pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	31-300

**Statement of Purpose:**

To clarify the law regarding bad faith handling of workers' compensation claims.

*[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.]*

Co-Sponsors: REP. JOHNSON, 49th Dist.; REP. CURREY, 11th Dist.

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